

1. **According to penal code discuss various modes of punishment. What are the objectives of punishment? Give details about Imprisonment for life. What is the procedure in case of failure to pay fine & what is the procedure in case of partial payment one third or one forth?**

53. The punishments to which offenders are liable under the provisions of this Code are,
Firstly, Death;

- ☉ Secondly, Imprisonment for life
- ☉ Thirdly, Omitted by the Criminal Law
- ☉ Fourthly, -Imprisonment, which is of two descriptions, namely: (1) Rigorous, that is, with hard labor; (2) Simple;
- ☉ Fifthly, Forfeiture of property;
- ☉ Sixthly, Fine. 16 [Explanation.-In the punishment of imprisonment for life, the imprisonment shall be rigorous.]

From the above section 53 of penal code list various modes of punishment:

Section 53 of the penal code outlines various types of punishments that offenders may face.

These punishments are:

1. Death
2. Imprisonment for Life
3. [Omitted]
4. Imprisonment, which is of two types:
 - a. Rigorous Imprisonment: Involves hard labor.
 - b. Simple Imprisonment: Does not involve hard labor.
5. Forfeiture of Property
6. Fine

Objectives of Punishment

The primary objectives of punishment are:

1. Deterrence:
 - ☉ To deter the offender and others from committing similar crimes in the future.
2. Retribution:
 - ☉ To impose a penalty on the offender as a form of societal revenge for the wrong done.
3. Rehabilitation:
 - ☉ To reform the offender so that they can be reintegrated into society as a law-abiding citizen.
4. Prevention:
 - ☉ To prevent the offender from committing further crimes by restricting their freedom.
5. Restoration:

- ☉ To make amends for the harm caused by the crime, either to the victim or society.

Imprisonment for Life

Explanation of Imprisonment for Life:

- ☉ Imprisonment for life means that the convict is required to spend the remainder of their natural life in prison.
- ☉ According to the explanation provided in Section 53, imprisonment for life shall be rigorous, meaning the convict will be subjected to hard labor during their imprisonment.

Key Points about Imprisonment for Life:

1. Duration:

- ☉ It lasts for the entirety of the convict's natural life unless commuted, remitted, or otherwise modified by the appropriate authority (such as through a presidential pardon or commutation of sentence).

2. Nature:

- ☉ It is explicitly stated to be rigorous, meaning the convict will engage in hard labour as part of their punishment. This distinguishes life imprisonment from simple imprisonment, which does not involve hard labor.

3. Commutation and Remission:

- ☉ The government or the president may commute a life sentence to a term of years or grant remission based on good behavior or other considerations. This means the actual time served can be reduced, but without such intervention, life imprisonment means the convict remains in prison for life.

4. Purpose:

- ☉ It serves as a severe form of punishment intended for serious offences, providing a deterrent effect and ensuring the convict is removed from society to prevent further harm.

Understanding these aspects of life imprisonment helps in comprehending its severity and implications under the penal code.

Procedure in Case of Failure to Pay Fine (Sections 64-69)

If an offender fails to pay the fine imposed as part of their sentence, the following procedures apply:

1. Imprisonment in Default of Payment (Section 64):

- ☉ If the fine is not paid, the court can order the offender to undergo imprisonment. The term of imprisonment is specified by the court and is in addition to any other imprisonment the offender is serving.

2. Limit on Imprisonment (Section 65):

- ☉ The term of imprisonment for non-payment of a fine cannot exceed one-fourth of the maximum term of imprisonment provided for the offense.
- 3. Termination of Imprisonment on Payment of Fine (Section 68):
 - ☉ If the fine is paid, or any part of it is paid, the imprisonment shall terminate or be reduced proportionally.
- 4. Partial Payment of Fine (Section 69):
 - ☉ If a portion of the fine is paid, the term of imprisonment is reduced in proportion to the amount paid. For example, if a fine of 1000 Taka is reduced by a payment of 500 Taka, the imprisonment term will be reduced by half.

These sections provide a clear framework for dealing with offenders who are unable or unwilling to pay fines, ensuring that justice is balanced with fairness.

2. In the case of default of money some part is paying some part not what will be the ratio according to penal code?

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.

In the context of Section 69 of the Penal Code of 1860, the section explains what happens if a person sentenced to both a fine and imprisonment in default of payment of the fine pays part of the fine before the term of imprisonment ends.

