

# **OPPRESSION OF WOMEN AND CHILDREN (SPECIAL ENACTMENT) ACT, 1995**

Oppression of Women and Children (Special Enactment) Act, 1995

Published in Bangladesh Gazette Extraordinary  
Dated 17th July, 1995

**Act No.18 of 1995**

**An Act made to make special provisions for certain abominable offences connected with the oppression of women and children**

Whereas it is expedient to make special provisions for certain abominable offences connected with women and children;

Now, therefore, it is enacted as follows:-

**1. Short title.- This Act may be called the Oppression of Women and Children (Special Provisions) Act, 1995.**

**2. Definitions.-** Unless there is anything repugnant in the subject or context, in this Act,-

- (a) "offence" means any offence punishable under this Act;
- (b) "court" means any special court established under this Act;
- (c) "rape" shall have the same meaning as in section 375 of the Penal Code (Act XLV of 1860):

Provided that, for carrying out the purposes of this Act, for the word "fourteen" in the fifth sub-paragraph, and for the word "thirteen" in the sub-paragraph with the superscription "Exception", of the said section 375, shall, in both cases, be substituted the word "sixteen";

- (d) "woman" includes women of every age;
- (e) "Criminal Procedure" means the Code of Criminal Procedure, 1898 (Act V of 1898);
- (f) "dowry" means "dowry" as defined in section 2 of the Dowry Prohibition Act, 1980 (XXXV of 1980);
- (g) "child" means "child" as defined in section 2 (f) of the Children Act, 1974 (XXXIX of 1974);
- (h) "High Court Division" means High Court Division of the Supreme

Court of Bangladesh.

**3. Act to override other laws.-** The provisions of this Act shall have effect notwithstanding anything contained in any law for the time being in force.

**4. Penalty for causing death by means of explosive, poisonous or corrosive substances.-** Whoever causes the death of any child or woman by means of any explosive, poisonous or corrosive substance shall be punishable with death.

**5. Penalty for causing grievous hurt by means of explosive, poisonous or corrosive substances.-** Whoever hurts any child or woman by means of any explosive, poisonous or corrosive substance in such way as to result in-

- (a) the privation of the light or sight of the eyes,
- (b) the disfiguration of the head or face,
- (c) the privation of the hearing of the ears,
- (d) the destruction of any member or joint, or
- (e) the destruction of any other member of the body, of such child or woman shall,-
  - (i) in the case of permanent privation of the light or sight of one eye through a hurt as stated above in (a), be punishable with a term of rigorous imprisonment which may extend to 14 years but shall not be less than 7 years, and shall also be liable to fine;
  - (ii) in the case of permanent privation of the light or sight of both eyes through a hurt as stated above in (a), be punishable with death or lifelong imprisonment, and shall also be liable to a fine;
  - (iii) in the case of permanent partial destruction or disfiguration of the head or face through a hurt as stated above in (b), be punishable with a term of rigorous imprisonment which may extend to 14 years but shall not be less than 7 years, and shall also be liable to a fine;
  - (iv) in the case of permanent complete destruction or disfiguration of the head or face through a hurt as stated above in (b), be punishable with death or lifelong imprisonment, and shall also be liable to a fine;
  - (v) in the case of permanent privation of the hearing of one ear through a hurt as stated above in (c), be punishable with a term of rigorous imprisonment which may extend to 14 years but shall not be less than 7 years, and shall also be liable to a fine;
  - (vi) in the case of permanent privation of the hearing of both ears through a hurt as stated above in (c), be punishable with lifelong imprisonment, and shall also be liable to a fine;
  - (vii) in the case of permanent destruction of any member or joint of the body through a hurt as stated above in (d), be punishable with lifelong imprisonment or a term of rigorous imprisonment which may extend to 14 years but shall not be less than 7 years, and shall also be liable to fine;
  - (viii) in the case of permanent destruction of any member of the body as stated above in (e), be punishable with lifelong imprisonment or a term of rigorous imprisonment which may extend to 14 years but shall not be less than 7 years, and shall also be liable to fine;
  - (ix) in the case of destruction or disfiguration through a hurt as stated above in (a) to (e) not being permanent, be punishable with a term of rigorous imprisonment which may extend to 14 years but shall not be less than 7 years, and shall also be liable to fine."

**6. Penalty for rape.-** (1) Whoever rapes any child or woman shall be punishable with death or lifelong imprisonment.

(2) Whoever causes the death of any child or woman in or after committing rape shall be punishable with death.

(3) Where more than one person rape any child or woman, each of them shall be punishable with death or lifelong imprisonment.

(4) Where more than one person jointly cause the death of any child or woman in or after committing rape, each of them shall be punishable with death.

