

1. What are the terrorist activities? What are the punishment for terrorist financing and providing shelter for the terrorists under Anti-Terrorism act, 2009(amendment-2013)?

Chapter Two

Offenses and Penalties

Terrorist Activities:

****6.** (1) A person, entity, or foreign national is said to commit a "terrorist act" if they:

(a) **Against Bangladesh's Integrity:** Undertake actions with the intent to create fear among the public or any segment thereof to compel the government, any entity, or any individual to perform or refrain from performing any act, by:

- (i) Killing, seriously injuring, detaining, or attempting to abduct another person; or
- (ii) Conspiring with or assisting another person to kill, seriously injure, detain, or abduct another person; or
- (iii) Damaging or attempting to damage any property of another person, entity, or the state; or
- (iv) Conspiring with or assisting another person to damage any property of another person, entity, or the state; or
- (v) Using or possessing explosives, flammable substances, or firearms to achieve any of the purposes outlined in (i), (ii), (iii), or (iv);

(b) **Against Other States:** Committing or attempting to commit, or conspiring, assisting, or inciting others to commit, any crime similar to those mentioned in (a) with the intention of disrupting the security or destroying the property of another state;

(c) **Against International Organizations:** Committing or attempting to commit, or conspiring, assisting, or inciting others to commit, any crime similar to those mentioned in (a) with the intention of forcing an international organization to act or refrain from acting;

(d) **Using Terrorist Property:** Knowing or possessing terrorist property; or

(e) **Supporting UN Convention Crimes:** Aiding, inciting, conspiring, or attempting to commit any crime described in Schedule-1 of this Act, which includes crimes under United Nations Conventions; or

(f) **In Armed Conflict:** In a situation of armed conflict, deliberately carrying out acts with the intent to kill or severely injure civilians or others, which aims to intimidate a population or force any government, state, or international organization to act or refrain from acting due to the nature or scale of the acts.

In these cases, the person, entity, or foreign national is considered to have committed a "terrorist act."

******(2) If a person or foreign national commits an offense under any of the following clauses:

(a) Under Clause (a)(i), they will be punished with death or life imprisonment, and a monetary fine may be imposed.

(b) Under Clause (a)(ii), if the prescribed punishment for the offense is death, they will be punished with life imprisonment or imprisonment for a term not exceeding fourteen years and not less than four years, along with a fine.

(c) Under Clause (a)(iii), they will be punished with life imprisonment or imprisonment for a term not exceeding fourteen years and not less than four years, along with a fine.

(d) Under Clause (a)(iv), they will be punished with imprisonment for a term not exceeding fourteen years and not less than four years, along with a fine.

(e) Under Clause (a)(v), they will be punished with life imprisonment or imprisonment for a term not exceeding fourteen years and not less than four years, along with a fine.

******(3) If a person or foreign national commits an offense under Clause (b), (c), (d), (e), or (f), they will be punished with life imprisonment or imprisonment for a term not exceeding fourteen years and not less than four years, along with a fine.

******(4) If an entity commits a terrorist act:

(a) Measures will be taken against the entity under Section 18, and an additional fine will be imposed equal to three times the value of the property related to the offense or fifty lakh Taka, whichever is higher.

(b) The head of the entity, whether known as Chairman, Managing Director, Chief Executive, or any other title, will be punished with imprisonment for a term not exceeding twenty years and not less than four years, along with an additional fine equal to twice the value of the property related to the offense or twenty lakh Taka, whichever is higher, unless they prove that the offense was committed without their knowledge or that they made all possible efforts to prevent the offense.

Offenses Related to Terrorist Financing

****7.** (1) A person or entity is considered to have committed an offense related to terrorist financing if they voluntarily provide, receive, collect, or arrange any funds, services, or other property from lawful or unlawful sources, directly or indirectly, with the intent that the entire amount or a part of it:

(a) Will be used for carrying out terrorist activities; or

(b) Will be used by a terrorist person or terrorist entity for any purpose or can be used for such a purpose, and they are aware of this intention.

******(2) In the case of a conviction for an offense related to terrorist financing, it will not depend on whether the funds, services, or other property mentioned in subsection (1) were actually

used in carrying out or attempting to carry out terrorist activities or were associated with any specific terrorist act.

**** (3)** If a person is convicted of an offense under subsection (1), they will be sentenced to imprisonment for a term not exceeding twenty years and not less than four years, and a monetary fine equal to twice the value of the property related to the offense or ten lakh Taka, whichever is higher, may be imposed.

**** (4)** If an entity is convicted of an offense under subsection (1):

(a) Measures will be taken against the entity under Section 18, and an additional fine equal to three times the value of the property related to the offense or fifty lakh Taka, whichever is higher, will be imposed.