Explanation in Simple Terms:

If someone is sentenced to pay a fine and also to imprisonment if they cannot pay the fine, they can reduce the time they spend in prison by paying part of the fine. The rule is that the time they have already spent in prison must be proportional to the unpaid part of the fine.

Illustration:

Imagine a person, A, is sentenced to pay a fine of 100 taka and is also sentenced to 4 months in prison if they can't pay the fine.

- ☉ If A pays 75 taka of the fine before the end of the first month in prison, A will be released from prison as soon as the first month ends.
- ☉ If A pays 50 taka before the end of two months in prison, A will be released at the end of the second month.
- ☉ If A pays the remaining part of the fine at any point while still in prison, A will be released immediately.

Ratio Calculation:

The time spent in prison should correspond to the proportion of the fine that remains unpaid. If a larger part of the fine is paid, less time will be spent in prison, and vice versa. This ensures that the time in prison is fair based on how much of the fine remains unpaid. This section ensures that if a person can pay part of the fine, they don't need to serve the full term of imprisonment if the amount paid is significant enough.

3. Explain the exemption clause for bona fide government work. Explain the exemption clause for judges and police according to penal code. Discuss mistake of fact justified by law, act done by law mistake of fact and common intention made in good faith.

Exemption Clauses for Bona Fide Government Work

Section 76 - Act Done by a Person Bound, or by Mistake of Fact Believing Himself Bound, by Law:

- ☉ This section states that a person who performs an act that they believe, in good faith, they are legally required to do, does not commit an offense, even if it later turns out that the act was not actually legally required. This protects government officials who may act under the belief that they are carrying out their duties as prescribed by law.
- ☉ Illustration: A soldier fires on a mob by the order of his superior officer, believing it to be a lawful order. Even if the order was illegal, the soldier would not be guilty of an offense because he believed in good faith that he was bound by law to obey it.

Exemption Clauses for Judges and Police

Section 77 - Act of Judge When Acting Judicially:

- ☉ Judges are exempt from criminal liability for actions done while performing their judicial duties, as long as they act within their authority or in good faith believe they have such authority.
- ☉ Illustration: A judge who orders the imprisonment of a person based on evidence presented in court, believing in good faith that he has the jurisdiction to do so, will not be guilty of any offense even if the jurisdiction is later questioned.

Section 78 - Act Done Pursuant to the Judgment or Order of a Court:

- ☉ This section protects individuals who act according to the orders of a court, even if the court later is found to have lacked the jurisdiction to issue the order, provided they acted in good faith.

Mistake of Fact Justified by Law

Section 79 - Act Done by a Person Justified, or by Mistake of Fact Believing Himself Justified, by Law:

- ☉ If a person does an act which is justified by law, or if they mistakenly believe they are justified by law due to a mistake of fact, they do not commit an offense. The key element here is the person's belief that they are acting lawfully.
- ☉ Illustration: If a person sees someone committing what appears to be a crime and arrests them, believing in good faith that they are authorized to do so, they are not guilty of any offense even if it later turns out that no crime was actually committed.

Acts Done in Good Faith and Common Intention

Good Faith:

- ☉ The concept of good faith is central to many exemptions under the Penal Code. Acts done with no intention to harm and with the belief that they are legally justified fall under this protection.

Common Intention (Section 34):

- ☉ When a criminal act is done by several persons in furtherance of the common intention of all, each person is liable as if they had committed the act alone. However, if a person's participation was based on a mistaken belief about the facts or the law, they might be exempted from liability under other sections like 76 or 79.
- ☉ Illustration: If a group of people acts together under the mistaken belief that they are enforcing the law, they may be exempt from liability if their actions were done in good faith and under a mistake of fact.

These sections collectively provide a framework to protect individuals, particularly government officials, from criminal liability for actions done in the line of duty, provided they act in good faith and with the belief that they are performing their legal obligations.

4. What is an abettor? What will happen according to the Penal Code if something happens in an event that is beyond the will of the abettor? What happens when a person is asked to commit a crime but overdoes it? What will be the liability of Abettor? Difference between abettor vs criminal conspiracy.

