

# The Penal Code, 1860

( ACT NO. XLV OF 1860 )

## CHAPTER I INTRODUCTION

<b>Preamble</b>	WHEREAS it is expedient to provide a general Penal Code for Bangladesh; It is enacted as follows:-
<b>Title and extent of operation of the Code</b>	1. This Act shall be called the <sup>2</sup> [Penal Code], and shall take effect throughout Bangladesh.
<b>Punishment of offences committed within Bangladesh</b>	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.
<b>Punishment of offences committed beyond, but which by law may be tried within Bangladesh</b>	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.
<b>Extension of Code to extra-territorial offences</b>	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 <sup>3</sup>[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 <sup>4</sup>[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 <sup>5</sup>[Khulna], instigates E to commit a murder in <sup>6</sup>[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 <sup>7</sup>[\* \* \*] any of the provisions of any Act for punishing mutiny and desertion of officers, soldiers, sailors or airmen in the service of the <sup>8</sup>[Republic], or of any special or local law.

## **CHAPTER 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 <sup>9</sup>[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 <sup>10</sup>[\* \* \*];

<sup>11</sup>[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