

রেজিস্টার্ড নং ডি এ-১

বাংলাদেশ



গেজেট

অতিরিক্ত সংখ্যা
কর্তৃপক্ষ কর্তৃক প্রকাশিত

রবিবার, নভেম্বর ২৪, ২০২৪

গণপ্রজাতন্ত্রী বাংলাদেশ সরকার
আইন, বিচার ও সংসদ বিষয়ক মন্ত্রণালয়
লেজিসলেটিভ ও সংসদ বিষয়ক বিভাগ
মুদ্রণ ও প্রকাশনা শাখা

বিজ্ঞপ্তি

তারিখ: ০৯ অগ্রহায়ণ, ১৪৩১ বঙ্গাব্দ/ ২৪ নভেম্বর, ২০২৪ খ্রিষ্টাব্দ।

নং ১৪ (মু: থঃ)।—গণপ্রজাতন্ত্রী বাংলাদেশের রাষ্ট্রপতি কর্তৃক ০৯ অগ্রহায়ণ, ১৪৩১ বঙ্গাব্দ/ ২৪ নভেম্বর, ২০২৪ খ্রিষ্টাব্দ তারিখে প্রণীত নিম্নে উল্লিখিত অধ্যাদেশটি এতদ্বারা জনসাধারণের জ্ঞাতার্থে প্রকাশ করা হইল।

অধ্যাদেশ নং-১৪, ২০২৪

**International Crimes (Tribunals) Act, 1973 অধিকতর সংশোধনকল্পে প্রণীত
অধ্যাদেশ**

যেহেতু International Crimes (Tribunals) Act, 1973 (Act No. XIX of 1973) সময়োপযোগী করার লক্ষ্যে উক্ত আইন অধিকতর সংশোধন করা সমীচীন ও প্রয়োজনীয়; এবং

যেহেতু সংসদ ভাঙ্গিয়া যাওয়া অবস্থায় রহিয়াছে এবং রাষ্ট্রপতির নিকট ইহা সন্তোষজনকভাবে প্রতীয়মান হইয়াছে যে, আশু ব্যবস্থা গ্রহণের জন্য প্রয়োজনীয় পরিস্থিতি বিদ্যমান রহিয়াছে;

সেহেতু গণপ্রজাতন্ত্রী বাংলাদেশের সংবিধানের ৯৩(১) অনুচ্ছেদে প্রদত্ত ক্ষমতাবলে রাষ্ট্রপতি নিম্নরূপ অধ্যাদেশ প্রণয়ন ও জারি করিলেন:—

(২৮৪৮৯)
মূল্য : টাকা ১৬.০০

১। সংক্ষিপ্ত শিরোনাম ও প্রবর্তন।—(১) এই অধ্যাদেশ International Crimes (Tribunals) (Amendment) Ordinance, 2024 নামে অভিহিত হইবে।

(২) ইহা ৬ জানুয়ারি ২০০৯ তারিখে কার্যকর হইয়াছে বলিয়া গণ্য হইবে।

২। Act No. XIX of 1973 এর section 1 এর সংশোধন।—International Crimes (Tribunals) Act, 1973 (Act No. XIX of 1973), অতঃপর উক্ত Act বলিয়া উল্লিখিত, এর section 1 এর—

(ক) sub-section (2) এর পরিবর্তে নিম্নরূপ sub-section (2) প্রতিস্থাপিত হইবে, যথা:—

“(2) It extends to the whole territory of Bangladesh and applies extraterritorially as specified in sub-section (4).”;

(খ) sub-section (3) এর পর নিম্নরূপ নৃতন sub-section (4) সন্নিবেশিত হইবে, যথা:—

“(4) This Act shall also apply to:

(a) any citizen of Bangladesh who commits a crime under this Act, whether the crime is committed within or beyond the territory of Bangladesh;

(b) any person, regardless of nationality, if any part of the crime is committed within the territory of Bangladesh.”।

৩। Act No. XIX of 1973 এর section 2 এর সংশোধন।—উক্ত Act এর section 2 এর—

(ক) clause (a) এ উল্লিখিত “includes forces” শব্দগুলির পরিবর্তে “includes forces whether armed or unarmed” শব্দগুলি প্রতিস্থাপিত হইবে;

(খ) clause (aa) এর পরিবর্তে নিম্নরূপ clause (aa) প্রতিস্থাপিত হইবে, যথা:—

“(aa) “disciplined force” means—

(i) the army, navy and air force;