(b) The head of the entity, whether known as Chairman, Managing Director, Chief Executive, or any other title, will be punished with imprisonment for a term not exceeding twenty years and not less than four years, and a monetary fine equal to twice the value of the property related to the offense or twenty lakh Taka, whichever is higher, will be imposed, unless they prove that the offense was committed without their knowledge or that they made all possible efforts to prevent the offense.

Penalty for Providing Shelter to a Criminal

****14.** (1) If a person, knowing that another person has committed an offense under this law or having reasonable grounds to believe that the person is a criminal, provides shelter to or conceals the offender with the intention of shielding them from punishment, then:

(a) If the penalty for the offense is death, the person will be punished with imprisonment for up to five years, and a monetary fine may also be imposed; or

(b) If the penalty for the offense is life imprisonment or imprisonment for any term, the person will be punished with imprisonment for up to three years, and a monetary fine may also be imposed.

**** (2)** The provisions of subsection (1) will not apply if the sheltering or concealing is done by a spouse, child, father, or mother.

**** (3)** In cases where an entity is involved in providing shelter, the provisions of subsection (1) will apply to the head of the entity, such as the Chairman, Managing Director, Chief Executive, or any other titleholder, unless they can prove that the offense was committed without their knowledge or that they made all possible efforts to prevent the commission of the offense.

❖ What do you mean by extra-territorial application? Punishment for cyber terrorism under “Cyber Security Act, 2023”?

Extra-Territorial Application of the Law

4. (1) If a person commits an offense under this law outside Bangladesh, which would be punishable under this law if it were committed within Bangladesh, then the provisions of this law shall apply as if the offense had been committed within Bangladesh.

(2) If a person, from outside Bangladesh, commits an offense under this law using a computer, computer system, computer network, or digital device located within Bangladesh, then the provisions of this law shall apply as if the entire process of the offense occurred within Bangladesh.

(3) If a person commits an offense under this law from within Bangladesh but directed towards outside Bangladesh, then the provisions of this law shall apply as if the entire process of the offense occurred within Bangladesh.

Cyber Terrorism Offenses and Penalties

27. (1) If a person:

(a) Creates an obstruction to legitimate access to a computer or computer network or internet network, or gains or causes illegal access, with the intention of threatening the national integrity, security, and sovereignty of the state, or instilling fear among the public or any part of it;

(b) Causes contamination or introduces malware into a digital device resulting in the death of a person, serious injury, or the likelihood of such outcomes;

(c) Damages or destroys the supply and service of essential goods to the public or has a detrimental impact on important information infrastructure; or

(d) Deliberately or knowingly accesses or intrudes into a computer, computer network, internet network, protected data or computer database, or accesses such protected data or computer database that may be used in a manner contrary to friendly relations with foreign states or public order, or may be used for the benefit of any foreign state, individual, or group,

then such actions of the person shall be considered as cyber terrorism offenses.

(2) If a person commits any offense under subsection (1), they shall be punishable with imprisonment for up to 14 (fourteen) years, or a fine not exceeding 1 (one) crore Taka, or both.

Chapter Four
National Cyber Security Council

National Cyber Security Council

- 12.** (1) For the purpose of fulfilling the objectives of this law, the National Cyber Security Council shall be constituted with the following members:
- (a) The Prime Minister of the People's Republic of Bangladesh, who shall also be the Chairperson;
 - (b) The Minister, State Minister, and Deputy Minister of the Ministry of Posts, Telecommunications, and Information Technology;
 - (c) The Minister of the Ministry of Law, Justice, and Parliamentary Affairs;
 - (d) The Prime Minister's ICT Advisor;
 - (e) The Principal Secretary to the Prime Minister;
 - (f) The Governor of the Bangladesh Bank;
 - (g) The Secretary of the Posts and Telecommunications Division;
 - (h) The Secretary of the Information and Communication Technology Division;
 - (i) The Secretary of the Public Security Division;
 - (j) The Foreign Secretary of the Ministry of Foreign Affairs;
 - (k) The Inspector General of Police, Bangladesh Police;
 - (l) The Chairman of the Bangladesh Telecommunications Regulatory Commission;
 - (m) The Director General of the Directorate General of Defense Intelligence;
 - (n) The Director General of the National Security Intelligence Agency;
 - (o) The Director General of the National Telecommunication Monitoring Center; and
 - (p) The Director General of the National Cyber Security Agency.
- (2) The Director General shall provide administrative support to the Council.
- (3) For the purpose of fulfilling the objectives of subsection (1), the Council, upon the advice of the Chairperson, may co-opt any expert as a member at any time, through a notification in the official gazette, subject to the prescribed term and conditions.

