

¹The Penal Code, 1860

(ACT NO. XLV Of 1860)

[6th October, 1860]

অধ্যায় এর নাম ।

INTRODUCTION

Preamble	WHEREAS it is expedient to provide a general Penal Code for Bangladesh; It is enacted as follows:-
Title and extent of operation of the Code	1. This Act shall be called the ² [Penal Code], and shall take effect throughout Bangladesh.
Punishment of offences committed within Bangladesh	2. Every person shall be liable to punishment under this Code and not otherwise for every act or omission contrary to the provisions thereof, of which he shall be guilty within Bangladesh.
Punishment of offences committed beyond, but which by law may be tried within Bangladesh	3. Any person liable, by any Bangladesh Law, to be tried for an offence committed beyond Bangladesh shall be dealt with according to the provisions of this Code for any act committed beyond Bangladesh in the same manner as if such act had been committed within Bangladesh.
Extension of Code to extra-territorial offences	4. The provisions of this Code apply also to any offence committed by- (1) any citizen of Bangladesh in any place without and beyond Bangladesh; (2) [Omitted by Article 2 and Schedule of the Central Laws (Adaptation) Order, 1961.] (3) [Omitted by section 3 and 2nd Schedule of the Bangladesh Laws (Revision And Declaration) Act, 1973 (Act No. VIII of 1973).]

(4) any person on any ship or aircraft registered in Bangladesh wherever it may be.

Explanation.-In this section the word "offence" includes every act committed outside Bangladesh which, if committed in Bangladesh, would be punishable under this Code.

Illustrations

(a) A, a Bangladesh subject, commits a murder in Uganda. He can be tried and convicted of murder in any place in Bangladesh in which he may be found.

(b) B, a European British subject, commits a murder in ³[Rangpur]. He can be tried and convicted of murder in any place in Bangladesh in which he may be found.

(c) C, a foreigner who is in the service of the Bangladesh Government, commits a murder in ⁴[Khulna]. He can be tried and convicted of murder at any place in Bangladesh in which he may be found.

(d) D, a British subject living in ⁵[Khulna], instigates E to commit a murder in ⁶[Chittagong]. D is guilty of abetting murder.

Certain laws not to be affected by this Act

5. Nothing in this Act is intended to repeal, vary, suspend, or affect ⁷[* * *] any of the provisions of any Act for punishing mutiny and desertion of officers, soldiers, sailors or airmen in the service of the ⁸[Republic], or of any special or local law.

অধ্যায় এর নাম II

GENERAL EXPLANATIONS

Definitions in the Code to be understood subject to exceptions

6. Throughout this Code every definition of an offence, every penal provision and every illustration of every such definition or penal provision, shall be understood subject to the exceptions contained in the chapter entitled "General Exceptions," though those exceptions are not repeated in such definition, penal provision or illustration.

Illustrations

(a) The sections in this Code, which contain definitions of offences, do not express that a child under seven years of age cannot commit such offences; but the definitions are to be understood subject to the general exception which provides that nothing shall be an offence which is done by a child under seven years of age.

(b) A, a police officer, without warrant, apprehends Z who has committed murder. Here A is not guilty of the offence of wrongful confinement; for he was bound by law to apprehend Z, and therefore the case falls within the general exception which provides that "nothing is an offence which is done by a person who is bound by law to do it".

Sense of expression once explained	7. Every expression which is explained in any part of this Code is used in every part of this Code in conformity with the explanation.
Gender	8. The pronoun "he" and its derivatives are used of any person, whether male or female.
Number	9. Unless the contrary appears from the context, words importing the singular number include the plural number, and words importing the plural number include the singular number.
“Man” “Woman”	10. The word “man” denotes a male human being of any age: the word “woman” denotes a female human being of any age.
“Person”	11. The word “person” includes any Company or Association, or body of persons, whether incorporated or not.
“Public”	12. The word “public” includes any class of the public or any community.
[Omitted]	13. [Omitted by Article 2 and Schedule of the Central Laws (Adaptation) Order, 1961.]
“Servant of the State”	14. The words ⁹ [Servant of the Republic] denote all officers or servant, continued, appointed or employed in Bangladesh by or under the authority of the Government.
[Repealed]	15. [Repealed by the Government of India (Adaptation of Indian Laws) Order, 1937.]
[Repealed]	16. [Repealed by the Government of India (Adaptation of Indian Laws) Order, 1937.]
“Government”	17. The word “Government” denotes the person or persons authorized by law to administer executive Government in Bangladesh, or in any part thereof.
[Repealed]	18. [Repealed by the Government of India (Adaptation of Indian Laws) Order, 1937.]
“Judge”	19. The word “Judge” denotes not only every person who is officially designed as a Judge, but also every person,- who is empowered by law to give, in any legal proceeding, civil or criminal, a definitive judgment, or a judgment which, if not appealed against, would be

definitive, or a judgment which, if confirmed by some other authority, would be definitive, or

who is one of a body of persons, which body of persons is empowered by law to give such a judgment.

Illustrations

(a) A Collector exercising jurisdiction in a suit under Act X of 1859, is a Judge.

(b) A Magistrate exercising jurisdiction in respect of a charge on which he has power to sentence to fine or imprisonment with or without appeal, is a Judge.

(c) [Repealed by the Federal Laws (Revision and Declaration) Act 1951 (Act XXXVI of 1951)].

(d) A Magistrate exercising jurisdiction in respect of a charge on which he has power only to commit for trial to another Court, is not a Judge.

“Court of justice”

20. The words "Court of Justice" denote a Judge who is empowered by law to act judicially alone, or a body of Judges which is empowered by law to act judicially as a body, when such Judge or body of Judges is acting judicially.

“Public servant”

21. The words "public servant" denote a person falling under any of the descriptions hereinafter following, namely:-

First.-[Omitted by section 2 of the Penal Code (Amendment) Ordinance, 1982 (Ordinance No. X of 1982)];

Second. Every Commissioned Officer in the Military, Naval or Air Forces of Bangladesh ¹⁰[* * *];

¹¹[Third.- Every Judge including any person empowered by any law to perform, whether by himself or as a member of any body of persons, any adjudicatory function;]

Fourth.- every officer of a Court of Justice whose duty it is, as such officer, to investigate or report on any matter of law or fact, or to make, authenticate, or keep any document, or to take charge or dispose of any property, or to execute any judicial process, or to administer any oath, or to interpret, or to preserve order in the Court; and every person specially authorized by a Court of Justice to perform any of such duties;

Fifth.-Every juryman, assessor, or member of a panchayat assisting a Court of Justice or public servant;

Sixth.-Every arbitrator or other person to whom any cause or matter has been referred for decision or report by any Court of Justice, or by any other competent public authority;

Seventh.-Every person who holds any office by virtue of which he is empowered to place or keep any person in confinement;

Eighth.-Every officer of the Government whose duty it is, as such officer, to prevent offences, to give information of offences, to bring offenders to justice, or to protect the public health, safety or convenience;

Ninth.-Every officer whose duty it is, such officer, to take, receive, keep or expend any property on behalf of the Government, or to make any survey, assessment or contract on behalf of the Government, or to execute any revenue-process, or to investigate, or to report, on any matter affecting the pecuniary interests of the Government, or to make, authenticate or keep any document relating to the pecuniary interest of the Government, or to prevent the infraction of any law for the protection of the pecuniary interests of the Government ¹²[* * *];

Tenth.-Every officer whose duty it is, as such officer, to take, receive, keep or expend any property, to make any survey or assessment or to levy any rate or tax for any secular common purpose of any village, town or district, or to make, authenticate or keep any document for the ascertaining of the rights of the people of any village, town or district;

Eleventh.-Every person who holds any office in virtue of which he is empowered to prepare, publish, maintain or revise an electoral roll or to conduct an election or part of an election.

Illustration

A Municipal Commissioner is a public servant.

¹³[Twelfth.-Every person-

(a) in the service or pay of the Government or remunerated by the Government by fees or commissions for the performance of any public duty;

(b) in the service or pay of a local authority or of a corporation, body or authority established by or under any law or of a firm or company in which any part of the interest or share capital is held by, or vested in, the Government.]

Explanation 1.-Persons falling under any of the above descriptions are public servants, whether appointed by the Government or not.

Explanation 2.-Wherever the words "public servant" occur, they shall be understood of every person who is in actual possession of the situation of a public servant, whatever legal defect there may be in his right to hold that situation.

Explanation 3.-The word "election" denotes an election for the purpose of selecting members of any legislative, municipal or other public authority, of whatever character, the method of selection to which is by, or under, any law prescribed as by election.

“Moveable property”

22. The words "moveable property" are intended to include corporeal property of every description, except land and thing attached to the earth or permanently fastened to any thing which is attached to the earth.

“Wrongful gain”	23. "Wrongful gain" is gain by unlawful means of property to which the person gaining is not legally entitled.
“Wrongful loss”	"Wrongful loss" is the loss by unlawful means of property to which the person losing it is legally entitled.
Losing wrongfully.	A person is said to gain wrongfully when such person retains wrongfully, as well as when such person acquires wrongfully. A person is said to loss wrongfully when such person is wrongfully kept out of any property, as well as when such person is wrongfully deprived of property.
“Dishonestly”	24. Whoever does anything with the intention of causing wrongful gain to one person or wrongful loss to another person, is said to do that thing "dishonestly".
“Fraudulently”	25. A person is said to do a thing fraudulently if he does that thing with intent to defraud but not otherwise.
“Reason to believe”	26. A person is said to have "reason to believe" a thing if he has sufficient cause to believe that thing but not otherwise.
Property in possession of wife, clerk or servant.	27. When property is in the possession of a person's wife, clerk or servant, on account of that person, it is in that person's possession within the meaning of this Code. Explanation.-A person employed temporarily or on a particular occasion in the capacity of a clerk, or servant, is a clerk or servant within the meaning of this section.
“Counterfeit”	28. A person is said to "counterfeit" who causes one thing to resemble another thing, intending by means of that resemblance to practice deception, or knowing it to be likely that deception will thereby be practiced. Explanation 1.-It is not essential to counterfeiting that the imitation should be exact. Explanation 2.-When a person causes one thing to resemble another thing, and resemblance is such that a person might be deceived thereby, it shall be presumed, until the contrary is proved, that the person so causing the one thing to resemble the other thing intended by means of that resemblance to practice deception or knew it to be likely that deception would thereby be practiced.
“Document”	29. The word "document" denotes any matter expressed or described upon any substance by means of letters, figures, marks, or by more than one of those means, intended to be used, or which may be used, as evidence of that matter.

Explanation 1.-It is immaterial by what means or upon what substance the letters, figures or marks are formed, or whether the evidence is intended for, or may be used in a Court of Justice, or not.

Illustrations

A writing expressing the terms of a contract, which may be used as evidence of the contract, is a document.

A cheque upon a banker is a document.

A Power-of-Attorney is a document.

A map or plan which is intended to be used or which may be used as evidence, is a document.

A writing containing directions or instructions is a document.