(ii) the police, Rapid Action Battalion, Border Guard Bangladesh, Coast Guard and Ansar;

(iii) any other force declared by law to be a disciplined force within the meaning of this definition;”;

(গ) clause (b) এর পর নিম্নরূপ নৃতন clause (bb) সন্ধিবেশিত হইবে, যথা:—

“(bb) “intelligence agency” means any authority, force or entity, established by or under any law which is responsible for the collection, analysis and exploitation of information in support of law enforcement, national security and public safety;”;

৪। **Act No. XIX of 1973** এর section 3 এর সংশোধন।—উক্ত Act এর section 3
এর—

(ক) sub-section (1) এ উল্লিখিত “any armed, defence or auxiliary forces, irrespective of nationality, who commits or has committed, in the territory of Bangladesh” শব্দগুলি ও কমাগুলির পরিবর্তে “any disciplined force, auxiliary force or intelligence agency, who, irrespective of his nationality, commits or has committed, within or beyond the territory of Bangladesh” শব্দগুলি ও কমাগুলি প্রতিস্থাপিত হইবে।

(খ) sub-section 2 এর—

(অ) clause (a) এর পরিবর্তে নিম্নরূপ clause (a) প্রতিস্থাপিত হইবে, যথা:—

“(a) Crimes against Humanity: namely, murder, extermination, enslavement, deportation or forcible transfer of population, imprisonment, abduction, confinement, torture, rape, sexual exploitation, enforced disappearance, human trafficking, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilization or other inhumane acts when committed as part of a widespread or systematic attack directed against any civilian population with knowledge of the attack or persecutions on political, racial, ethnic or religious grounds, whether or not in violation of the domestic law of the country where perpetrated;

“Explanation:—For the purposes of defining the terms “attack”, “persecution” “enforced disappearance”, “sexual slavery”, “enforced prostitution”, “forced pregnancy”, “enforced sterilization” a Tribunal shall apply the definitions set out in Article 7(2) of the Rome Statute of the International Criminal Court, which Bangladesh has ratified on 23 march, 2010;”;

- (আ) clause (c) এ উল্লিখিত “, religious or political group” কমা ও শব্দগুলির পরিবর্তে “or religious group” শব্দগুলি প্রতিস্থাপিত হইবে;
- (ই) clause (g) এ উল্লিখিত “or conspiracy” শব্দগুলির পরিবর্তে “, conspiracy or incitement” কমা ও শব্দগুলি প্রতিস্থাপিত হইবে;
- (গ) sub-section (2) এর পর নিম্নরূপ নৃতন sub-section (3) সন্ধিবেশিত হইবে, যথা:—

“(3) For the purpose of determining liability under sub-section (2), a Tribunal shall have regard to the Elements of Crime of the International Criminal Court (ICC), as adopted pursuant to Article 9 of the Rome Statute of the International Criminal Court, to the extent that they are not inconsistent with the provisions of this Act.”।

৫। Act No. XIX of 1973 এর section 4 এর প্রতিস্থাপন।—উক্ত Act এর section 4 এর পরিবর্তে নিম্নরূপ section 4 প্রতিস্থাপিত হইবে, যথা:—

- “4. **Liability for Crimes.**—(1) Any individual or group of individuals, or any member of any disciplined force, auxiliary force or intelligence agency who commits a crime within the jurisdiction of the Tribunal shall be responsible and liable for punishment.
- (2) In accordance with this Act, any individual or group of individuals, or any member of any disciplined force, auxiliary force or intelligence agency shall be criminally responsible and liable for punishment for a crime within the jurisdiction of the Tribunal if that person:
- (a) Commits such a crime, whether as an individual, jointly with another or through another person, regardless of whether that other person is criminally responsible;
 - (b) Orders, solicits, incites or induces the commission of such a crime which in fact occurs or is attempted;
 - (c) For the purpose of facilitating the commission of such a crime, aids, abets or otherwise assists in its commission or its attempted commission, including providing the means for its commission;