Powers of the Council, etc.

- 13.** (1) The Council shall provide necessary instructions and advice to the Agency for the implementation of this law and the rules formulated thereunder.
- (2) Among other matters, the Council shall specifically undertake the following functions:
- (a) Provide necessary directions for remedying any cyber security threats;
 - (b) Advise on the development and enhancement of cyber security infrastructure and human resources;
 - (c) Formulate inter-institutional policies aimed at ensuring cyber security;
 - (d) Take necessary measures to ensure the proper implementation of laws and rules formulated thereunder; and
 - (e) Perform any other functions as prescribed by rules.

Meetings of the Council, etc.

- 14.** (1) Subject to the other provisions of this section, the Council may determine its own procedures for meetings.
- (2) Meetings of the Council shall be held on the date, time, and place determined by its Chairperson.
- (3) The Chairperson may call a meeting of the Council at any time.
- (4) The Chairperson shall preside over all meetings of the Council.
- (5) The validity of any action or procedure of the Council shall not be affected by any vacancy in the membership of the Council or any defect in its constitution, and no question regarding such validity shall be raised.

❖ Provisions relating to arrest and investigation under “The Children Act, 2013”.

Chapter Six Arrest, Investigation, Diversion, and Bail

Arrest, etc.

44. (1) Notwithstanding anything in this section, no child under the age of 9 (nine) years shall be arrested or, if applicable, detained under any circumstances.

(2) Notwithstanding anything in any other law, no child shall be arrested or detained under any law pertaining to preventive detention.

(3) After a child is arrested, the arresting police officer shall immediately inform the child protection police officer about the reasons for the arrest, the place, the nature of the allegations, etc., and shall initially determine and record the child's age in the documents:

Provided that no child shall be handcuffed or bound with ropes or chains after arrest.

(4) In determining the age of a child under subsection (3), the police officer shall verify the child's age by referring to the birth registration certificate, or in the absence of such a certificate, relevant documents such as a school certificate or the date of school enrollment:

Provided that if the police officer believes that the person is a child but cannot be conclusively verified by documentary evidence despite all possible efforts, the person shall be considered a child under the provisions of this law.

(5) If there is no safe place suitable for children at the relevant police station, arrangements must be made to keep the child in a safe place until they are presented in court:

Provided that the child shall not be kept in the same place with any adult, already convicted child, or any other child who has come into contact with the law.

Notification to Parents and Probation Officer

45.(1) After the arrest of a child, when the child is brought to the police station, the child protection police officer, without violating the provisions of Chapter Four, shall notify the following in the manner prescribed by rules:

(a) The child's parents and, in their absence, the supervising guardian or authority, or legal guardian or, if applicable, members of the extended family;

(b) The probation officer; and

(c) If necessary, the nearest board.

(2) If it is not possible to notify the child's parents and, in their absence, the supervising guardian or authority, or legal guardian or, if applicable, members of the extended family, and the probation officer or, if applicable, the board, a report explaining the reasons for not following the provisions of subsection (1) must be submitted to the court by the child protection police officer on the first day the child is presented in court.

Investigation

- 46.** Except where there is a clear and different provision in this law or the rules made under it, the provisions of the Criminal Procedure Code shall, as far as possible, apply and be followed in conducting all investigative activities under this law.

Statements, Warnings, and Release

- 47.** (1) The child protection police officer shall take the child's statement in the presence of the child's parents and, in their absence, the supervising guardian or authority, or legal guardian or, if applicable, members of the extended family, and the probation officer or social worker.
- (2) Considering the nature of the allegations against the child and the child's mental and socio-economic status, the child protection police officer may:
- (a) Release the child with a written or verbal warning in the presence of the relevant child, the child's parents, and, in their absence, the supervising guardian or authority, or legal guardian or, if applicable, members of the extended family, and the probation officer or social worker, which shall not be recorded against the child; or
- (b) Refer the child for diversion.