Explanation 2.-Whatever is expressed by means of letters, figures or marks as explained by mercantile or other usage, shall be deemed to be expressed by such letters, figures or marks within the meaning of this section, although the same may not be actually expressed.

Illustration

A writes his name on the back of a bill of exchange payable to his order. The meaning of the endorsement, as explained by mercantile usage, is that the bill is to be paid to the holder. The endorsement is a document, and must be construed in the same manner as if the words "pay to the holder" or words to that effect had been written over the signature.

“Valuable security”

30. The words "valuable security" denote a document which is, or purports to be, a document whereby any legal right is created, extended, transferred, restricted, extinguished or released, or whereby any person acknowledges that he lies under legal liability, or has not a certain legal right.

Illustration

A writes his name on the back of a bill of exchange. As the effect of this endorsement is to transfer the right to the bill to any person who may become the lawful holder of it, the endorsement is a "valuable security".

“A will”

31. The words "a will" denote any testamentary document.

Words referring to acts include illegal omissions

32. In every part of this Code, except where a contrary intention appears from the context, words which refer to acts done extend also to illegal omissions.

**“Act”
“Omission”**

33. The word "act" denotes as well a series of acts as a single act: the word "omission" denotes as well a series of omissions as a single omission.

Acts done by several persons in furtherance of common intention

34. When a criminal act is done by several persons, in furtherance of the common intention of all, each of such persons is liable for that act in the same manner as if it were done by him alone.

When such an act is criminal by reason of its being done with a criminal knowledge or intention

35. Whenever an act, which is criminal only by reason of its being done with a criminal knowledge or intention, is done by several persons, each of such persons who joins in the act with such knowledge or intention is liable for the act in the same manner as if the act were done by him alone with that knowledge or intention.

Effect caused partly by act and partly by omission

36. Wherever the causing of a certain effect, or an attempt to cause that effect, by an act or by an omission, is an offence, it is to be understood that the causing of that effect partly by an act and partly by an omission is the same offence.

Illustration

A intentionally causes Z's death, partly by illegally omitting to give Z food, and partly by beating Z. A has committed murder.

Co-operation by doing one of several Acts constituting an offence

37. When an offence is committed by means of several acts, whoever intentionally co-operates in the commission of that offence by doing any one of those acts, either singly or jointly with any other person, commits that offence.

Illustrations

(a) A and B agree to murder Z by severally and at different times giving him small doses of poison. A and B administer the poison according to the agreement with intent to murder Z. Z dies from the effects of the several doses of poison so administered to him. Here A and B intentionally co-operate in the commission of murder and as each of them does an act by which the death is caused, they are both guilty of the offence though their acts are separate.

(b) A and B are joint jailors, and as such, have the charge of Z, a prisoner, alternately for six hours at a time. A and B, intending to cause Z's death, knowingly co-operate in causing that effect by illegally omitting, each during the time of his attendance, to furnish Z with food supplied to them for that purpose. Z dies of hunger. Both A and B are guilty of the murder of Z.

(c) A, a jailor, has the charge of Z, a prisoner. A intending to cause Z's death, illegally omits to supply Z with food; in consequence of which Z is much reduced in strength, but the starvation is not sufficient to cause his death. A is dismissed from his office, and B succeeds him. B, without collusion or co-operation with A, illegally omits to supply Z with food, knowing that he is likely thereby to cause Z's death. Z dies of hunger. B is guilty of murder, but, as A did not co-operate with B, A is guilty only of an attempt to commit murder.

Persons concerned in criminal act may be guilty of different offences

38. Where several persons are engaged or concerned in the commission of a criminal act, they may be guilty of different offences by means of that act.

Illustration

A attacks Z under such circumstances of grave provocation that his killing of Z would be only culpable homicide not amounting to murder. B having ill-will towards Z and intending to kill him, and not having been subject to the provocation, assists A in killing Z. Here, though A and B are both engaged in causing Z's death, B is guilty of murder, and A is guilty only of culpable homicide.

“Voluntarily”

39. A person is said to cause an effect "voluntarily" when he causes it by means whereby he intended to cause it, or by means which, at the time of employing those means, he knew or had reason to believe to be likely to cause it.

Illustration

A sets fire, by night, to an inhabited house in a large town, for the purpose of facilitating robbery and thus causes the death of a person. Here, A may not have intended to cause death, and may even be sorry that death has been caused by his act: yet, if he knew that he was likely to cause death, he has caused death voluntarily.

“Offence”

40. Except in the chapters and sections mentioned in clauses 2 and 3 of this section, the word "offence" denotes a thing made punishable by this Code.

In Chapter IV, Chapter VA and in the following sections, namely, sections 64, 65, 66, 67, 71, 109, 110, 112, 114, 115, 116, 117, 187, 194, 195, 203, 211, 213, 214, 221, 222, 223, 224, 225, 327, 328, 329, 330, 331, 347, 348, 388, 389 and 445, the word "offence" denotes a thing punishable under this Code, or under any special or local law as hereinafter defined.

And in sections 141, 176, 177, 201, 202, 212, 216 and 441 the word "offence" has the same meaning when the thing punishable under the special or local law is punishable under such law with imprisonment for a term of six months or upwards, whether with or without fine.

“Special law”	41. A "special law" is a law applicable to a particular subject.
“Local law”	42. A "local law" is a law applicable only to a particular part of the territories comprised in Bangladesh.
“Illegal” “Legally bound to do”	43. The word “illegal” is applicable to everything which is an offence or which is prohibited by law, or which furnishes ground for a civil action: and a person is said to be "legally bound to do" whatever it is illegal in him to omit.
“Injury”	44. The word "injury" denotes any harm whatever illegally caused to any person, in body, mind, reputation or property.
“Life”	45. The word "life" denotes the life of a human being, unless the contrary appears from the context.
“Death”	46. The word "death" denotes the death of a human being, unless the contrary appears from the context.
“Animal”	47. The word "animal" denotes any living creature, other than a human being.
“Vessel”	48. The word “vessel” denotes anything made for the conveyance by water of human beings or of property.
“Year” “Month”	49. Wherever the word "year" or the word "month" is used, it is to be understood that the year or the month is to be reckoned according to the British calendar.
“Section”	50. The word "section" denotes one of those portions of a chapter of this Code which are distinguished by prefixed numeral figures.
“Oath”	51. The word "oath" includes a solemn affirmation substituted by law for an oath, and any declaration required or authorized by law to be made before a public servant or to be used for the purpose of proof, whether in a Court of Justice or not.
“Good faith”	52. Nothing is said to be done or believed in "good faith" which is done or believed without due care and attention.
“Harbour”	14[52A. Except in section 157, and in section 130 in the case in which the harbour is given by the wife or husband of the person harboured, the word "harbour" includes the supplying a person with shelter, food, drink, money, clothes, arms, ammunition or means of conveyance, or the assisting a

person by any means, whether of the same kind as those enumerated in this section or not, to evade apprehension.]

অধ্যায় এর নাম III

OF PUNISHMENTS

- Punishments** 53. The punishments to which offenders are liable under the provisions of this Code are,-
- Firstly,- Death;
- Secondly,- ¹⁵[Imprisonment for life];
- Thirdly,-[Omitted by the Criminal Law (Extinction of Discriminatory Privileges) Act 1949 (Act No. II of 1950).
- Fourthly,-Imprisonment, which is of two descriptions, namely:-
- (1) Rigorous, that is, with hard labour;
- (2) Simple;
- Fifthly,- Forfeiture of property;
- Sixthly,- Fine.
- ¹⁶[Explanation.-In the punishment of imprisonment for life, the imprisonment shall be rigorous.]
- Construction of reference to transportation** ¹⁷[53A.(1) Subject to the provisions of sub-section (2), any reference to “transportation for life” in any other law for the time being in force shall be construed as a reference to “imprisonment for life”.
- (2) Any reference to transportation for a term or to transportation for a shorter term (by whatever named called) in any other law for the time being in force shall be deemed to have been omitted.
- (3) Any reference to “transportation” in any other law for the time being in force shall
- (a) if the expression means transportation for life, be construed as a reference to imprisonment for life;
- (b) if the expression means transportation for any shorter term, be deemed to have been omitted.]
- Commutation of sentence of death** 54. In every case in which sentence of death shall have been passed, ¹⁸[the Government] may, without the consent of the offender, commute the punishment for any other punishment provided by this Code.
- Commutation of sentence of ¹⁹[**
55. In every case in which sentence of ²⁰[imprisonment] for life shall have been passed, ²¹[the Government] may, without the consent of the offender, commute the punishment for imprisonment of either description for a term not exceeding ²²[twenty] years.

**imprisonment
] for life**

**Saving for
President's
prerogative**

²³[55A. Nothing in section fifty-four or section fifty-five shall derogate from the right of the President to grant pardons, reprieves, respites or remissions of punishment.]

[Repealed]

56. [Repealed by Schedule of the Criminal Law (Extinction of Discriminatory Privileges Act, 1949 (Act No. II of 1950).]

**Fractions of
terms of
punishment**

57. In calculating fractions of terms of punishment, ²⁴[imprisonment] for life shall be reckoned as equivalent to ²⁵[rigorous imprisonment for thirty years].

[Omitted]

58. [Omitted by section 6 of the Penal Code (Amendment) Ordinance, 1985 (Ordinance No. XLI of 1985).]

[Omitted]

59. [Omitted by section 6 of the Penal Code (Amendment) Ordinance, 1985 (Ordinance No. XLI of 1985).]

**Sentence
may be (in
certain
cases of
imprisonment,
wholly or
partly
rigorous or
simple**

60. In every case in which an offender is punishable with imprisonment which may be of either description, it shall be competent to the Court which sentences such offender to direct in the sentence that such imprisonment shall be wholly rigorous, or that such imprisonment shall be wholly simple, or that any part of such imprisonment shall be rigorous and the rest simple.

[Repealed]

61. [Repealed by section 4 of the Indian Penal Code (Amendment) Act, 1921 (Act No. XVI of 1921).]

[Repealed]

62. [Repealed by section 4 of the Indian Penal Code (Amendment) Act, 1921 (Act No. XVI of 1921).]

**Amount of
fine**

63. Where no sum is expressed to which a fine may extend, the amount of fine to which the offender is liable is unlimited, but shall not be excessive.

**Sentence of
imprisonment
for non-
payment of
fine**

64. In every case of an offence punishable with imprisonment as well as fine, in which the offender is sentenced to a fine, whether with or without imprisonment,
and in every case of an offence punishable with imprisonment or fine, or with fine only, in which the offender is sentenced to a fine,

it shall be competent to the Court which sentences such offender to direct by the sentence that, in default of payment of the fine, the offender shall suffer imprisonment for a certain term, which imprisonment shall be in excess of any other imprisonment to which he may have been sentenced or to which he may be liable under a commutation of a sentence.

Limit to imprisonment for non-payment of fine, when imprisonment and fine awardable

65. The term for which the Court directs the offender to be imprisoned in default of payment of a fine shall not exceed one-fourth of the term of imprisonment which is the maximum fixed for the offence, if the offence be punishable with imprisonment as well as fine.