- (d) In any other way contributes to the commission or attempted commission of such a crime by a group of persons acting with a common purpose. Such contribution shall be intentional and shall either:
- (i) Be made with the aim of furthering the criminal activity or criminal purpose of the group, where such activity or purpose involves the commission of a crime within the jurisdiction of the Tribunal; or
 - (ii) Be made in the knowledge of the intention of the group to commit the crime;
- (e) Attempts to commit such a crime by taking action that commences its execution by means of a substantial step, but the crime does not occur because of circumstances independent of the person's intentions. However, a person who abandons the effort to commit the crime or otherwise prevents the completion of the crime shall not be liable for punishment under this Statute for the attempt to commit that crime if that person completely and voluntarily gave up the criminal purpose.
- (f) In respect of the crime of aggression, the provisions of this article shall apply only to persons in a position effectively to exercise control over or to direct the political or military action of a State.
- (3) Any commander, superior officer or leader who orders, permits, acquiesces, incites or participates in the commission of any of the crimes specified in section 3 or is connected with any plans or activities involving the commission of such crimes or who fails or omits to discharge his duty to maintain discipline, or to control or supervise the actions of the persons under his command or his subordinates, whereby such persons or subordinates or any of them commit any such crimes, or who fails to take necessary measures to prevent the commission of such crimes, either knowing or owing to the circumstances at the time should have known or consciously disregarded information which clearly indicated that the subordinates were committing or about to commit such crimes, is guilty of these crimes.”।

৬। Act No. XIX of 1973 এর section 6 এর সংশোধন।—উক্ত Act এর section 6 এর sub-section (5) এ উল্লিখিত “before the other members” শব্দগুলির পরিবর্তে “before the Tribunal represented by other members” শব্দগুলি প্রতিস্থাপিত হইবে।

৭। Act No. XIX of 1973 এর section 8 এর সংশোধন।—উক্ত Act এর section 8 এর sub-section (3) এর পর নিম্নরূপ নৃতন sub-section (3A) সন্নিবেশিত হইবে, যথা:—

“(3A) An Investigation Officer, if he considers it necessary, may, by order of a Tribunal, search any place and seize any documents or articles under a seizure list prepared in the presence of at least two witnesses.”।

৮। Act No. XIX of 1973 এর section 9 এর সংশোধন।—উক্ত Act এর section 9 এর—

(ক) sub-section (3) এ উল্লিখিত “three weeks” শব্দগুলির পরিবর্তে “six weeks” শব্দগুলি প্রতিস্থাপিত হইবে;

(খ) sub-section (5) এর পর নিম্নরূপ নৃতন sub-section (6) সন্নিবেশিত হইবে, যথা:—

“(6) The defence may, with the permission of the Tribunal, call additional witnesses or present further evidence at any stage of the trial.”।

৯। Act No. XIX of 1973 এর নৃতন section 9A এর সন্নিবেশ।—উক্ত Act এর section 9 এর পর নিম্নরূপ নৃতন section 9A সন্নিবেশিত হইবে, যথা:—

“9A. Recording and Broadcasting of Hearings.—(1) A Tribunal may decide to make an audio-visual recording of a hearing or part thereof.

(2) A Tribunal may decide to make available an audio or video broadcast of a hearing, or part thereof, via the internet or other means, in accordance with any conditions set by the Tribunal to protect the safety, privacy and dignity of participants.”।

১০। Act No. XIX of 1973 এর নৃতন section 10B এর সন্নিবেশ।—উক্ত Act এর section 10A এর পর নিম্নরূপ নৃতন section 10B সন্নিবেশিত হইবে, যথা:—

“10B. Provision for Observers.—Notwithstanding any provision contained in any other law for the time being in force, representatives of United Nations bodies and agencies, as well as national or international human rights organizations, may attend public hearings, trials and other proceedings.”।

১১। Act No. XIX of 1973 এর section 11 এর সংশোধন।—উক্ত Act এর section 11 এর sub-section (6) এর পর নিম্নরূপ নৃতন sub-section (7) ও sub-section (8) সন্নিবেশিত হইবে, যথা:—

“(7) A Tribunal may arrange virtual hearings if the Tribunal is satisfied that the physical attendance of the victims and witnesses cannot be procured due to unavoidable circumstances.

(8) Notwithstanding anything contained in the Bangladesh Legal Practitioners and Bar Council Order, 1972 (President's Order No. 46 of 1972), a Tribunal may allow foreign counsel to appear before it, subject to the prior permission of Bangladesh Bar Council, which should not be unreasonably withheld.”।

১২। Act No. XIX of 1973 এর section 11A সংশোধন।—উক্ত Act এর section 11A এর sub-section (2) এর পর নিম্নরূপ নৃতন sub-section (3) ও sub-section (4) সন্নিবেশিত হইবে, যথা:—

“(3) If in any case, the accused is charged with crimes punishable under this Act, but the evidence suggests they have committed a different offence chargeable under the Penal Code, 1860, or any other law for the time being in force, the case may be transferred to a competent court for trial.

