

## Section 96: Acts Done in Private Defence

- **Principle:** Any act done to protect oneself or others is not considered a crime if it falls under the right of private defense.
- **Summary:** If you defend yourself or another person, and in doing so, harm someone, it is not a crime as long as you were acting in self-defense.

## Section 97: Right of Private Defence of the Body and Property

- **Right to Defend:**
  - **Body:** Every person has the right to defend their own body or another person's body against any crime that affects the human body (e.g., assault, murder).
  - **Property:** A person has the right to defend their property (movable or immovable) or someone else's property from crimes like theft, robbery, mischief, or criminal trespass.
- **Conditions:** This right is subject to the limitations listed in Section 99.

## Section 99: Restrictions on the Right of Private Defense(Exceptions)

1. **Acts by a Public Servant:** No right of defence against acts done by a public servant in good faith, unless there is fear of death or serious injury.
2. **Acts under a Public Servant's Orders:** No defence against acts done under a public servant's direction unless there's fear of death or serious injury.
3. **Sufficient Time for Authorities:** No right if there is enough time to seek help from authorities.
4. **Excessive Force:** The force used in defence must not exceed what is necessary.

## Section 100: When the Right of Private Defence of the Body Extends to Causing Death

A person can lawfully cause death in self-defence if facing certain extreme threats, including:

1. **Assault causing fear of death.**
2. **Assault causing fear of grievous hurt.**
3. **Assault with the intent to rape.**
4. **Assault with intent to gratify unnatural lust.**
5. **Assault with intent to kidnap or abduct.**
6. **Assault with intent to wrongfully confine under circumstances that may cause death or grievous hurt.**

## Section 103: When the Right of Private Defence of Property Extends to Causing Death

**A person may lawfully cause death while defending their property in situations like:**

1. **Robbery.**
2. **House-breaking by night.**
3. **Mischief by fire committed on any building used as a residence or for human dwelling or custody of property.**
4. **Theft, mischief, or house-trespass under circumstances where there is fear of death or grievous hurt.**

## **Section 76 (Penal Code of Bangladesh)**

"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."

This means if someone commits an act thinking they are legally obligated to do so (based on a mistake of fact, not law), it won't be considered a crime. For instance, if a soldier, in good faith, follows an order he believes is lawful, he cannot be held criminally liable.

## **Section 79 (Penal Code of Bangladesh)**

"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."

This means if someone commits an act believing in good faith that it is justified by law (due to a mistake of fact), it will not be considered an offence.

**Section 79** is broader and applies to anyone who believes themselves to be justified by law in doing an act due to a mistake of fact, not law.

**Section 76** is the one more specifically aimed at law enforcement officers acting under the belief that they are bound by law.

## **Section 80: Accident in Doing a Lawful Act**

"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."

## **Key Points**

1. **Accident or Misfortune:** The act must be unintended.
2. **Lawful Act:** The activity must be legally permitted.
3. **Proper Care:** The act must be done with due care.

4. **No Criminal Intent:** There must be no intention or knowledge of causing harm.

**Example:** A carpenter accidentally drops a tool while working, injuring a passerby. If the act was lawful and done with care, he isn't criminally liable.

## **Section 91: Exclusion of Acts Which are Offences Independently of Harm Caused**

"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 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."

### **Key Points**

1. **Independent Offenses:** Acts that are crimes on their own are not excused by consent or good intentions.
2. **No Protection Under Other Sections:** Sections 87, 88, and 89, which cover consented acts or acts done in good faith, do not apply if the act is inherently an offense.
3. **Focus on the Act Itself:** If an act is criminal regardless of its consequences, it remains punishable even with consent.

**Example:** Causing a miscarriage (unless to save the mother's life) is illegal, regardless of consent, and is not protected by Sections 87, 88, or 89.

- **Section 87:** No offense if harm is caused without intent to kill or grievously hurt, with the victim's consent.
- **Section 88:** No offense if harm is caused without intent to kill, done in good faith for the person's benefit with their consent.
- **Section 89:** No offense if harm is caused in good faith for the benefit of a child under twelve or a person of unsound mind, with the guardian's consent.

## **Section 93: Communication Made in Good Faith**

"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."

### **Key Point in One Line:**

- **Section 93:** No offense if a harmful communication is made in good faith for the person's benefit.

**Example:** A doctor honestly informs a patient about a terminal illness to help them make informed decisions, which causes distress but isn't criminally liable.