Description of imprisonment for non-payment of fine

66. The imprisonment which the Court imposes in default of payment of a fine may be of any description to which the offender might have been sentenced for the offence.

Imprisonment for non-payment of fine, when offence punishable with fine only

67. If the offence be punishable with fine only, the imprisonment which the Court imposes in default of payment of the fine shall be simple, and the term for which the Court directs the offender to be imprisoned, in default of payment of fine, shall not exceed the following scale, that is to say, for any term not exceeding two months when the amount of the fine shall not exceed fifty taka, and for any term not exceeding four months when the amount shall not exceed one hundred taka, and for any term not exceeding six months in any other case.

Imprisonment to terminate on payment of fine

68. The imprisonment which is imposed in default of payment of a fine shall terminate whenever that fine is either paid or levied by process of law.

Termination of imprisonment on payment of proportional part of fine

69. If, before the expiration of the term of imprisonment fixed in default of payment, such a proportion of the fine be paid or levied that the term of imprisonment suffered in default of payment is not less than proportional to the part of the fine still unpaid, the imprisonment shall terminate.

Illustration

A is sentenced to a fine of one hundred taka and four months imprisonment in default of payment. Here, if seventy-five taka of the fine be paid or levied before the expiration of one month of the imprisonment, A will be discharged

as soon as the first month has expired. If seventy-five taka be paid or levied at the time of the expiration of the first month, or at any later time while A continues in imprisonment, A will be immediately discharged. If fifty taka of the fine be paid or levied before the expiration of the two months of the imprisonments, A will be discharged as soon as the two months are completed. If fifty taka be paid or levied at the time the expiration of those two months, or at any later time while A continues in imprisonment, A will be immediately discharged.

**Fine
leviable
within six
years, or
during
imprisonment
Death not to
discharge
property
from liability**

70. The fine, or any part thereof which remains unpaid, may be levied at any time within six years after the passing of the sentence, and if, under the sentence, the offender be liable to imprisonment for a longer period than six years, then at any time previous to the expiration of that period; and the death of the offender does not discharge from the liability of any property which would, after his death, be legally liable for his debts.

**Limit of
punishment
of offence
made up of
several
offences**

71. Where anything which is an offence is made up of parts, any of which parts is itself an offence, the offender shall not be punished with the punishment of more than one of such his offences, unless it be so expressly provided.

Where anything is an offence falling within two or more separate definitions of any law in force for the time being by which offences are defined or punished, or

Where several acts, of which one or more than one would by itself or themselves constitute an offence, constitute, when combined, a different offence,

the offender shall not be punished with a more severe punishment than the Court which tries him could award for any one of such offences.

Illustrations

(a) A gives Z fifty strokes with a stick. Here A may have committed the offence of voluntarily causing hurt to Z by the whole beating, and also by each of the blows which make up the whole beating. If A were liable to punishment for every blow, he might be imprisoned for fifty years, one for each blow. But he is liable only to one punishment for the whole beating.

(b) But if, while A is beating Z, Y interferes, and A intentionally strikes Y, here, as the blow given to Y is no part of the act whereby A voluntarily causes hurt to Z, A is liable to one punishment for voluntarily causing hurt to Z, and to another for the blow given to Y.

Punishment of person guilty of one of several offences, the judgment stating that it is doubtful of which

72. In all cases in which judgment is given that a person is guilty of one of several offences specified in the judgment, but that it is doubtful of which these offences he is guilty, the offender shall be punished for the offence for which the lowest punishment is provided if the same punishment is not provided for all.

Solitary confinement

73. Whenever any person is convicted of an offence for which under this Code the Court has power to sentence him to rigorous imprisonment, the Court may, by its sentence, order that the offender shall be kept in solitary confinement for any portion or portions of the imprisonment to which he is sentenced, not exceeding three months in the whole, according to the following scale, that is to say□

a time not exceeding one month if the term of imprisonment shall not exceed six months:

a time not exceeding two months if the term of imprisonment shall exceed six months and shall not exceed one year:

a time not exceeding three months if the term of imprisonment shall exceed one year.

Limit of solitary confinement

74. In executing a sentence of solitary confinement, such confinement shall in no case exceed fourteen days at a time, with intervals between the periods of solitary confinement of not less duration than such periods, and when the imprisonment awarded shall exceed three months, the solitary confinement shall not exceed seven days in any one month of the whole imprisonment awarded, with intervals between the periods of solitary confinement of not less duration than such periods.

Enhanced punishment for certain offences under Chapter XII or Chapter XVII after previous conviction

75. Whoever, having been convicted,□

(a) by a Court in Bangladesh of an offence punishable under Chapter XII or Chapter XVII of this Code with imprisonment of either description for a term of three years or upwards; ²⁶[* * *]

(b) [Omitted by section 3 and 2nd Schedule of the Bangladesh Laws (Revision And Declaration) Act, 1973 (Act No. VIII of 1973).]

shall be guilty of any offence punishable under either of those Chapters with like imprisonment for the like term, shall be

subject for every such subsequent offence to ²⁷[imprisonment] for life, or to imprisonment of either description for a term which may extend to ten years.

অধ্যায় এর নাম **IV**

GENERAL EXCEPTIONS

Act done by a person bound, or by mistake of fact believing himself bound, by law

76. Nothing is an offence which is done by a person who is, or who by reason of a mistake of fact and not by reason of a mistake of law in good faith believes himself to be, bound by law to do it.

Illustrations

(a) A, a soldier, fires on a mob by the order of his superior officer, in conformity with the commands of the law. A has committed no offence.

(b) A, an officer of a Court of Justice, being ordered by that Court to arrest Y, and, after due enquiry, believing Z to be Y, arrests Z. A has committed no offence.

Act of judge when acting judicially

77. Nothing is an offence which is done by a Judge when acting judicially in the exercise of any power which is, or which in good faith he believes to be, given to him by law.

Act done pursuant to the judgment or order of Court

78. Nothing which is done in pursuance of, or which is warranted by the judgment or order of, a Court of Justice, if done whilst such judgment or order remains in force, is an offence, notwithstanding the Court may have had no jurisdiction to pass such judgment or order, provided the person doing the act in good faith believes that the Court had such jurisdiction.

Act done by a person justified, or by mistake of fact believing himself justified, by law

79. Nothing is an offence which is done by any person who is justified by law, or who by reason of a mistake of fact and not by reason of a mistake of law in good faith, believes himself to be justified by law, in doing it.

Illustration

A sees Z commit what appears to A to be a murder. A, in the exercise, to the best of his judgment, exerted in good faith of the power which the law gives to all persons of apprehending murderers in the act, seizes Z, in order to bring Z before the proper authorities. A has committed no offence, though it may turn out that Z was acting in self-defence.

Accident in doing a lawful act

80. Nothing is an offence which is done by accident or misfortune, and without any criminal intention or knowledge in the doing of a lawful act in a lawful manner by lawful means and with proper care and caution.

Illustration

A is at work with a hatchet; the head flies off and kills a man who is standing by. Here if there was no want of proper caution on the part of A, his act is

excusable and not an offence.

Act likely to cause harm, but done without criminal intent and to prevent other harm

81. Nothing is an offence merely by reason of its being done with the knowledge that it is likely to cause harm, if it be done without any criminal intention to cause harm, and in good faith for the purpose of preventing or avoiding other harm to person or property.

Explanation.-It is a question of fact in such a case whether the harm to be prevented or avoided was of such a nature and so imminent as to justify or excuse the risk of doing the act with the knowledge that it was likely to cause harm.

Illustrations

(a) A, the captain of a steam vessel, suddenly and without any fault or negligence on his part, finds himself in such a position that, before he can stop his vessel, he must inevitably run down a boat B, with twenty or thirty passengers on board, unless he changes the course of his vessel, and that, by changing his course, he must incur risk of running down a boat C with only two passengers on board, which he may possibly clear. Here, if A alters his course without any intention to run down the boat C and in good faith for the purpose of avoiding the danger to the passengers in the boat B, he is not guilty of an offence, though he may run down the boat C by doing an act which he knew was likely to cause that effect, if it be found as a matter of fact that the danger which he intended to avoid was such as to excuse him in incurring the risk of running down C.

(b) A, is in a great fire, pulls down houses in order to prevent the conflagration from spreading. He does this with intention in good faith of saving human life or property. Here if it be found that the harm to be prevented was of such a nature and so imminent as to excuse A's act, A is not guilty of the offence.

Act of a child under nine years of age

82. Nothing is an offence which is done by a child under ²⁸[nine] years of age.

Act of a child above nine and under twelve of immature understanding

83. Nothing is an offence which is done by a child above ²⁹[nine] years of age and under twelve, who has not attained sufficient maturity of understanding to judge of the nature and consequences of his conduct on that occasion.

Act of a person of

84. Nothing is an offence which is done by a person who, at the time of doing it, by reason of unsoundness of mind, is incapable of knowing the

**unsound
mind**

nature of the act, or that he is doing what is either wrong or contrary to law.

**Act of a
person
incapable of
judgment by
reason of
intoxication
caused
against his
will**

85. Nothing is an offence which is done by a person who, at the time of doing it, is, by reason of intoxication, incapable of knowing the nature of the act, or that he is doing what is either wrong, or contrary to law: provided that the thing which intoxicated him was administered to him without his knowledge or against his will.

**Offence
requiring a
particular
intent or
knowledge
committed
by one who
is
intoxicated**

86. In cases where an act done is not an offence unless done with a particular knowledge or intent, a person who does the act in a state of intoxication shall be liable to be dealt with as if he had the same knowledge as he would have had if he had not been intoxicated, unless the thing which intoxicated him was administered to him without his knowledge or against his will.

**87. Act not
intended
and not
known to be
likely to
cause death
or grievous
hurt, done
by consent**

87. Nothing which is not intended to cause death, or grievous hurt, and which is not known by the doer to be likely to cause death, or grievous hurt, is an offence by reason of any harm which it may cause, or be intended by the doer to cause, to any person, above eighteen years of age, who has given consent, whether express or implied, to suffer that harm; or by reason of any harm which it may be known by the doer to be likely to cause to any such person who has consented to take the risk of that harm.

Illustration

A and Z agree to fence with each other for amusement. This agreement implies the consent of each to suffer any harm which in the course of such fencing, may be caused without foul play; and if A, while playing fairly, hurts Z, A commits no offence.

**88. Act not
intended to
cause
death, done
by consent
in good
faith for**

88. Nothing, which is not intended to cause death, is an offence by reason of any harm which it may cause, or be intended by the doer to cause, or be known by the doer to be likely to cause, to any person for whose benefit it is done in good faith, and who has given a consent, whether express or implied, to suffer that harm, or to take the risk of that harm.