(4) For the purpose sub-section (3), the Tribunal shall send to that court a certified copy of the case record and the documents and articles, if any, which are to be produced in evidence and notify the concerned public prosecutor of the transfer of the case.”।

১৩। Act No. XIX of 1973 এর section 12 এর প্রতিস্থাপন।—উক্ত Act এর section 12 এর পরিবর্তে নিম্নরূপ section 12 প্রতিস্থাপিত হইবে, যথা:—

“12. Provision for Defence Counsel.—(1) Where an accused person is not represented by counsel, the Tribunal may, at any stage of the case, direct that a counsel shall be engaged at the expense of the Government to defend the accused person and may also determine the fees to be paid to such counsel.

- (2) In addition to any other disclosure provided for in this Act, the prosecutor shall, as soon as practicable, disclose to the defence any evidence in the prosecutor's possession which he believes shows the innocence of the accused, or mitigates the guilt of the accused, or which may affect the credibility of prosecution evidence.
- (3) Reports, memoranda or other internal documents prepared by the investigation or the prosecution in connection with the investigation or preparation of the case are not subject to disclosure.
- (4) Where material or information is in the possession or control of the prosecutor which must be disclosed in accordance to this rule, but disclosure may prejudice further or ongoing investigations, the prosecutor may apply to the Tribunal for a ruling as to whether the material or information must be disclosed to the defence and the matter shall be heard on an ex parte basis by the Tribunal.
- (5) Communications made in the context of the professional relationship between a person and his legal counsel shall be regarded as privileged, and consequently not subject to disclosure, unless:
 - (i) The person consents in writing to such disclosure; or
 - (ii) The person voluntarily disclosed the content of the communication to a third party, and that third party then gives evidence of that disclosure.
- (6) In case of doubt as to the application of this provision, the Tribunal shall take decision.”।

১৪। Act No. XIX of 1973 এর section 14 এর সংশোধন।—উক্ত Act এর section 14 এর—

- (ক) sub-section (1) এ উল্লিখিত “Any Magistrate of the first class” শব্দগুলির পরিবর্তে “Any Judicial Magistrate or Metropolitan Magistrate” শব্দগুলি প্রতিস্থাপিত হইবে;
- (খ) sub-section (2) এর পর নিম্নরূপ নৃতন sub-section (3) সন্বিশিত হইবে, যথা:—

“(3) An accused shall have the right not to be compelled to testify or to confess guilt and to remain silent, without such silence being a consideration in the determination of guilt or innocence.”।

১৫। Act No. XIX of 1973 এর section 17 এর প্রতিস্থাপন।—উক্ত Act এর section 17 এর পরিবর্তে নিম্নরূপ section 17 প্রতিস্থাপিত হইবে, যথা:—

“17. Right of Accused Person During Trial.—An accused person shall have the right to—

- (a) give any explanation relevant to the charge made against him during trial;
- (b) conduct his own defence before the Tribunal or to have the assistance of counsel;
- (c) present evidence at the trial in support of his defence, and to cross-examine any witness called by the prosecution.
- (d) be tried without undue delay;
- (e) have adequate time and facilities for the preparation of the defence and to communicate freely with counsel of the accused's choosing in confidence;
- (f) avail the assistance of an interpreter, free of charge and at the expense of the government, if they do not understand or speak the language used in the proceedings;
- (g) have protection under Torture and Custodial Death (Prevention) Act, 2013 (Act No. 50 of 2013);
- (h) to be brought before a Tribunal within 24 hours exclusive of the time necessary for the journey from the place of arrest to the Tribunal and shall not be arbitrarily detained.”।

১৬। Act No. XIX of 1973 এর section 19 এর সংশোধন।—উক্ত Act এর section 19 এর—

- (ক) sub-section (1) এর পরিবর্তে নিম্নরূপ sub-section (1), (1A), (1B), (1C), (1D), (1E) & (1F) প্রতিস্থাপিত হইবে, যথা:—