## Murder vs culpable homicide

1. Definition
2. Section
3. Punishment - 302, 304
4. Severity
5. Premeditation
6. Nature of act
7. Example

## Theft (Section 378 of the Penal Code)

**Definition:** Theft is the act of dishonestly taking someone else's movable property out of their possession without their consent, with the intention to permanently deprive them of it.

### Key Elements:

1. **Movable Property:** The property must be tangible and capable of being moved.
2. **Possession:** The property must be taken from someone who is in possession of it.
3. **Without Consent:** The taking must occur without the owner's permission.
4. **Dishonesty:** The intention behind the act must be dishonest.
5. **Intention to Deprive:** The goal is to permanently deprive the owner of the property.

**Example:** Taking a mobile phone from someone's bag without their knowledge or permission constitutes theft.

Theft-related sections in the Penal Code of Bangladesh primarily span Sections 378 to 382. Here's a brief overview:

1. **Section 378: Theft**
  - Defines theft as the act of dishonestly taking any movable property out of the possession of another without that person's consent.
2. **Section 379: Punishment for Theft**
  - Specifies the punishment for theft, which can extend to imprisonment for up to three years, a fine, or both.
3. **Section 380: Theft in Dwelling House, etc.**
  - Addresses theft committed in a dwelling house, tent, or vessel used as a human dwelling or for the custody of property, with a punishment that can extend to seven years of imprisonment, along with a possible fine.
4. **Section 381: Theft by Clerk or Servant of Property in Possession of Master**

- Provides for harsher punishment for theft committed by a clerk or servant concerning property belonging to their employer, with imprisonment extending up to seven years and a possible fine.
- 5. **Section 382: Theft After Preparation Made for Causing Death, Hurt, or Restraint**
  - Covers theft committed after making preparations to cause death, hurt, or restraint to ensure the theft's success, with punishment extending to ten years of imprisonment and a possible fine.

383. The elements of **extortion** as defined in the Penal Code of Bangladesh are:

1. **Intention:** The offender intentionally puts any person in fear of injury to themselves or another.
2. **Fear:** The fear induced must be of some form of injury—physical, emotional, or financial.
3. **Dishonest Inducement:** The fear is used to dishonestly induce the victim to deliver property, valuable security, or anything that can be converted into valuable security.
4. **Resulting Action:** The victim, due to the fear induced, delivers the property or valuable security to the offender.

384. Punishment: 3yrs, fine

Robbery and its related sections in the Penal Code of Bangladesh cover Sections 390 to 394. Here's a concise overview:

1. **Section 390: Robbery**
  - Defines robbery as an aggravated form of theft or extortion where either the offender voluntarily causes or attempts to cause death, hurt, or wrongful restraint, or fear of instant death, hurt, or wrongful restraint to the victim during the commission of theft or extortion.
2. **Section 391: Dacoity**
  - Describes dacoity as robbery committed by five or more persons acting together. It is considered a more serious form of robbery.
3. **Section 392: Punishment for Robbery**
  - Specifies the punishment for robbery, which can extend to rigorous imprisonment for up to ten years, and in some cases, up to fourteen years, along with a possible fine.
4. **Section 393: Attempt to Commit Robbery**
  - Provides punishment for attempting to commit robbery, which can extend to rigorous imprisonment for up to seven years, along with a possible fine.
5. **Section 394: Voluntarily Causing Hurt in Committing Robbery**

- Deals with cases where the offender voluntarily causes hurt while committing robbery, with a punishment that can extend to rigorous imprisonment for life or up to ten years, along with a possible fine.

Theft becomes robbery under **Section 390** of the Penal Code of Bangladesh when, during the commission of the theft:

1. **Use or Threat of Force:** The offender voluntarily causes or attempts to cause death, hurt, or wrongful restraint to any person.
2. **Fear of Instant Harm:** The offender instills fear of instant death, hurt, or wrongful restraint in the victim to commit the theft or to retain the stolen property.

Extortion becomes robbery under **Section 390** of the Penal Code of Bangladesh when:

1. **In Presence of the person**
2. **Immediate Fear:** The offender, while committing extortion, puts the victim in fear of instant death, hurt, or wrongful restraint.
3. **Surrender Due to Fear:** The victim is compelled, by this fear, to deliver the property at that moment.

## Section 391: Dacoity

"When five or more persons conjointly commit or attempt to commit a robbery, or where the whole number of persons conjointly committing or attempting to commit a robbery, and persons present and aiding such commission or attempt, amount to five or more, every person so committing, attempting or aiding, is said to commit 'dacoity'."