Abettor

An abettor is a person who instigates, conspires with others, or intentionally aids in the commission of a crime. According to Section 107 of the Penal Code, abetment involves:

- ☉ Instigating someone to commit a crime.
- ☉ Engaging in a conspiracy with one or more persons to commit a crime, leading to an act or illegal omission in pursuance of that conspiracy.
- ☉ Intentionally aiding by any act or illegal omission in the commission of a crime.

Liability of the Abettor if Something Happens Beyond Their Will

If something occurs during the commission of a crime that was not within the will or intention of the abettor, the Penal Code addresses this in Section 111. This section states

that the abettor is liable for the act done, even if it was not the exact act they intended, as long as the act was a probable consequence of the abetment.

For instance, if A instigates B to commit theft, but B ends up committing robbery, A would still be liable for the robbery if it was a probable consequence of the abetment.

What happens when a person overdoes a crime

- ☉ According to Section 110 of the Penal Code, if a person abetted by another commits a crime with a different intention or knowledge than that of the abettor, the abettor is still liable for the crime as if it had been committed with the abettor's intention or knowledge. However, they are not liable for any additional offenses that exceed the original intention.
- ☉ For example, if A instigates B to cause grievous hurt to Z, but B ends up killing Z, A may still be held liable for the murder if it was a probable outcome of the grievous hurt abetted by A.

Difference between Abettor and Criminal Conspiracy

The main difference between abetment and criminal conspiracy lies in the nature of the agreement and participation:

- ☉ Abetment involves a person either instigating, conspiring, or aiding in the commission of a crime (**Section 107**). The abettor may not necessarily be present at the time of the crime, but their actions or instigation lead to the commission of the crime.
- ☉ **Criminal Conspiracy (Section 120A)** involves an agreement between two or more persons to commit an illegal act or to do a legal act by illegal means. Unlike abetment, criminal conspiracy does not require the act to be committed, only the agreement and a subsequent act done in furtherance of the conspiracy.

Example: If A and B agree to commit theft, and B buys tools for the theft, they are both guilty of criminal conspiracy, even if the theft is not actually committed.

In summary, an abettor is directly involved in promoting or aiding the crime, while criminal conspiracy involves an agreement to commit a crime, whether or not the crime is eventually carried out.

5. What is res confinement? What is the punishment according to the Penal Code for detaining someone in a certain place?

Res Confinement

The term "Res Confinement" appears to be a misunderstanding or misinterpretation of legal terms. What is likely intended here is "Wrongful Confinement," which is addressed in the Penal Code.

Wrongful Confinement According to the Penal Code

Section 340 - Wrongful Confinement:

- ☉ This section defines wrongful confinement as the act of wrongfully restraining any person in such a manner as to prevent them from proceeding beyond certain circumscribing limits.

- ☹ Illustration: For instance, if person A causes person Z to go within a walled space and locks Z inside, preventing Z from moving beyond the walls, A is guilty of wrongful confinement.

Punishment for Wrongful Confinement

The Penal Code prescribes punishments for wrongful confinement based on the duration and circumstances of the confinement:

a) Section 342 - Punishment for Wrongful Confinement:

Whoever wrongfully confines any person shall be punished with imprisonment for a term which may extend to one year, or with a fine which may extend to one thousand taka, or with both.

b) Section 343 - Wrongful Confinement for Three or More Days:

If the wrongful confinement lasts for three days or more, the punishment can extend to two years of imprisonment, with or without a fine.

c) Section 344 - Wrongful Confinement for Ten or More Days:

If the confinement lasts for ten days or more, the punishment may extend to three years of imprisonment, along with a possible fine.

d) Section 346 - Wrongful Confinement in Secret:

If the confinement is carried out in such a manner that it is intended to prevent the person's confinement from being known to anyone interested in them or to any public servant, the punishment can extend to two years of imprisonment, in addition to any other punishment for the confinement.

Summary

Wrongful confinement involves illegally restricting someone's freedom of movement, preventing them from leaving a specific area. The severity of the punishment increases with the duration of the confinement and the intention to keep it secret.

6.