Illustration

A, a surgeon, knowing that a particular operation is likely to cause the death of Z, who suffers under the painful complaint, but not intending to cause Z's

person's benefit	death, and intending, in good faith Z's benefit, performs that operation on Z, with Z's consent. A has committed no offence.
Act done in good faith for benefit of child or insane person, by or by consent of guardian	<p>89. Nothing which is done in good faith for the benefit of a person under twelve years of age, or of unsound mind, by or by consent, either express or implied, of the guardian or other person having lawful charge of that person, is an offence by reason of any harm which it may cause, or be intended by the doer to cause or be known by the doer to be likely to cause to that person:</p> <p>Provided-</p> <p>Firstly.-That this exception shall not extend to the intentional causing of death, or to the attempting to cause death;</p> <p>Secondly.-That this exception shall not extend to the doing of anything which the person doing it knows to be likely to cause death, for any purpose other than the preventing of death or grievous hurt; or the curing of any grievous disease or infirmity;</p> <p>Thirdly.-That this exception shall not extend to the voluntary causing of grievous hurt, or to the attempting to cause grievous hurt, unless it be for the purpose of preventing death or grievous hurt, or the curing of any grievous disease or infirmity;</p> <p>Fourthly.-That this exception shall not extend to the abetment of any offence, to the committing of which offence it would not extend.</p> <p>Illustration</p> <p>A, in good faith, for his child's benefit without his child's consent, has his child cut for the stone by a surgeon, knowing it to be likely that the operation will cause the child's death, but not intending to cause the child's death. A is within the exception, inasmuch as his object was the cure of the child.</p>
Consent known to be given under fear or misconception	90. A consent is not such a consent as is intended by any section of this Code, if the consent is given by a person under fear of injury, or under a misconception of fact, and if the person doing the act knows, or has reason to believe, that the consent was given in consequence of such fear or misconception; or
Consent of insane person	If the consent is given by a person who, from unsoundness of mind, or intoxication, is unable to understand the nature and consequence of that to which he gives his consent; or
Consent of child	Unless the contrary appears from the context, if the consent is given by a person who is under twelve years of age.
Exclusion of acts which	91. The exceptions in sections 87, 88 and 89 do not extend to acts which are offences independently of any harm which they may cause, or be

are offences independently of harm caused

intended to cause, or be known to be likely to cause, to the person giving the consent, or on whose behalf the consent is given.

Illustration

Causing miscarriage (unless caused in good faith for the purpose of saving the life of woman) is an offence independently of any harm which it may cause or be intended to cause to the woman. Therefore, it is not an offence "by reason of such harm"; and the consent of the woman or of her guardian to the causing of such miscarriage does not justify the act.

Act done in good faith for benefit of a person without consent

92. Nothing is an offence by reason of any harm which it may cause to a person for whose benefit it is done in good faith, even without that person's consent, if the circumstances are such that it is impossible for that person to signify consent, or if that person is incapable of giving consent, and has no guardian or other person in lawful charge of him from whom it is possible to obtain consent in time for the thing to be done with benefit:

Provided-

Firstly.-That this exception shall not extend to the intentional causing of death, or the attempting to cause death;

Secondly.-That this exception shall not extend to the doing of anything which the person doing it knows to be likely to cause death, for any purpose other than the preventing of death or grievous hurt, or the curing of any grievous disease or infirmity;

Thirdly.-That this exception shall not extend to the voluntary causing of hurt, or to the attempting to cause hurt, for any purpose other than the preventing of death or hurt;

Fourthly.-That this exception shall not extend to the abetment of any offence, to the committing of which offence it would not extend.

Illustrations

(a) Z is thrown from his horse, and is insensible. A, a surgeon, finds that Z requires to be trepanned. A not intending Z's death but in good faith for Z's benefit, performs the trepan before Z recovers his power of judging for himself. A has committed no offence.

(b) Z is carried off by a tiger. A fires at the tiger knowing it to be likely that the shot may kill Z, but not intending to kill Z, and in good faith intending Z's benefit. A's ball gives Z a mortal wound. A has committed no offence.

(c) A, a surgeon, sees a child suffer an accident which is likely to prove fatal unless an operation be immediately performed. There is no time to apply to the child's guardian. A performs the operation in spite of the entreaties of the child, intending, in good faith, the child's benefit. A has committed no offence.

(d) A is in a house which is on fire, with Z, a child. People below hold out a blanket. A drops the child from the housetop, knowing it to be likely that the

fall may kill the child, but not intending to kill the child, and intending, in good faith, the child's benefit. Here even if the child is killed by the fall, A has committed no offence.

Explanation.-Mere pecuniary benefit is not benefit within the meaning of sections 88, 89 and 92.

Communication made in good faith 93. No communication made in good faith is an offence by reason of any harm to the person to whom it is made, if it is made for the benefit of that person.

Illustration

A, a surgeon, in good faith, communicates to a patient his opinion that he cannot live. The patient dies in consequence of the shock. A has committed no offence, though he knew it to be likely that the communication might cause the patient's death.

Act to which a person is compelled by threats 94. Except murder, and offences against the State punishable with death, nothing is an offence which is done by a person who is compelled to do it by threats, which, at the time of doing it, reasonably cause the apprehension that instant death to that person will otherwise be the consequence: Provided the person doing the act did not of his own accord, or from a reasonable apprehension of harm to himself short of instant death, place himself in the situation by which he became subject to such constraint.

Explanation 1.-A person who, of his own accord, or by reason of a threat of being beaten, joins a gang of dacoits, knowing their character, is not entitled to the benefit of this exception on the ground of his having been compelled by his associates to do anything that is an offence by law.

Explanation 2.-A person seized by a gang of dacoits, and forced by threat of instant death, to do a thing which is an offence by law; for example, a smith compelled to take his tools and to force the door of a house for the dacoits to enter and plunder it, is entitled to the benefit of this exception.

Act causing slight harm 95. Nothing is an offence by reason that it causes, or that it is intended to cause, or that it is known to be likely to cause, any harm, if that harm, is so slight that no person of ordinary sense and temper would complain of such harm.

Of the Right of the Private Defence

Things done in private defence 96. Nothing is an offence which is done in the exercise of the right of private defence.

Right of private defence of the body and of property

97. Every person has a right, subject to the restrictions contained in section 99, to defend□

Firstly.-His own body, and the body of any other person against any offence affecting the human body;

Secondly.-The property, whether moveable or immovable, of himself or of any other person, against any act which is an offence falling under the definition of theft, robbery, mischief or criminal trespass, or which is an attempt to commit theft, robbery, mischief or criminal trespass.

Right of private defence against the act of a person of unsound mind, etc.

98. When an act, which would otherwise be a certain offence is not that offence, by reason of the youth, the want of maturity of understanding, the unsoundness of mind or the intoxication of the person doing that act, or by reason of any misconception on the part of that person, every person has the same right of private defence against that act which he would have if the act were that offence.

Illustrations

(a) Z, under the influence of madness, attempts to kill A; Z is guilty of no offence. But A has the same right of private defence which he would have if Z were sane.

(b) A enters by night a house which he is legally entitled to enter. Z, in good faith, taking A for a house-breaker, attacks A. Here Z, by attacking A under this misconception, commits no offence. But A has the same right of private defence against Z, which he would have if Z were not acting under that misconception.

Acts against which there is no right of private defence

99. There is no right of private defence against an act which does not reasonably cause the apprehension of death or of grievous hurt, if done, or attempted to be done by a public servant acting in good faith under colour of his office, though that act may not be strictly justifiable by law.

There is no right of private defence against an act which does not reasonably cause the apprehension of death or of grievous hurt, if done, or attempted to be done, by the direction of a public servant acting in good faith under colour of his office, though that act may not be strictly justifiable by law.

There is no right of private defence in cases in which there is time to have recourse to the protection of the public authorities.

Extent to which the right may be exercised

The right of private defence in no case extends to the inflicting of more harm than it is necessary to inflict for the purpose of defence.

Explanation 1.-A person is not deprived of the right of private defence against an act done, or attempted to be done, by a public servant, as such

unless he knows, or has reason to believe, that the person doing the act is such public servant.

Explanation 2.-A person is not deprived of the right of private defence against an act done, or attempted to be done, by the direction of a public servant, unless he knows, or has reason to believe, that the person doing the act is acting by such direction, or unless such person states the authority under which he acts, or if he has authority in writing, unless he produces such authority, if demanded.

When the right of private defence of the body extends to causing death

100. The right of private defence of the body extends, under the restrictions mentioned in the last preceding section, to the voluntary causing of death or of any other harm to the assailant, if the offence which occasions the exercise of the right be of any of the descriptions hereinafter enumerated, namely:-

Firstly.-Such an assault as may reasonably cause the apprehension that death will otherwise be the consequence of such assault;

Secondly.-Such an assault as may reasonably cause the apprehension that grievous hurt will otherwise be the consequence of such assault;

Thirdly.-An assault with the intention of committing rape;

Fourthly.-An assault with the intention of gratifying unnatural lust;

Fifthly.-An assault with the intention of kidnapping or abducting;

Sixthly.-An assault with the intention of wrongfully confining a person, under circumstances which may reasonably cause him to apprehend that he will be unable to have recourse to the public authorities for his release.

When such right extends to causing any harm other than death

101. If the offence be not of any of the descriptions enumerated in the last preceding section, the right of private defence of the body does not extend to the voluntary causing of death to the assailant, but does extend, under the restrictions mentioned in section 99 to the voluntary causing to the assailant of any harm other than death.

Commencement and continuance of the right of private defence of the body

102. The right of private defence of the body commences as soon as a reasonable apprehension of danger to the body arises from an attempt or threat to commit the offence though the offence may not have been committed; and it continues as long as such, apprehension of danger to the body continues.

When the right of private

103. The right of private defence of property extends, under the restrictions mentioned in section 99, to the voluntary causing of death or of any other harm to the wrong-doer, if the offence, the committing of which, or the

defence of property extends to causing death

attempting to commit which, occasions the exercise of the right, be an offence of any of the descriptions hereinafter enumerated, namely:-

Firstly.-Robbery;

Secondly.-House-breaking by night;

Thirdly.-Mischief by fire committed on any building, tent or vessel, which building, tent or vessel is used as a human dwelling or as a place for the custody of property;

Fourthly.-Theft, mischief or house-trespass, under such circumstances as may reasonably cause apprehension that death or grievous hurt will be the consequence, if such right of private defence is not exercised;

When such right extends to causing any harm other than death

104. If the offence, the committing of which, or the attempting to commit which, occasions the exercise of the right of private defence, be theft, mischief, or criminal trespass, not of any of the descriptions enumerated in the last preceding section, that right does not extend to the voluntary causing of death, but does extend, subject to the restrictions mentioned in section 99, to the voluntary causing to the wrong-doer of any harm other than death.

Commencement and continuance of the right of private defence of property

105. The right of private defence of property commences when a reasonable apprehension of danger to the property commences.

The right of private defence of property against theft continues till the offender has effected his retreat with the property or either the assistance of the public authorities is obtained, or the property has been recovered.

The right of private defence of property against robbery continues as long as the offender causes or attempts to cause to any person death or hurt or wrongful restraint or as long as the fear of instant death or of instant hurt or of instant personal restraint continues.

The right of private defence of property against criminal trespass or mischief continues as long as the offender continues in the commission of criminal trespass or mischief.