## Key Ingredients of Dacoity

1. **Number of Persons:** There must be at least five persons involved.
2. **Conjoint Action:** The individuals must act together in committing or attempting to commit robbery.
3. **Participation or Aid:** All persons who commit, attempt, or aid in the robbery are considered to commit dacoity if they act together.

**Example:** If five people plan and carry out a robbery at a store, they are committing dacoity as per Section 391.

Punishment : 395 , life, 10yrs rig., fine

**Section 120A** of the Penal Code of Bangladesh defines the offense of **criminal conspiracy**. Here's a breakdown:

1. **Definition of Criminal Conspiracy:**

- When two or more persons agree to do, or cause to be done, either:
  1. An illegal act.
  2. An act which is not illegal by illegal means.
- Such an agreement is termed as a criminal conspiracy.

2. **Conditions:**

- For an agreement to be considered a criminal conspiracy, there must be an agreement to commit an offense.
- In cases where the agreement does not involve the commission of an offense, at least one overt act must be done by one or more parties to the agreement in pursuance of the conspiracy.

3. **Explanation:**

- It does not matter whether the illegal act is the ultimate goal of the agreement or if it is just incidental to that goal.

The objectives of punishment are:

1. **Deterrence:** Discourages crime by instilling fear of consequences.
2. **Retribution:** Ensures the offender pays for their crime, matching the punishment to the offense.
3. **Rehabilitation:** Aims to reform the offender for reintegration into society.
4. **Incapacitation:** Protects society by removing the offender's ability to commit further crimes.
5. **Restoration:** Seeks to repair the harm caused, often through restitution or community service.
6. **Moral Education:** Reinforces societal norms and educates the public on acceptable behavior.

**40. Offense** and **crime** are terms often used interchangeably, but they have nuanced differences in legal contexts:

1. **Offense:**

- Generally refers to any act or omission that violates the law and is punishable by the state.
- It is a broader term that can include minor infractions (like traffic violations) as well as serious crimes.

- In the Penal Code of Bangladesh, an offense is any action or omission that is punishable under the law.
2. **Crime:**
- A subset of offenses, usually referring to more serious violations that are considered harmful to society.
  - Crimes typically involve moral wrongdoing and include actions like theft, murder, or assault.
  - Crimes are usually prosecuted by the state and can lead to severe punishments, such as imprisonment or fines.

The key ingredients of a crime are:

1. **Mens Rea:** Guilty intent or state of mind.
2. **Actus Reus:** The physical act or omission.
3. **Causation:** The act directly causes harm.
4. **Harm:** Resulting injury or damage.
5. **Legality:** The act must be defined as illegal by law.
6. **Punishment:** The act must be punishable by law.

Here's a table highlighting the differences between **Common Intention (Section 34)** and **Common Object (Section 149)**:

Aspect	Common Intention (Section 34)	Common Object (Section 149)
<b>Definition</b>	Liability arises when several persons act together with a shared, pre-arranged intention to commit a crime.	Liability arises when any member of an unlawful assembly commits an offense in pursuit of the group's common object.
<b>Requirement</b>	Requires a pre-arranged plan or meeting of minds.	No need for a pre-arranged plan; only a common object is necessary.
<b>Participation</b>	Active participation by all individuals is required.	Presence in the unlawful assembly is sufficient; active participation in the crime is not required.



<b>Number of Persons</b>	Can apply to any number of persons acting together.	Applies only to unlawful assemblies with five or more persons.
<b>Liability</b>	All involved are equally liable for the entire criminal act.	All members of the assembly are liable, even if only one commits the offense.
<b>Scope of Application</b>	Focuses on shared intention and concerted action.	Focuses on the common object, whether pre-planned or developed spontaneously.

**Common Intention (Section 34)** and **Common Object (Section 149)** are both legal principles under the Penal Code of Bangladesh that deal with the liability of individuals in group crimes, but they have distinct differences:

### **Common Intention (Section 34):**

- **Definition:** When a criminal act is done by several persons in furtherance of a common intention, each of them is liable as if they had done it alone.
- **Nature:** Requires a **pre-arranged plan** and active participation by all involved. It implies a meeting of minds where all participants share the same intention.
- **Participation:** Each person must be actively involved in carrying out the act.
- **Liability:** All participants are equally responsible for the entire act.