Diversion

- 48.** (1) For the purposes of this law, at any stage of the judicial process following the arrest or detention of a child involved in conflict with the law, diversion may be adopted in lieu of formal judicial proceedings, considering the child's family, social, cultural, economic, ethnic, psychological, and educational background, and ensuring the best interests of the child by resolving the dispute.
- (2) Notwithstanding anything in the Criminal Procedure Code or any other applicable law, at any stage of the judicial process following the child's arrest, the child protection police officer or, as applicable, the juvenile court may refer the case to the probation officer for diversion instead of formal judicial proceedings.
- (3) When diversion is adopted under subsection (2), the probation officer shall monitor whether the child, their parents, and in their absence, the supervising guardian or authority, or legal guardian or, if applicable, members of the extended family are complying with the conditions of diversion, and shall periodically inform the child protection police officer or, as applicable, the juvenile court.
- (4) If the child, their parents, and in their absence, the supervising guardian or authority, or legal guardian or, if applicable, members of the extended family, breach any conditions of diversion, the probation officer shall immediately notify the child protection police officer or, as applicable, the juvenile court in writing.
- (5) The process and procedure for diversion shall be determined by rules.
- (6) For the purposes of this section, the department may adopt appropriate, updated, and feasible measures for implementing diversion.

❖ Provisions relating to the arrest, investigation and appeal under Pornography Control Act, 2012.

Investigation

5. (1) For investigating any crime under this law, the investigation shall be conducted by a police officer of the rank of Sub-Inspector or any officer of equivalent or higher rank, according to the provisions of the Criminal Procedure Code.

(2) The time limit for investigating any crime under this law shall be 30 (thirty) working days. If, for reasonable reasons, the investigation cannot be completed within this time limit, the time may be extended by an additional 15 (fifteen) working days with the approval of the Superintendent of Police or an officer of equivalent rank, or in applicable cases, a higher authority.

(3) If the investigation cannot be completed within the extended time limit specified in subsection (2) for reasonable reasons, the time may be further extended by an additional 30 (thirty) working days with the approval of the court.

Searches, Seizures, etc.

6. (1) A police officer of the rank of Sub-Inspector or higher, or any other authorized person or authority empowered by the government, may conduct searches in cases of immediate arrest related to the crime or in the recovery or seizure of pornography equipment, following the procedures described in the Criminal Procedure Code.

(2) Soft copies, converted hard copies, CDs, VCDs, DVDs, computers or other devices or accessories, mobile phones or their parts, other instruments or parts or equipment used in the commission of the crime, and electronically stored information or memory, etc., seized during a search shall be used as evidence in court.

(3) During the investigation of any crime under this law, information or special data collected by the investigating officer from the Bangladesh Telecommunications Regulatory Commission or any other relevant government authority, mobile operators, internet service providers, legal VoIP service providers, or any other authorized entity licensed or approved by the government, as part of normal operational procedures, shall be used as evidence in court.

Appeal

12. Any person aggrieved by any judgment or order given by a court or, as applicable, a tribunal under this law may appeal to the competent court within 30 (thirty) days from the date of such judgment or order.

Statute of Limitations for Offenses(Amoljoggota)

10. Offenses committed under this law shall be cognizable and non-bailable.

❖ Ingredients of Rape and its punishment under “The Prevention of women and children repression act, 2000(amendment 2003).”

Rape (penal code)

375. A man is said to commit "rape" who except in the case hereinafter excepted, has sexual intercourse with a woman under circumstances falling under any of the five following descriptions:

Firstly. Against her will.

Secondly. Without her consent.

Thirdly. With her consent, when her consent has been obtained by putting her in fear of death, or of hurt.

Fourthly. With her consent, when the man knows that he is not her husband, and that her consent is given because she believes that he is another man to whom she is or believes herself to be lawfully married.

Fifthly. With or without her consent, when she is under fourteen years of age.

Explanation. Penetration is sufficient to constitute the sexual intercourse necessary to the offence of rape. Exception. Sexual intercourse by a man with his own wife, the wife not being under thirteen years of age, is not rape.

Punishment for Rape, Death Resulting from Rape, etc.

Nari-Shisho Act

9. (1) If a man commits rape against a woman or child, he shall be punishable by [death or life imprisonment] and may also be liable for an additional fine.

(2) If a person's rape or subsequent actions lead to the death of the [victim of rape], the person shall be punishable by death or life imprisonment and shall also be liable for an additional fine of at least one lakh taka.

(3) If multiple individuals collectively commit rape against a woman or child, and the rape results in the death or injury of the victim, each member of the group shall be punishable by death or life imprisonment and shall also be liable for an additional fine of at least one lakh taka.

(4) If a person:

(a) Attempts to rape a woman or child, resulting in death or injury, he shall be punishable by [death or life imprisonment] and shall also be liable for an additional fine;

(b) Attempts to commit rape, he shall be punishable by imprisonment for a term of not less than five years and not more than ten years, and shall also be liable for an additional fine.

(5) If a woman is [raped] while in police custody, the person or persons responsible for her custody at the time of the rape, unless proven otherwise, shall be punishable for failure in custody with imprisonment for a term of not less than five years and not more than ten years, and shall also be liable for an additional fine of at least ten thousand taka.