The right of private defence of property against house-breaking by night continues as long as the house-trespass which has been begun by such house-breaking continues.

Right of private defence against deadly assault when there is risk of

106. If in the exercise of the right of private defence against an assault which reasonably causes the apprehension of death, the defender be so situated that he cannot effectually exercise that right without risk of harm to an innocent person, his right of private defence extends to the running of that risk.

Illustration

A is attacked by a mob who attempt to murder him. He cannot effectually exercise his right of private defence without firing on the mob, and he cannot

**harm to
innocent
person**

fire without risk of harming young children who are mingled with the mob. A commits no offence if by so firing he harms any of the children.

অধ্যায় এর নাম **V**
OF ABETMENT

**Abetment of
a thing**

107. A person abets the doing of a thing, who

Firstly.-Instigates any person to do that thing; or

Secondly.-Engages with one or more other person or persons in any conspiracy for the doing of that thing, if an act or illegal omission takes place in pursuance of that conspiracy, and in order to the doing of that thing; or

Thirdly.-Intentionally aids, by any act or illegal omission, the doing of that thing.

Explanation 1.-A person who, by wilful misrepresentation, or by wilful concealment of a material fact which he is bound to disclose, voluntarily causes or procures, or attempts to cause or procure, a thing to be done, is said to instigate the doing of that thing.

Illustration

A, a public officer, is authorized by a warrant from a Court of Justice to apprehend Z. B, knowing that fact and also that C is not Z, wilfully represents to A that C is Z, and thereby intentionally causes A to apprehend C. Here B abets by instigation the apprehension of C.

Explanation 2.-Whoever, either prior to or at the time of the commission of an act, does anything in order to facilitate the commission of that act, and thereby facilitates the commission thereof, is said to aid the doing of that act.

Abettor

108. A person abets an offence, who abets either the commission of an offence, or the commission of an act which would be an offence, if committed by a person capable by law of committing an offence with the same intention or knowledge as that of the abettor.

Explanation 1.-The abetment of the illegal omission of an act may amount to an offence although the abettor may not himself be bound to do that act.

Explanation 2.-To constitute the offence of abetment it is not necessary that the act abetted should be committed, or that the effect requisite to constitute the offence should be caused.

Illustrations

(a) A instigates B to murder C. B refuses to do so. A is guilty of abetting B to commit murder.

(b) A instigates B to murder D. B in pursuance of the instigation stabs D. D recovers from the wound. A is guilty of instigating B to commit murder.

Explanation 3.-It is not necessary that the person abetted should be capable by law of committing an offence, or that he should have the same guilty intention or knowledge as that of the abettor, or any guilty intention or knowledge.

Illustrations

(a) A, with a guilty intention, abets a child or a lunatic to commit an act which would be an offence, if committed by a person capable by law of committing an offence, and having the same intention as A. Here A, whether the act be committed or not, is guilty of abetting an offence.

(b) A, with the intention of murdering Z, instigates B, a child under seven years of age, to do an act which causes Z's death. B, in consequence of the abetment, does the act in the absence of A and thereby, causes Z's death. Here, though B was not capable by law of committing an offence, A is liable to be punished in the same manner as if B had been capable by law of committing an offence, and had committed murder, and he is therefore subject to the punishment of death.

(c) A instigates B to set fire to a dwelling-house. B, in consequence of the unsoundness of his mind, being incapable of knowing the nature of the act, or that he is doing what is wrong or contrary to law, sets fire to the house in consequence of A's instigation. B has committed no offence, but A is guilty of abetting the offence of setting fire to a dwelling-house, and is liable to the punishment provided for that offence.

(d) A intending to cause a theft to be committed, instigates B to take property belonging to Z out of Z's possession. A induces B to believe that the property belongs to A. B takes the property out of Z's possession, in good faith, believing it to be A's property. B, acting under this misconception, does not take dishonestly, and therefore does not commit theft. But A is guilty of abetting theft, and is liable to the same punishment as if B had committed theft.

Explanation 4.-The abetment of an offence being an offence, the abetment of such an abetment is also an offence.

Illustration

A instigates B to instigate C to murder Z. B accordingly instigates C to murder Z, and C commits that offence in consequence of B's instigation. B is liable to be punished for his offence with the punishment for murder; and, as A instigated B to commit the offence, A is also liable to the same punishment.

Explanation 5.-It is not necessary to the commission of the offence of abetment by conspiracy that the abettor should concert the offence with the person who commits it. It is sufficient if he engages in the conspiracy in pursuance of which the offence is committed.

Illustration

A conspires with B a plan for poisoning Z. It is agreed that A shall administer the poison. B then explains the plan to C mentioning that a third person is to administer the poison, but without mentioning A's name. C agrees to procure the poison, and procures and delivers it to B for the purpose of its being used in the manner explained. A administers the poison; Z dies in consequence. Here, though A and C have not conspired together, yet C has been engaged in the conspiracy in pursuance of which Z has been murdered. C has therefore committed the offence defined in this section and is liable to the punishment for murder.

Abetment in Bangladesh, of offences outside it

³⁰[108A. A person abets an offence within the meaning of this Code who, in Bangladesh, abets the commission of any act without and beyond Bangladesh which would constitute an offence committed in Bangladesh.]
Abetment in Bangladesh of offences outside it

Illustration

A, in Bangladesh, instigates B, a foreigner in Goa, to commit a murder in Goa. A is guilty of abetting murder.

Punishment of abetment if the act abetted is committed in consequence and where no express provision is made for its punishment.

109. Whoever abets any offence shall, if the act abetted is committed in consequence of the abetment, and no express provision is made by this Code for the punishment of such abetment, be punished with the punishment provided for the offence. Punishment of abetment if the act abetted is committed in consequence and where no express provision is made for its punishment

Explanation.-An act or offence is said to be committed in consequence of abetment, when it is committed in consequence of the instigation, or in pursuance of the conspiracy, or with the aid which constitutes the abetment.

Illustrations

(a) A offers a bribe to B, a public servant, as a reward for showing A some favour in the exercise of B's official functions. B accepts the bribe. A has abetted the offence defined in section 161.

(b) A instigates B to give false evidence. B, in consequence of the instigation commits that offence. A is guilty of abetting that offence, and is liable to the same punishment as B.

(c) A and B conspire to poison Z. A, in pursuance of the conspiracy, procures the poison and delivers it to B in order that he may administer it to Z. B, in pursuance of the conspiracy, administers the poison to Z in A's absence and thereby causes Z's death. Here B is guilty of murder. A is guilty of abetting that offence by conspiracy, and is liable to the punishment for murder.

Punishment of abettor if person abetted does act with different intention from that of abettor

Punishment of abettor if person abetted does act with different intention from that of abettor 110. Whoever abets the commission of an offence shall, if the person abetted does the act with a different intention or knowledge from that of the abettor, be punished with the punishment provided for the offence which would have been committed if the act had been done with the intention or knowledge of the abettor and with no other.

Liability of abettor when one act abetted and different act done

Liability of abettor when one act abetted and different act done 111. When an act is abetted and a different act is done, the abettor is liable for the act done, in the same manner and to the same extent as if he had directly abetted it:

Provided the act done was a probable consequence of the abetment, and was committed under the influence of the instigation, or with the aid or in pursuance of the conspiracy which constituted the abetment.

Illustrations

(a) A instigates a child to put poison into the food of Z, and gives him poison for that purpose. The child, in consequence of the instigation, by mistake puts the poison into the food of Y, which is by the side of that of Z. Here if the child was acting under the influence of A's instigation, and the act done was under the circumstances a probable consequence of the abetment, A is liable in the same manner and to the same extent as if he had instigated the child to put the poison into the food of Y.

(b) A instigates B to burn Z's house. B sets fire to the house and at the same time commits theft of property there. A, though guilty of abetting the burning of the house, is not guilty of abetting the theft; for the theft was a distinct act, and not a probable consequence of the burning.

(c) A instigates B and C to break into an inhabited house at midnight for the purpose of robbery, and provides them with arms for that purpose. B and C break into the house, and being resisted by Z, one of the inmates, murder Z. Here, if that murder was the probable consequence of the abetment, A is liable to the punishment provided for murder.

Abettor when liable to cumulative punishment for act

112. If the act for which the abettor is liable under the last preceding section is committed in addition to the act abetted, and constitutes a distinct offence, the abettor is liable to punishment for each of the offences.

Illustration

A instigates B to resist by force a distress made by a public servant. B, in consequence, resists that distress. In offering the resistance, B voluntarily

**abetted and
for act done**

causes grievous hurt to the officer executing the distress. As B has committed both the offence of resisting the distress, and the offence of voluntarily causing grievous hurt, B is liable to punishment for both these offences; and, if A knew that B was likely voluntarily to cause grievous hurt in resisting the distress, A will also be liable to punishment for each of the offences.

**Liability of
abettor for
an effect
caused by
the act
abetted
different
from that
intended by
the abettor**

113. When an act is abetted with the intention on the part of the abettor of causing a particular effect, and an act for which the abettor is liable in consequence of the abetment, causes a different effect from that intended by the abettor, the abettor is liable for the effect caused, in the same manner and to the same extent as if he had abetted the act with the intention of causing that effect, provided he knew that the act abetted was likely to cause that effect.

Illustration

A instigates B to cause grievous hurt to Z. B, in consequence of the instigation, causes grievous hurt to Z. Z dies in consequence. Here, if A knew that the grievous hurt abetted was likely to cause death, A is liable to be punished with the punishment provided for murder.

**Abettor
present
when
offence is
committed**

114. Whenever any person, who if absent would be liable to be punished as an abettor, is present when the act or offence for which he would be punishable in consequence of the abetment is committed, he shall be deemed to have committed such act or offence.

**Abetment of
offence
punishable
with death
or
imprisonment
for life- if
offence be
not
committed;
if act
causing
harm be
done in
consequence**

115. Whoever abets the commission of an offence punishable with death or ³¹[imprisonment] for life, shall, if that offence be not committed in consequence of the abetment, and no express provision is made by this Code for the punishment of such abetment, be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine;

and if any act for which the abettor is liable in consequence of the abetment, and which causes hurt to any person, is done, the abettor shall be liable to imprisonment of either description for a term which may extend to fourteen years, and shall also be liable to fine.

Illustration

A instigates B to murder Z. The offence is not committed. If B had murdered Z, he would have been subject to the punishment of death or ³²[imprisonment] for life. Therefore A is liable to imprisonment for a term which may extend to seven years and also to a fine; and, if any hurt be done to Z in consequence of the abetment, he will be liable to imprisonment for a term which may extend to fourteen years, and to fine.

Abetment of offence punishable with imprisonment- if offence be not committed; if abettor or person abetted be a public servant whose duty it is to prevent offence

116. Whoever abets an offence punishable with imprisonment shall, if that offence be not committed in consequence of the abetment, and no express provision is made by this Code for the punishment of such abetment, be punished with imprisonment of any description provided for that offence for a term which may extend to one-fourth part of the longest term provided for that offence; or with such fine as is provided for that offence, or with both;

and if the abettor or the person abetted is a public servant, whose duty it is to prevent the commission of such offence, the abettor shall be punished with imprisonment of any description provided for that offence, for a term which may extend to one-half of the longest term provided for that offence, or with such fine as is provided for the offence, or with both.