- a) What is stolen property? Some people business with theft material what is their punishment according to penal code? Write down the elements of extortion. How theft can be robbery? How robbery can be dakoity? How extortion can be robbery?***

Stolen Property (Section 410):

According to the Penal Code, property that has been transferred through theft, extortion, robbery, criminal misappropriation, or criminal breach of trust is designated as "stolen property." This designation applies whether the illegal act was committed within or outside Bangladesh. However, if such property later comes into the possession of a person who is legally entitled to it, it ceases to be considered stolen property.

Punishment for Dealing in Stolen Property

a) Dishonestly Receiving Stolen Property (Section 411):

Whoever dishonestly receives or retains stolen property, knowing or having reason to believe it to be stolen, shall be punished with imprisonment for a term that may extend to three years, or with a fine, or with both.

b) Dishonestly Receiving Property Stolen in the Commission of Dacoity (Section 412):

If someone dishonestly receives or retains stolen property, knowing that it was stolen through dacoity (robbery involving five or more people), they can be punished with life imprisonment or with rigorous imprisonment for up to ten years, along with a possible fine.

c) Habitually Dealing in Stolen Property (Section 413):

A person who habitually receives or deals in stolen property, knowing or having reason to believe it to be stolen, may be punished with life imprisonment or with imprisonment of either description for up to ten years, and also be liable to a fine.

d) Assisting in Concealment of Stolen Property (Section 414):

If someone voluntarily assists in concealing, disposing of, or making away with stolen property, knowing or having reason to believe it to be stolen, they can be punished with imprisonment for up to three years, or with a fine, or with both.

Elements of Extortion

Extortion (Section 383):

Extortion occurs when a person intentionally puts another in fear of injury, thereby dishonestly inducing them to deliver property, valuable security, or something that can be converted into a valuable security.

Illustrations:

A person threatens to publish defamatory information unless paid a sum of money. This induces the victim to pay. The act of putting someone in fear to gain something is considered extortion.

How Theft Can Become Robbery

When Theft is Robbery (Section 390):

Theft becomes robbery if, in the course of committing the theft, the offender voluntarily causes or attempts to cause to any person:

- ☹ Death,
- ☹ Hurt,
- ☹ Wrongful restraint, or
- ☹ Fear of instant death, instant hurt, or instant wrongful restraint.

Example:

If a thief uses violence or threats of immediate harm to force someone to hand over property, the act escalates from theft to robbery.

How Robbery Can Become Dacoity

When Robbery is Dacoity (Section 391):

Robbery becomes dacoity when five or more persons conjointly commit or attempt to commit a robbery. The involvement of five or more people distinguishes dacoity from robbery.

Example:

If a group of five or more individuals forcibly takes money or property from a person, it is classified as dacoity.

How Extortion Can Become Robbery

When Extortion is Robbery (Section 390):

Extortion becomes robbery when the offender, at the time of committing extortion, is in the presence of the person put in fear and uses this fear to force the person to deliver up property immediately.

Example:

If someone threatens another person with immediate harm (e.g., brandishing a weapon) to make them hand over their wallet, this act of extortion under immediate threat and presence becomes robbery.

b) What is criminal breach of trust? What is criminal misappropriation of property, theft and cheating? What happens if you hire a caretaker to take care of your home and remove valuables inconspicuously?

Criminal Breach of Trust (Section 405):

Criminal breach of trust occurs when a person who is entrusted with property, or has control over it, dishonestly misappropriates or converts it to their own use, or dishonestly uses or disposes of it in violation of any legal direction or contract.

Illustration: If someone is given property to hold or manage, and they dishonestly take it for themselves or use it in a way they were not authorized to, they commit criminal breach of trust.

Criminal Misappropriation of Property

Criminal Misappropriation of Property (Section 403):

Criminal misappropriation occurs when someone dishonestly takes or converts another person's property for their own use without consent.

Illustration: If a person finds lost property and, instead of returning it to the rightful owner, they decide to keep it for themselves, they are guilty of criminal misappropriation.

What is Theft?

Theft (Section 378):

Theft is defined as the act of dishonestly taking any movable property out of the possession of any person without that person's consent, with the intention to permanently deprive them of it.

Illustration: If someone secretly takes away another person's wallet without their permission, intending to keep it, this constitutes theft.

What is cheating?

Cheating (Section 415):

Cheating occurs when a person deceives someone, fraudulently or dishonestly, to induce them to deliver any property or to do or omit to do something they wouldn't otherwise do, causing damage or harm.