**7. Penalty for attempts to cause death or causing hurt in or committing rape.-** Whoever, in committing rape, attempts to cause death or to cause hurt to any child or woman shall be punishable with death or lifelong imprisonment.

**8. Penalty for trafficking etc. in women.-** (1) Whoever imports, exports, buys or sells or lets to hire or otherwise disposes of any woman with intent that such woman shall be employed for

the purpose of prostitution or illicit intercourse or unlawful and immoral activities, shall be punishable with lifelong imprisonment, and shall also be liable to fine.

**Explanation 1.-** When a woman is sold, let for hire, or otherwise disposed of to a prostitute or any person keeping or managing a brothel, the person so disposing of such woman shall, until the contrary is proved, be presumed to have disposed of her with the intent that she shall be used for the purpose of prostitution.

**Explanation 2.-** Any prostitute or person keeping or managing a brothel, who buys, hires or otherwise obtains possession of any woman shall, until the contrary is proved, be presumed to have bought or hired or brought into his possession or custody such woman with intent that she shall be used as a prostitute.

(2) Whoever keeps in his possession, custody or under his guardianship any woman in order to import or export her, hire her out or otherwise dispose of her with intent that she shall be employed for the purpose of prostitution or illegal intercourse or unlawful and immoral activities shall be punishable with a term of rigorous imprisonment which may extend to 14 years, and shall also be liable to fine.

**9. Penalty for abducting any woman for using her in unlawful or immoral etc. activities.-** Whoever abducts any woman with intent that-

- (a) she shall be employed or used for the purpose of prostitution or any other unlawful or immoral activity,
- (b) she shall be forced to marry against her intentions,
- (c) she shall be forced or seduced or allured to sexual intercourse,

shall be punishable with lifelong imprisonment or a term of rigorous imprisonment which may extend to 10 years and shall not be less than 7 years, and shall also be liable to fine.

**10. Punishment for causing death, etc. for dowry.-** (1) Whoever, being a husband, a father, mother, guardian, relation of a husband or any other person on the part of a husband of any woman, attempts to cause death to such woman for dowry shall be punishable with death. (2) Whoever, being a husband, a father, mother, guardian, relation of a husband or any other person on the part of a husband of any woman, causes grievous hurt to such woman shall be punishable with lifelong imprisonment or a term of rigorous imprisonment which may extend to 14 years and shall not be less than 5 years, and shall also be liable to fine.

**12. Penalty for trafficking in children.-** If any person unlawfully imports, exports or sells children, or brings into his possession any child for the purpose of importing, exporting or selling such child, or if a child (destined) for such purpose is found with any person, such person shall be punishable with death or lifelong imprisonment.

**13. Penalty for extorting ransom money.-** Whoever kidnaps or confines any child for the purpose of extorting ransom money shall be punishable with lifelong imprisonment.-

**14. Penalty for abetment of offences.-** Whoever abets any offence punishable under this Act shall, if such offence is committed in consequence of the abetment, be punishable with the punishment provided for the offence.

**15. Trial of offences.-** Offences under this Act shall be triable exclusively by a Special Court established under section 16.

**16. Special Courts.-** (1) There shall be one Special Court at each Zila Headquarters for the trial of offences under this Act, which may be called Special Court for Oppression of Women and Children Special Court.

(2) The Government may, if necessary, establish Special Courts also at other places and shall, in such case, determine, by notification in the official Gazette, the area of such Special Courts.

(3) A Special Court shall consist of one Zila and Sessions Judge and the Government shall appoint the judge of a Special Court from among the Zila and Sessions Judges.

(4) The Government may, if necessary, appoint a Zila and Sessions Judge, in addition to his duties, as a judge of a Special Court.

**Explanation.-** In this section, the meaning of Zila and Sessions Judge includes also Additional Zila and Sessions Judge.

**17. Jurisdiction of the Special Court.-** No Special Court shall take cognizance of an offence without a report in writing from a police officer not below the rank of a Sub-Inspector, or a person authorized, generally or in particular, in this behalf by the Government:

Provided that any Court may, if it is satisfied that the complainant has requested a person authorized under this sub-section in vain to submit a report of an offence, take cognizance of a complaint directly.

(2) The report for taking cognizance of an offence shall be submitted to, and the trial of an offence shall be conducted at, the Court within the jurisdiction of which the offence, or a part of it, has been committed, or the Court within the jurisdiction of which the accused person or, in the case of there being more than one accused persons, any of the accused persons has been traced.