Illustrations

(a) A offers a bribe to B, a public servant, as a reward for showing A some favour in the exercise of B's official functions. B refuses to accept the bribe. A is punishable under this section.

(b) A instigates B to give false evidence. Here, if B does not give false evidence, A has nevertheless committed the offence defined in this section, and is punishable accordingly.

(c) A, a police-officer, whose duty it is to prevent robbery, abets the commission of robbery. Here, though the robbery be not committed, A is liable to one-half of the longest term of imprisonment provided for that offence, and also to fine.

(d) B abets the commission of a robbery by A, a police-officer, whose duty it is to prevent that offence. Here though the robbery be not committed, B is liable to one-half of the longest term of imprisonment provided for the offence of robbery, and also to fine.

Abetting commission of offence by the public, or by more than ten persons

117. Whoever abets the commission of an offence by the public generally or by any number or class of persons exceeding ten, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Illustration

A affixes in a public place a placard instigating a sect consisting of more than ten members to meet at a certain time and place, for the purpose of attacking the members of an adverse sect, while engaged in a procession. A has committed the offence defined in this section.

Concealing design to commit offence punishable

118. Whoever intending to facilitate or knowing it to be likely that he will thereby facilitate the commission of an offence punishable with death or ³³[imprisonment] for life,

voluntarily conceals, by any act or illegal omission, the existence of a design to commit such offence or makes any representation which he knows to be

**with death
or
imprisonment
for life- if
offence be
committed;
if offence be
not
committed**

false respecting such design,
shall, if that offence be committed, be punished with imprisonment of either description for a term which may extend to seven years, or, if the offence be not committed, with imprisonment of either description for a term which may extend to three years; and in either case shall also be liable to fine.

Illustration

A, knowing that dacoity is about to be committed at B, falsely informs the Magistrate that a dacoity is about to be committed at C, a place in an opposite direction, and thereby misleads the Magistrate with intent to facilitate the commission of the offence. The dacoity is committed at B in pursuance of the design. A is punishable under this section.

**Public
servant
concealing
design to
commit
offence
which it is
his duty to
prevent-**

119. Whoever, being a public servant intending to facilitate or knowing it to be likely that he will thereby facilitate the commission of an offence which it is his duty as such public servant to prevent,

voluntarily conceals, by any act or illegal omission, the existence of a design to commit such offence, or makes any representation which he knows to be false respecting such design,

**if offence be
committed;**

shall, if the offence be committed, be punished with imprisonment of any description provided for the offence, for a term which may extend to one-half of the longest term of such imprisonment, or with such fine as is provided for that offence, or with both;

**if offence be
punishable
with death,
etc;**

or, if the offence be punishable with death or ³⁴[imprisonment] for life, with imprisonment of either description for a term which may extend to ten years;

**if offence be
not
committed**

or, if the offence be not committed, shall be punished with imprisonment of any description provided for the offence for a term which may extend to one-fourth part of the longest term of such imprisonment or with such fine as is provided for the offence, or with both.

Illustration

A, an officer of police, being legally bound to give information of all designs to commit robbery which may come to his knowledge, and knowing that B designs to commit robbery, omits to give such information, with intent to facilitate the commission of that offence. Here A has by an illegal omission concealed the existence of B's design, and is liable to punishment according to the provision of this section.

Concealing design to commit offence punishable with imprisonment

120. Whoever, intending to facilitate or knowing it to be likely that he will thereby facilitate the commission of an offence punishable with imprisonment,

voluntarily conceals, by any act or illegal omission, the existence of a design to commit such offence, or makes any representation which he knows to be false respecting such design,

if offence be committed; if offence be not committed

shall, if the offence be committed, be punished with imprisonment of the description provided for the offence, for a term which may extend to one-fourth, and, if the offence be not committed, to one-eighth, of the longest term of such imprisonment, or with such fine as is provided for the offence, or with both.

³⁵অধ্যায় এর নাম **VA**

CRIMINAL CONSPIRACY

Definition of criminal conspiracy.

120A. When two or more persons agree to do, or cause to be done,-

(1) an illegal act, or

(2) an act which is not illegal by illegal means, such an agreement is designated a criminal conspiracy:

Provided that no agreement except an agreement to commit an offence shall amount to a criminal conspiracy unless some act besides the agreement is done by one or more parties to such agreement in pursuance thereof.

Explanation.-It is immaterial whether the illegal act is the ultimate object of such agreement, or is merely incidental to that object.

Punishment of criminal conspiracy

120B. (1) Whoever is a party to a criminal conspiracy to commit an offence punishable with death, ³⁶[imprisonment for life] or rigorous imprisonment for a term of two years or upwards, shall, where no express provision is made in this Code for the punishment of such a conspiracy, be punished in the same manner as if he had abetted such offence.

(2) Whoever is a party to a criminal conspiracy other than a criminal conspiracy to commit an offence punishable as aforesaid shall be punished with imprisonment of either description for a term not exceeding six months, or with fine or with both.]

অধ্যায় এর নাম **VI**

OF OFFENCES AGAINST THE STATE

Waging or attempting

121. Whoever wages war against Bangladesh, or attempts to wage such war, or abets the waging of such war, shall be punished with death, or

to wage war, or abetting waging of war, against Bangladesh

³⁷[imprisonment] for life, and shall also be liable to fine. Illustration

A joins an insurrection against Bangladesh. A has committed the offence defined in this section.

Conspiracy to commit offences punishable by section 121.

³⁸[121A. Whoever within or without Bangladesh conspires to commit any of the offences punishable by section 121, or to deprive Bangladesh of the sovereignty of her territories or of any part thereof, or conspires to overawe, by means of criminal force or the show of criminal force, the Government, shall be punished with ³⁹[imprisonment for life] or with imprisonment of either description which may extend to ten years, and shall also be liable to fine.]

Explanation.-To constitute a conspiracy under this section, it is not necessary that any act or illegal omission shall take place in pursuance.

Collecting arms, etc., with intention of waging war against Bangladesh

122. Whoever collects men, arms or ammunition or otherwise prepares to wage war with the intention of either waging or being prepared to wage war against Bangladesh, shall be punished with ⁴⁰[imprisonment] for life or imprisonment of either description for a term not exceeding ten years, and shall also be liable to fine.

Concealing with intent to facilitate design to wage war

123. Whoever, by any act, or by any illegal omission, conceals the existence of a design to wage war against Bangladesh, intending by such concealment to facilitate, or knowing it to be likely that such concealment will facilitate the waging of such war, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Condemnation of the creation of the State, and advocacy of abolition of its sovereignty

⁴¹[123A. (1) Whoever, with or without Bangladesh, with intent to influence, or knowing it to be likely that he will influence, any person or the whole or any section of the public, in a manner likely to be prejudicial to the safety of Bangladesh, or to endanger the sovereignty of Bangladesh in respect of all or any of the territories lying within its borders, shall by words, spoken or written, or by signs or visible representation, condemn the creation of Bangladesh ⁴²[in pursuance of the Proclamation of Independence on the twenty-sixth day of March, 1971], or advocate the curtailment or abolition of the sovereignty of Bangladesh in respect of all or any of the territories lying within its borders, whether by amalgamation with the territories of neighboring States or otherwise, shall be punished with rigorous imprisonment which may extend to ten years and shall also be liable to fine.

(2) Notwithstanding anything contained in any other law for the time being in force, when any person is proceeded against under this section, it shall be

lawful for any Court before which he may be produced in the course of the investigation or trial, to make such order as it may think fit in respect of his movements, of his association or communication with other persons, and of his activities in regard to dissemination of news, propagation of opinions, until such time as the case is finally decided.]

(3) Any Court which is a Court of appeal or of revision in relation to the Court mentioned in sub-section (2) may also make an order under that sub-section.]

**Assaulting
President,
The
Government,
etc., with
intent to
compel or
restrain the
exercise of
any lawful
power**

124. Whoever, with the intention of inducing or compelling the President of Bangladesh, or ⁴³[the Government], to exercise or refrain from exercising in any manner any of the lawful powers of the President, or ⁴⁴[the Government],

assaults, or wrongfully restrains, or attempts wrongfully to restrain, or overawes, by means of criminal force or the show of criminal force, or attempts so to overawe, the President, ⁴⁵[* * *],

shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Sedition

⁴⁶[124A. Whoever by words, either spoken or written, or by signs, or by visible representation, or otherwise, brings or attempts to bring into hatred or contempt, or excites or attempts to excite disaffection towards, the Government established by law shall be punished with ⁴⁷[imprisonment for life] or any shorter term, to which fine may be added, or with imprisonment which may extend to three years, to which fine may be added, or with fine.]

Explanation 1.-The expression "disaffection" includes disloyalty and all feelings of enmity.

Explanation 2.-Comments expressing disapprobation of the measures of the Government with a view to obtain their alteration by lawful means, without exciting or attempting to excite hatred, contempt or disaffection, do not constitute an offence under this section.

Explanation 3.-Comments expressing disapprobation of the administrative or other action of the Government without exciting or attempting to excite hatred, contempt or disaffection, do not constitute an offence under this section.

**Waging war
against any
Asiatic
Power in**

125. Whoever wages war against the Government of any Asiatic power in alliance or at peace with Bangladesh or attempts to wage such war, or abets the waging of such war, shall be punished with ⁴⁸[imprisonment] for life, to which fine may be added, or with imprisonment of either description for a

alliance with Bangladesh	term which may extend to seven years, to which fine may be added, or with fine.
Committing depredation on territories of Power at peace with Bangladesh	126. Whoever commits depredation, or makes preparations to commit depredation, on the territories of any Power in alliance or at peace with Bangladesh, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine and to forfeiture of any property used or intended to be used in committing such depredation, or acquired by such depredation.
Receiving property taken by war or depredation mentioned in sections 125 and 126	127. Whoever receives any property knowing the same to have been taken in the commission of any of the offences mentioned in sections 125 and 126, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine and to forfeiture of the property so received.
Public servant voluntarily allowing prisoner of State or war to escape	128. Whoever, being a public servant and having the custody of any State prisoner or prisoner of war, voluntarily allows such prisoner to escape from any place in which such prisoner is confined, shall be punished with ⁴⁹ [imprisonment] for life, or imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.
Public servant negligently suffering such prisoner to escape	129. Whoever, being a public servant and having the custody of any State prisoner or prisoner of war, negligently suffers such prisoner to escape from any place of confinement in which such prisoner is confined, shall be punished with simple imprisonment for a term which may extend to three years, and shall also be liable to fine.
Aiding escape of, rescuing or harbouring such prisoner	130. Whoever knowingly aids or assists any State prisoner or prisoner of war in escaping from lawful custody, or rescues or attempts to rescue any such prisoner, or harbours or conceals any such prisoner who has escaped from lawful custody, or offers or attempts to offer any resistance to the recapture of such prisoner shall be punished with ⁵⁰ [imprisonment] for life, or with imprisonment of either description for a term which may extend to ten years and shall also be liable to fine.