### **Common Object (Section 149):**

- **Definition:** When an offense is committed by any member of an unlawful assembly (five or more persons), in prosecution of the common object of that assembly, every member of the assembly is guilty of that offense.
- **Nature:** Does not require a pre-arranged plan. It involves a **common object**, which may develop spontaneously.
- **Participation:** Membership in the unlawful assembly is sufficient; actual participation in the act is not necessary.
- **Liability:** All members of the assembly are liable if the offense is committed in furtherance of the common object, even if not all members actively participated.

### **Key Differences:**

- **Intention vs. Object:** Section 34 requires a shared intention, while Section 149 revolves around a shared object, which may not be pre-planned.

- **Group Size:** Section 34 applies to any number of individuals, whereas Section 149 specifically applies to groups of five or more.
- **Participation:** Section 34 requires active participation, whereas Section 149 makes all members liable, even those who did not actively participate, as long as they share the common object.

**Imprisonment for Life** in Bangladesh is a severe punishment where the convict is typically incarcerated for the remainder of their natural life. Key provisions include:

1. **Definition:** Life imprisonment generally means imprisonment for the convict's entire natural life.
2. **Provisions:**
  - **Section 53:** Lists life imprisonment as a punishment.
  - **Section 55:** The government can commute a life sentence to a term not exceeding 20 years.
  - **Section 57:** For calculating fractions, life imprisonment is considered equivalent to 30 years.
3. **Nature:** Life imprisonment usually involves rigorous labor unless otherwise specified.
4. **Remission and Commutation:** The government can reduce the sentence or grant remission based on certain conditions.
5. **Judicial Interpretation:** Courts have upheld that life imprisonment means the entire natural life, unless commuted.

**Solitary confinement** involves isolating a prisoner from others as a form of punishment. In Bangladesh, it is governed by the Penal Code:

1. **Legal Basis:**
  - **Section 73:** Courts can impose solitary confinement for convicts sentenced to rigorous imprisonment.
  - **Section 74:** Limits the confinement to 14 days at a time, with equal breaks, and no more than 7 days per month for longer sentences.
2. **Duration:**
  - Up to 1 month for sentences of 6 months or less.
  - Up to 2 months for sentences over 6 months but less than 1 year.
  - Up to 3 months for sentences exceeding 1 year.
3. **Grounds:**
  - Imposed for serious offenses or severe prison misconduct.

Solitary confinement is used as an additional punishment for controlling dangerous behavior.

**Culpable Homicide** is the act of causing someone's death with some intention or knowledge, but not amounting to murder.

### **Key Points:**

1. **Definition (Section 299):**
  - Causing death with intent to cause death, or with intent/knowledge that the act is likely to cause death.
2. **Difference from Murder:**
  - Less severe than murder; lacks the specific intent or premeditation required for murder.
3. **Examples:**
  - Death resulting from a sudden fight or an unintentional blow.
4. **Punishment (Section 304):**
  - Life imprisonment, or imprisonment up to 10 years, plus a possible fine.

### **Circumstances When Culpable Homicide is Not Murder:**

1. **Grave and Sudden Provocation:**
  - If the offender is deprived of self-control due to grave and sudden provocation and kills someone, it is not murder, unless the provocation is self-induced or unjustified.
2. **Exceeding the Right of Private Defense:**
  - If someone kills another person while exercising their right to self-defense, but exceeds what is necessary, it is not murder, provided the act was done without premeditation.
3. **Public Servant Exceeding Authority:**
  - When a public servant causes death in the course of performing their duty, believing in good faith that they are acting within their legal authority, but without malice or premeditation, it is not murder.
4. **Sudden Fight or Heat of Passion:**
  - Death caused in a sudden fight, without premeditation and in the heat of passion, where the person did not take undue advantage or act in a cruel or unusual manner, is not murder.
5. **Consent of the Deceased:**
  - If the person killed has given consent to the risk of death, such as in cases of euthanasia (where legal), it is not considered murder, provided the act was done in good faith.

<b>Aspect</b>	<b>Wrongful Restraint</b>	<b>Wrongful Confinement</b>
<b>Definition</b>	Preventing a person from proceeding in any direction they wish to go.	Restricting a person within certain boundaries, preventing them from leaving.
<b>Scope</b>	Involves partial obstruction of movement; the person can still move in other directions.	Involves complete obstruction, confining the person within fixed boundaries.
<b>Example</b>	Blocking someone's path on a road.	Locking someone in a room or tying them up.
<b>Section of Penal Code</b>	<b>Section 339</b>	<b>Section 340</b>
<b>Punishment</b>	Less severe; typically a fine or short imprisonment.	More severe; can lead to longer imprisonment or higher fines.