Illustration: If someone falsely represents themselves as an official to deceive another person into handing over money, this constitutes cheating.

What Happens if a Caretaker Removes Valuables Inconspicuously?

If you hire a caretaker to take care of your home and they remove valuables inconspicuously, they may be guilty of criminal breach of trust or theft, depending on the circumstances.

- ☉ Criminal Breach of Trust (Section 408): If the caretaker was entrusted with the property and then dishonestly takes it for themselves, it would be considered a criminal breach of trust, particularly if the caretaker is in a position of employment or trust.
- ☉ Theft (Section 381): If the caretaker, without consent, secretly takes valuables from your home intending to permanently deprive you of them, this would be classified as theft.

These sections of the Penal Code define and provide for the punishment of such offenses.

7. What is unlawful assembly? When assemblies become unlawful? When police can order like a magistrate? When unlawful assembly become riot? Write down the liabilities of person where owner or occupier of land on which an unlawful assembly is held.

Unlawful Assembly (Section 141):

An assembly of five or more persons is designated as an "unlawful assembly" if the common objective of the persons composing that assembly is to:

- ☉ Overawe by criminal force, or show of criminal force, the Government or Legislature, or any public servant in the exercise of lawful power.
- ☉ Resist the execution of any law or legal process.
- ☉ Commit any mischief, criminal trespass, or other offenses.
- ☉ Use criminal force or show of criminal force to take or obtain possession of any property, or to deprive any person of the enjoyment of a right of way or the use of water, or other incorporeal rights.
- ☉ Compel any person by criminal force or show of criminal force to do something they are not legally bound to do, or to omit something they are legally entitled to do.

When Assemblies Become Unlawful

An assembly may start as lawful but can become unlawful if the common objective of the assembly shifts to one of the purposes mentioned above. The law is concerned with the intention and objective of the assembly, not just its initial purpose.

When Can Police Act Like a Magistrate?

Under certain circumstances, particularly in the presence of an unlawful assembly or riot, police officers can take actions similar to those of a magistrate, such as ordering the dispersal of a crowd. This is generally permitted when there is an immediate need to prevent violence or maintain public order, and when a magistrate is not available to issue the order.

The section of the Penal Code that allows the police to act like a magistrate is not explicitly defined in the Penal Code itself. However, the Code of Criminal Procedure (CrPC), particularly in Sections 129 and 130, provides police officers with powers similar to those of a magistrate when dealing with unlawful assemblies or riots.

Relevant Sections from the CrPC:

Section 129 - Dispersal of Unlawful Assembly by Use of Civil Force:

When an unlawful assembly is ordered to disperse and does not do so, it may be dispersed by force, and the police officer in command can exercise powers similar to those of a magistrate to disperse the assembly.

Section 130 - Use of Armed Forces to Disperse Unlawful Assembly:

If the unlawful assembly cannot be dispersed through ordinary means, the magistrate, and in their absence a police officer not below the rank of an Inspector, can call upon the armed forces to help disperse the assembly. The police officer can then act with the same authority as a magistrate in such situations.

When Does an Unlawful Assembly Become a Riot?

Riot (Section 146):

An unlawful assembly becomes a riot when force or violence is used by the assembly, or any member thereof, in the prosecution of the common objective of that assembly. Once violence is introduced, the assembly's actions are elevated from mere unlawful gathering to rioting, making every participant liable for the riot.

Liabilities of Owners or Occupiers of Land

Section 154 - Liability of Landowners or Occupiers:

If an unlawful assembly or riot takes place on someone's land, the owner or occupier can be fined up to one thousand taka if they or their agent, knowing that the offense is happening or has happened, or having reason to believe it is likely to happen, do not:

- ☉ Notify the nearest police station as soon as possible.
- ☉ Use all lawful means within their power to prevent the assembly or riot from taking place or to disperse and suppress it.

Section 155 - Liability of Persons Benefiting from a Riot:

If a riot is committed for the benefit or on behalf of any person who is the owner or occupier of the land, or who claims any interest in it, that person can be fined if they or their agent, having reason to believe that such a riot was likely to happen, did not use all lawful means to prevent or suppress it.

These sections make it clear that individuals responsible for a property have a duty to prevent unlawful assemblies or riots on their premises and must act to suppress such activities if they occur .