Explanation.-A State prisoner or prisoner of war, who is permitted to be at large on his parole within certain limits in Bangladesh, is said to escape from lawful custody if he goes beyond the limits within which he is allowed to be at large.

অধ্যায় এর নাম VII

OF OFFENCES RELATING TO THE ARMY, NAVY AND AIR FORCE

Abetting mutiny, or attempting to seduce a soldier, sailor or airman from his duty

131. Whoever abets the committing of mutiny by an officer, soldier, sailor or airman, in the Army, Navy or Air Force of Bangladesh, or attempts to seduce any such officer, soldier, sailor or airman from his allegiance or his duty, shall be punished with ⁵¹[imprisonment] for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Explanation.-In this section the words "officer", "soldier", "sailor" and "airman" include any person subject to the ⁵²[Army Act, 1952 or the Navy Ordinance, 1961 or the Air Force Act, 1953], as the case may be.

Abetment of mutiny, if mutiny is committed in consequence thereof

132. Whoever abets the committing of mutiny by an officer, soldier, sailor or airman, in the Army, Navy or Air Force of Bangladesh, shall, if mutiny be committed in consequence of that abetment, be punished with death or with ⁵³[imprisonment] for life, or imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Abetment of assault by soldier, sailor or airman on his superior officer, when in execution of his office

133. Whoever, abets an assault by an officer, soldier, sailor or airman, in the Army, Navy or Air Force of Bangladesh, on any superior officer being in the execution of his office, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

Abetment of such assault, if the assault is committed

134. Whoever, abets an assault by an officer, soldier sailor or airman, in the Army, Navy or Air Force of Bangladesh, on any superior officer being in the execution of his office, shall, if such assault be committed in consequence of that abetment be punished with imprisonment of either description for a term which may extend to seven years, and shall be liable to fine.

Abetment of desertion of soldier, sailor or airman	135. Whoever abets the desertion of any officer, soldier, sailor or airman, in the Army, Navy or Air Force of Bangladesh, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.
Harbouring deserter	136. Whoever, except as hereinafter excepted, knowing or having reason to believe that an officer, soldier, sailor or airman, in the Army, Navy or Air Force of Bangladesh, has deserted, harbours such officer, soldier, sailor or airman, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both. Exception.-This provision does not extend to the case in which the harbour is given by a wife to her husband.
Deserter concealed on board merchant vessel through negligence of master	137. The master or person in charge of a merchant vessel, on board of which any deserter from the Army, Navy or Air Force of Bangladesh is concealed, shall, though ignorant of such concealment, be liable to a penalty not exceeding five hundred taka if he might have known of such concealment but for some neglect of his duty as such master or person in charge, or but for some want of discipline on board of the vessel.
Abetment of act of insubordination by soldier, sailor or airman	138. Whoever abets what he knows to be an act of insubordination by an officer, soldier, sailor or airman, in the Army, Navy or Air Force of Bangladesh, shall, if such act of insubordination be committed in consequence of that abetment, be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both.
[Repealed]	138A. [Repealed by section 2 and Schedule of the Amending Act, 1934 (Act No. XXXV of 1934).]
Persons subject to certain acts	139. No person subject to the ⁵⁴ [* * *] Army Act, 1952, the ⁵⁵ [Navy Ordinance, 1961], the ⁵⁶ [* * *] Air Force Act, 1953, is subject to punishment under this Code for any of the offences defined in this Chapter.
Wearing garb or carrying token used by soldier, sailor or airman	140. Whoever, not being a soldier, sailor or airman in the Military, Naval or Air service of Bangladesh, wears any garb or carries any token resembling any garb or token used by such a soldier, sailor or airman with the intention that it may be believed that he is such a soldier, sailor or airman, shall be punished with imprisonment of either description for a term which may extend to three months, or with fine which may extend to five hundred taka or with both.

অধ্যায় এর নাম VIII

OF OFFENCES AGAINST THE PUBLIC TRANQUILITY

Unlawful assembly

141. An assembly of five or more persons is designated an "unlawful assembly," if the common object of the persons composing that assembly is□

First.-To overawe by criminal force, or show of criminal force, Government or Legislature, or any public servant in the exercise of the lawful power of such public servant; or

Second.-To resist the execution of any law, or of any legal process; or

Third.□To commit any mischief or criminal trespass, or other offence; or

Fourth.-By means of criminal force, or show of criminal force, to any person to take or obtain possession of any property, or to deprive any person of the enjoyment of a right of way, or of the use of water or other incorporeal right of which he is in possession or enjoyment, or to enforce any right or supposed right; or

Fifth.-By means of criminal force, or show of criminal force, to compel any person to do what he is not legally bound to do, or to omit to do what he is legally entitled to do.

Explanation.-An assembly which was not unlawful when it assembled, may subsequently become an unlawful assembly.

Being member of unlawful assembly

142. Whoever, being aware of facts which render any assembly an unlawful assembly, intentionally joins that assembly, or continues in it, is said to be a member of an unlawful assembly.

Punishment

143. Whoever is a member of an unlawful assembly, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both.

Joining unlawful assembly, armed with deadly weapon

144. Whoever, being armed with any deadly weapon, or with anything which, used as a weapon of offence, is likely to cause death, is a member of an unlawful assembly, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Joining or continuing in unlawful assembly,

145. Whoever joins or continues in an unlawful assembly, knowing that such unlawful assembly has been commanded in the manner prescribed by law to disperse, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

**knowing it
has been
commanding
to disperse**

Rioting

146. Whenever force or violence is used by an unlawful assembly, or by any member thereof, in prosecution of the common object of such assembly, every member of such assembly is guilty of the offence of rioting.

**Punishment
for rioting**

147. Whoever is guilty of rioting, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

**Rioting,
armed with
deadly
weapon**

148. Whoever is guilty of rioting, being armed with a deadly weapon or with anything which, used as a weapon of offence, is likely to cause death, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

**Every
member of
unlawful
assembly
guilty of
offence
committed
in
prosecution
of common
object**

149. If an offence is committed by any member of an unlawful assembly in prosecution of the common object of that assembly, or such as the members of that assembly knew to be likely to be committed in prosecution of that object, every person who, at the time of the committing of that offence, is a member of the same assembly, is guilty of that offence.

**Hiring, or
conniving at
hiring, of
persons to
join
unlawful
assembly**

150. Whoever hires or engages, or employs, or promotes, or connives at the hiring, engagement or employment of any person to join or become a member of any unlawful assembly, shall be punishable as a member of such unlawful assembly, and for any offence which may be committed by any such person as a member of such unlawful assembly in pursuance of such hiring, engagement or employment, in the same manner as if he had been a member of such unlawful assembly, or himself had committed such offence.

**Knowingly
joining or
continuing
in assembly
of five or
more
persons**

151. Whoever knowingly joins or continues in any assembly of five or more persons likely to cause a disturbance of the public peace, after such assembly has been lawfully commanded to disperse, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both.

**after it has
been
commanded
to disperse**

Explanation.-If the assembly is an unlawful assembly within the meaning of section 141, the offender will be punishable under section 145.

**Assaulting
or
obstructing
public
servant
when
suppressing
riot, etc.**

152. Whoever assaults or threatens to assault, or obstructs or attempts to obstruct, any public servant in the discharge of his duty as such public servant, in endeavouring to disperse an unlawful assembly, or to suppress a riot or affray, or uses, or threatens, or attempts to use criminal force to such public servant, shall be punished with imprisonment of either description for a term which may extend to three years or with fine, or with both.

**Wantonly
giving
provocation
with intent
to cause
riot- if
rioting be
committed;
if not
committed**

153. Whoever maliciously, or wantonly, by doing anything which is illegal, gives provocation to any person intending or knowing it to be likely that such provocation will cause the offence of rioting to be committed, shall, if the offence of rioting be committed in consequence of such provocation, be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both; and if the offence of rioting be not committed, with imprisonment of either description for a term which may extend to six months, or with fine, or with both.

**Promoting
enmity
between
classes**

⁵⁷[153A. Whoever by words, either spoken or written, or by signs, or by visible representations, or otherwise, promotes or attempts to promote feelings of enmity or hatred between different classes of the citizens of Bangladesh, shall be punished with imprisonment which may extend to two years, or with fine, or with both.]

Explanation.-It does not amount to an offence within the meaning of this section to point out, without malicious intention and with an honest view to their removal, matters which are producing or have a tendency to produce, feelings of enmity or hatred between different classes of the citizens of Bangladesh.

**Inducing
students,
etc. to take
part in
political
activity**

⁵⁸[153B. Whoever by words, either spoken or written, or by signs, or by visible representations, or otherwise, induce or attempts to induce any student, or any class of students, or any institution interested in or connected with students, to take part in any political activity which disturbs or undermines, or is likely to disturb or undermine, the public order shall be punished with imprisonment which may extend to two years or with fine, or with both.]

Owner or occupier of land on which an unlawful assembly is held

154. Whenever any unlawful assembly or riot takes place, the owner or occupier of the land upon which such unlawful assembly is held, or such riot is committed, and any person having or claiming an interest in such land, shall be punishable with fine not exceeding one thousand taka, if he or his agent or manager, knowing that such offence is being or has been committed, or having reason to believe it is likely to be committed, do not give the earliest notice thereof in his or their power to the principal officer at the nearest police-station, and do not, in the case of his or their having reason to believe that it was about to be committed, use all lawful means in his or their power to prevent it and, in the event of its taking place, do not use all lawful means in his or their power to disperse or suppress the riot or unlawful assembly.

Liability of person for whose benefit riot is committed

155. Whenever a riot is committed for the benefit or on behalf of any person who is the owner or occupier of any land respecting which such riot takes place or who claims any interest in such land, or in the subject of any dispute which gave rise to the riot, or who has accepted or derived any benefit therefrom, such person shall be punishable with fine, if he or his agent or manager, having reason to believe that such riot was likely to be committed or that the unlawful assembly by which such riot was committed was likely to be held, shall not respectively use all lawful means in his or their power to prevent such assembly or riot from taking place, and for suppressing and dispersing the same.

Liability of agent of owner or occupier for whose benefit riot is committed

156. Whenever a riot is committed for the benefit or on behalf of any person who is the owner or occupier of any land respecting which such riot takes place, or who claims any interest in such land, or in the subject of any dispute which gave rise to the riot, or who has accepted or derived any benefit therefrom, the agent or manager of such person shall be punishable with fine, if such agent or manager, having reason to believe that such riot was likely to be committed, or that the unlawful assembly by which such riot was committed was likely to be held, shall not use all lawful means in his power to prevent such riot or assembly from taking place and for suppressing and dispersing the same.

Harbouring persons hired for an unlawful assembly

157. Whoever harbours, receives or assembles, in any house or premises in his occupation or charge, or under his control any persons, knowing that such persons have been hired, engaged or employed, or are about to be hired, engaged or employed, to join or become members of an unlawful assembly, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both.