- “(1) The parties to a Tribunal may submit any evidence including data or information generated, prepared, sent, received, or stored in magnetic, electromagnetic, optical, or computer memory; audio and video recordings; Digital Versatile Disc (DVD), Digital Video Disc (DVD); records from Closed Circuit Television (CCTV); drone data; records from cell phones; hardware, software, or any other digital device relevant to the case, to the Tribunal.
- (1A) A Tribunal shall have the authority to order the submission of all evidence that it considers necessary for the determination of the truth.
- (1B) A Tribunal shall rule on the admission or relevance of evidence either on its own motion or on the application of one of the parties, taking into account, *inter alia*, the probative value of the evidence and any prejudice that such evidence may cause to a fair trial or to a fair evaluation of the testimony of a witness.
- (1C) An issue relating to relevance or admissibility of evidence must be raised at the time when the evidence is submitted to the Tribunal or, exceptionally, when those issues were not known at the time when the evidence was submitted, it may be raised immediately after the issue has become known.
- (1D) A Tribunal shall give reasons for any rulings it makes on evidentiary matters.
- (1E) Evidence ruled irrelevant or inadmissible shall not be considered by the Tribunal.
- (1F) Evidence obtained by means of a violation of internationally recognized human rights shall not be admissible if:
- (a) The violation casts substantial doubt on the reliability of the evidence; or

- (b) The admission of the evidence would be antithetical to and would seriously damage the integrity of the proceedings.”।
- (খ) sub-section (2) এ উল্লিখিত “Magistrate” শব্দটির পরিবর্তে “Judicial Magistrate or Metropolitan Magistrate” শব্দগুলি প্রতিস্থাপিত হইবে।

১৭। **Act No. XIX of 1973** এর নৃতন section 20A এর সম্বিবেশ।—উক্ত Act এর section 20 এর পর নিম্নরূপ নৃতন section 20A সম্বিবেশিত হইবে, যথা:—

- “20A. Provision for Compensation.—**(1) The Tribunal may award any amount it deems appropriate as compensation for the victims of the crimes.
- (2) If the compensation cannot be recovered from the convicted individual or their existing assets, such amounts shall be recoverable from any assets that the individual may own or acquire in the future.
- (3) In the cases stated above, the claim for compensation shall take precedence over any other claims against the aforementioned assets.”।

১৮। **Act No. XIX of 1973** এর নৃতন section 21A এর সম্বিবেশ।—উক্ত Act এর section 21 এর পর নিম্নরূপ নৃতন section 21A সম্বিবেশিত হইবে, যথা:—

- “21A. Interlocutory Appeal.—**(1) Notwithstanding any other provisions in this Act, a party may file an appeal before the Appellate Division of the Supreme Court of Bangladesh challenging the order of punishment for contempt of the Tribunal within 30 (thirty) days of the passing of the said order.
- (2) The appeal shall be disposed of within 30 (thirty) days of filing the appeal.
- (3) Notwithstanding the filing or pendency of any interlocutory appeal, the Tribunal shall continue with all investigative, trial, and related proceedings without suspension or delay.
- (4) The filing of an appeal shall not operate as a stay of proceedings or affect the Tribunal’s jurisdiction to proceed with any matter before it, unless otherwise directed by the Tribunal in the interests of justice.”।

১৯। **Act No. XIX of 1973** এর নৃতন section 23A ও section 23B এর সম্বিশে—
উক্ত Act এর section 23 এর পর নিম্নরূপ নৃতন section 23A ও section 23B সম্বিশেত
হইবে, যথা:—

“23A. Witness Protection.—(1) A Tribunal shall take all necessary measures to ensure the safety, security, and well-being of witnesses who provide testimony or evidence in proceedings under this Act.

(2) A Tribunal may, on its own motion or upon request by the prosecution, defence, or the witness concerned, order any of the protective measures specified in sub-section (1) or any other measures it deems necessary to safeguard the witness.

(3) Any decision on witness protection shall be made with due regard to the rights of the accused and the prosecution to a fair trial, ensuring that such measures do not unduly prejudice either party involved in the trial.

23B. Participation and the Protection of the Victims.—(1) Victims of crimes under this Act, either personally or through duly authorized legal representation, shall have the right to participate in the proceedings of a Tribunal where they or their families hold a position contrary to that of the prosecution and the Tribunal shall record the perspective of the victims for judicial consideration.

(2) A Tribunal may, on its own motion or upon request by the prosecution or the victims concerned, order any of the protective measures it deems necessary to safeguard the victims.”।

তারিখ: ০৯ অগ্রহায়ণ, ১৪৩১ বঙ্গাব্দ
২৪ নভেম্বর, ২০২৪ খ্রিষ্টাব্দ

মোঃ সাহাবুদ্দিন
রাষ্ট্রপতি
গণপ্রজাতন্ত্রী বাংলাদেশ

ড. হাফিজ আহমেদ চৌধুরী
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