Being hired to take part in an unlawful assembly or riot; or to go armed

158. Whoever is engaged or hired, or offers or attempts to be hired or engaged, to do or assist in doing any of the acts specified in section 141, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both.

and whoever, being so engaged or hired as aforesaid, goes armed, or engages or offers to go armed, with any deadly weapon or with anything which used as a weapon of offence is likely to cause death, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Affray

159. When two or more persons, by fighting in a public place, disturb the public peace, they are said to "commit an affray".

Punishment for committing affray

160. Whoever commits an affray, shall be punished with imprisonment of either description for a term which may extend to one month, or with fine which may extend to one hundred taka, or with both.

অধ্যায় এর নাম IX

OF OFFENCES BY OR RELATING TO PUBLIC SERVANTS

Public servant taking gratification other than legal remuneration in respect of an official ac

161. Whoever, being or expecting to be a public servant, accepts or obtains, or agrees to accept, or attempts to obtain from any person, for himself or for any other person any gratification whatever, other than legal remuneration, as a motive or reward for doing or forbearing to do any official act or for showing or for bearing to show, in the exercise of his official functions, favour or disfavour to any person, or for rendering or attempting to render any service or disservice to any person, with the Government or Legislature, or with any public servant, as such, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Explanations—"Expecting to be a public servant." If a person not expecting to be in office obtains a gratification by deceiving others into a belief that he is about to be in office, and that he will then serve them, he may be guilty of cheating but he is not guilty of the offence defined in this section.

"Gratification." The word "gratification" is not restricted to pecuniary gratifications, or to gratifications estimable in money.

"Legal remuneration." The words "legal remuneration" are not restricted to remuneration which a public servant can lawfully demand, but include all remuneration which is permitted by the authority by which he is employed, to accept.

"A motive or reward for doing." A person who receives a gratification as a motive for doing what he does not intend to do, or as a reward for doing

what he has not done, comes within these words.

Illustrations

(a) A, a munsif, obtains from Z, a banker, a situation in Z's bank for A's brother, as a reward to A for deciding a cause in favour of Z. A has committed the offence defined in this section.

(b) A, holding the office of Consul at the Court of a foreign Power, accepts a lakh of taka from the Minister of that Power. It does not appear that A accepted this sum as a motive or reward for doing or forbearing to do any particular official act, or for rendering or attempting to render any particular service to that Power with the Government of Bangladesh. But it does appear that A accepted the sum as a motive or reward for generally showing favour in the exercise of his official functions to that Power. A has committed the offence defined in this section.

(c) A, a public servant, induces Z erroneously to believe that A's influence with Government has obtained a title for Z and thus induces Z to give A money as a reward for this service. A has committed the offence defined in this section.

Taking gratification, in order, by corrupt or illegal means, to influence public servant

162. Whoever accepts or obtains, or agrees to accept, or attempts to obtain, from any person, for himself or for any other person, any gratification whatever as a motive or reward for inducing, by corrupt or illegal means, any public servant to do or to forbear to do any official act, or in the exercise of the official functions of such public servant to show favour or disfavour to any person, or to render or attempt to render any service or disservice to any person with the Government or Legislature, or with any public servant, as such, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Taking gratification, for exercise of personal influence with public servant

163. Whoever accepts or obtains, or agrees to accept or attempts to obtain, from any person, for himself or for any other person, any gratification whatever, as a motive or reward for inducing, by the exercise of personal influence, any public servant to do or to forbear to do any official act, or in the exercise of the official functions of such public servant to show favour or disfavour to any person, or to render or attempt to render any service or disservice to any person with the Government or Legislature, or with any public servant, as such, shall be punished with simple imprisonment for a term which may extend to one year, or with fine, or with both.

Illustration

An advocate who receives a fee for arguing a case before a Judge; a person who receives pay for arranging and correcting a memorial addressed to Government, setting forth the services and claims of the memorialist; a paid agent for a condemned criminal, who lays before the Government statements tending to show that the condemnation was unjust, - are not

within this section, inasmuch as they do not exercise or profess to exercise personal influence.

Punishment for abetment by public servant of offences defined in section 162 or 163

164. Whoever, being a public servant, in respect of whom either of the offences defined in the last two preceding sections is committed, abets the offence, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Illustration

A is a public servant. B, A's wife, receives a present as a motive for soliciting A to give an office to a particular person. A abets her doing so. B is punishable with imprisonment for a term not exceeding one year, or with fine, or with both. A is punishable with imprisonment for a term which may extend to three years, or with fine, or with both.

Public servant obtaining valuable thing, without consideration, from person concerned in proceeding or business transacted by such public servant

165. Whoever, being a public servant, accepts or obtains, or agrees to accept or attempts to obtain, for himself, or for any other person, any valuable thing without consideration, or for a consideration which he knows to be inadequate,

from any person whom he knows to have been, or to be, or to be likely to be concerned in any proceeding or business transacted or about to be transacted by such public servant, or having any connection with the official functions of himself or of any public servant to whom he is subordinate, or from any person whom he knows to be interested in or related to the person so concerned,

shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Illustrations

(a) A, a Collector, hires a house of Z, who has a settlement case pending before him. It is agreed that A shall pay fifty taka a month, the house being such that, if the bargain were made in good faith, A would be required to pay two hundred taka a month. A has obtained a valuable thing from Z without adequate consideration.

(b) A, a Judge, buys of Z, who has a case pending in A's Court, Government promissory notes at a discount, when they are selling in the market at a premium. A has obtained a valuable thing from Z without adequate consideration.

(c) Z's brother is apprehended and taken before A, a Magistrate, on a charge of perjury. A sells to Z shares in a bank at a premium, when they are selling in the market at a discount. Z pays A for the shares accordingly. The money so obtained by A is a valuable thing obtained by him without adequate consideration.

Punishment for abetment of offences defined in sections 161 and 165

⁵⁹[165A. Whoever abets any offence punishable under section 161 or section 165 shall, whether the offence abetted is or is not committed in consequence of the abetment, be punished with the punishment provided for the offence.]

Certain abettors excepted

⁶⁰[165B. A person shall be deemed not to abet an offence punishable under section 161 or section 165 if he is induced, compelled, coerced, or intimidated to offer or give any such gratification as is referred to in section 161 for any of the purposes mentioned therein, or any valuable thing without consideration, or for an inadequate consideration, to any such public servant as is referred to in section 165.]

Public servant disobeying law, with intent to cause injury to any person

166. Whoever, being a public servant, knowingly disobeys any direction of the law as to the way in which he is to conduct himself as such public servant, intending to cause, or knowing it to be likely that he will, by such disobedience, cause injury to any person, shall be punished with simple imprisonment for a term which may extend to one year, or with fine, or with both.

Illustration

A, being an officer directed by law to take property in execution, in order to satisfy a decree pronounced in Z's favour by a Court of Justice, knowingly disobeys that direction of law, with the knowledge that he is likely thereby to cause injury to Z. A has committed the offence defined in this section.

Public servant framing an incorrect document with intent to cause injury

167. Whoever, being a public servant, and being, as such public servant, charged with the preparation or translation of any document, frames or translates that document in a manner which he knows or believes to be incorrect, intending thereby to cause or knowing it to be likely that he may thereby cause injury to any person, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Public servant unlawfully engaging in trade

168. Whoever, being a public servant, and being legally bound as such public servant not to engage in trade, engages in trade, shall be punished with simple imprisonment for a term which may extend to one year, or with fine, or with both.

Public servant

169. Whoever, being a public servant, and being legally bound as such public servant, not to purchase or bid for certain property, purchases or bids

unlawfully buying or bidding for property

for that property, either in his own name or in the name of another, or jointly, or in shares with others, shall be punished with simple imprisonment for a term which may extend to two years, or with fine, or with both; and the property, if purchased, shall be confiscated.

Personating a public servant

170. Whoever pretends to hold any particular office as a public servant, knowing that he does not hold such office or falsely personates any other person holding such office, and in such assumed character does or attempts to do any act under colour of such office, shall be punished with imprisonment of either description, for a term which may extend to two years, or with fine, or with both.

Wearing garb or carrying token used by public servant with fraudulent intent

171. Whoever, not belonging to a certain class of public servants, wears any garb or carries any token resembling any garb or token used by that class of public servants, with the intention that it may be believed, or with the knowledge that it is likely to be believed, that he belongs to that class of public servants, shall be punished with imprisonment of either description, for a term which may extend to three months, or with fine which may extend to two hundred taka, or with both.

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OF OFFENCES RELATING TO ELECTIONS

“Candidate”, “Electoral right” defined

171A. For the purposes of this Chapter -

- (a) "candidate" means a person who has been nominated as a candidate at any election and includes a person who, when an election is in contemplation, holds himself out as a prospective candidate thereat; provided that he is subsequently nominated as a candidate at such election;
- (b) "electoral right" means the right of a person to stand, or not to stand as, or to withdraw from being, a candidate or to vote or refrain from voting at an election.

Bribery

171B. (1) Whoever-

- (i) gives a gratification to any person with the object of inducing him or any other person to exercise any electoral right or of rewarding any person for having exercised any such right; or
- (ii) accepts either for himself or for any other person any gratification as a reward for exercising any such right or for inducing or attempting to induce any other person to exercise any such right,
- commits the offence of bribery:

Provided that a declaration of public policy or a promise of public action shall not be an offence under this section.

(2) A person who offers, or agrees to give, or offers or attempts to procure, a gratification shall be deemed to give a gratification.

(3) A person who obtains or agrees to accept or attempts to obtain a gratification shall be deemed to accept a gratification, and a person who accepts a gratification as a motive for doing what he does not intend to do, or as a reward for doing what he has not done, shall be deemed to have accepted the gratification as a reward.

**Undue
influence at
elections**

171C.(1) Whoever voluntarily interferes or attempts to interfere with the free exercise of any electoral right commits the offence of undue influence at an election.

(2) Without prejudice to the generality of the provisions of sub-section (1), whoever

(a) threatens any candidate or voter, or any person in whom a candidate or voter is interested, with injury of any kind, or

(b) induces or attempts to induce a candidate or voter to believe that he or any person in whom he is interested will become or will be rendered an object of Divine displeasure or of spiritual censure,

shall be deemed to interfere with the free exercise of the electoral right of such candidate or voter, within the meaning of sub-section (1).

(3) A declaration of public policy or a promise of public action, or the mere exercise of a legal right without intent to interfere with an electoral right, shall not be deemed to be interference within the meaning of this section.

**Personation
at elections**

171D. Whoever at an election applies for a voting paper or votes in the name of any other person, whether living or dead, or in a fictitious name, or who having voted once at such election applies at the same election for a voting paper in his own name, and whoever abets, procures or attempts to procure the voting by any person in any such way, commits the offence of personation at an election.

**Punishment
of bribery**

171E. Whoever commits the offence of bribery shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both:

Provided that bribery by treating shall be punished with fine only.

Explanation.-Treating means that form of bribery where the gratification consists in food, drink, entertainment, or provision.