**18. Investigation of offence.-** (1) The investigation of an offence under this Act shall be concluded within 60 days after the report of the commission of the offence has been received or the order to investigate the offence has been issued by the Magistrate:

Provided that the Court may, if the investigating officer is able, by showing special reasons, to satisfy the Court that it is, in the interest of a fair trial, expedient to extend the period of investigation, extend the fixed period of investigation by 30 days.

(2) Where, after the expiry of the period fixed and extended under sub-section (1), the Court, in view of an application or for any other reason, is satisfied to the effect that it is expedient and necessary to conduct further investigations on any offence, it may, subject to such orders as it may have issued with regard to the bail of the accused person or any other matters, give order to conduct the investigations for an additional period.

(3) No bail for an accused person shall be approved during the period of investigation fixed in sub-section (1).

(4) Where an investigation is not concluded after the expiry of the extended period fixed in sub-section (1), the Court may release the accused person on bail and shall, if it does not grant bail, put down its reasons to writing.

**19. Power to impose punishments.-** The Court may impose the punishments prescribed for the offence it is trying.

**20. Procedure of trials.-** (1) The Court shall, when trying and deciding a case, follow the procedures prescribed in the Code of Criminal Procedures (Chapter XX) for the trial and decision of cases.

(2) The Court shall conclude the trial of a case within 90 working days after the date on which the case has been received for trial.

(3) Where for any reasons the Court fails to conclude the trial of a case within the prescribed period, it shall, after putting its reasons down to writing, conclude the trial of the case within further 30 days following the expiry of the prescribed period.

(4) Where the Judge of a Court has been transferred, the Judge succeeding him in office shall, if his predecessor has left the trial of any case, continue such trial from the stage at which it had been left, and, if his predecessor has taken the testimony of a witness, such witness shall not be required to give his testimony again:

Provided that the Judge may, if he thinks it, in the interest of a fair trial, unavoidable to take again the testimony of a witness, summon, and take again the testimony of, a witness.

(5) If a Court has sufficient reason to believe that-

(a) an accused person has absconded or is concealing himself in order to avoid being arrested or committed for trial, or

(b) if there is no possibility for his imminent arrest,

it may, by an order published in at least one Bengali daily newspaper, order the accused person to appear before the Court within the period specified in the order, which shall not exceed 30 days, and may, if the accused person fails to appear before the Court within such period, conduct the trial in his absence.

(6) The provision of sub-section (5) shall not apply in the case of an accused person who absconds or fails to appear before a Court after appearing before a Court, or being produced before a Court, or being released on bail by a Court, and a Court may, after recording its reasons, conduct the trial against the accused person in the latter's absence.

(7) The Court may, during the trial of any case, direct, on its own motion or in view of an application, any police officer to make further investigations on any offence and to produce the report thereof within such period as it may specify, but not being more than 30 days.

**21. Power of a Magistrate to take depositions at any place.**-(1) Where a police officer or any other person investigating an offence under this Act is of the opinion that it is necessary, in the interest of a prompt trial of the offence, to have, without any delay, a Magistrate take down in writing the deposition of a person who is well-informed about the occurrence, he may request in writing a Chief Metropolitan Magistrate or, as the case may be, a Zila Magistrate or any first class Magistrate authorized in this behalf by the Government to take down in writing the deposition of such person.

(2) A Chief Metropolitan Magistrate or a Zila Magistrate shall, on receipt of a request under sub-section (1), without any delay, direct a Metropolitan Magistrate or, as the case may be, a first class Magistrate to take the deposition of such person.

(3) The Magistrate who has received a direction under sub-section (2) or the Magistrate who has been authorized by the Government as mentioned in sub-section (1) shall, without any delay, take the deposition of the said person at the place of occurrence or at any other appropriate place, and shall send the deposition thus taken directly to the police officer or person investigating the offence for being included in the report of the investigation.

(4) If, during the trial at a Court of a person accused of an offence referred to in sub-section (1), it turns out that it is necessary to take the testimony of a person who made a deposition under sub-section (3), but such person has died, or is unable to give his testimony, or does not, in spite of being summoned, appear at the Court, or cannot be traced, or cannot be produced before the Court without making efforts which involve such delays, expenditures or

inconveniences as to make it undesirable under the circumstances so to do, the Court may accept his deposition as a testimony in the trial.

**22. Chemical examiner, blood examiner etc. .-** Where, during any proceeding in accordance with the Code of Criminal Procedures, a chemical examiner appointed by the Government, public chemical examiner, blood examiner, handwriting expert, finger-print expert or expert of fire weapons has been told to make an examination or analysis on any matter and to submit a report thereof, he shall not be summoned before the Court and the documents said to be his report shall be taken as his testimony.

**23. Application of the Code of Criminal Procedures.-** (1) The provisions of the Code of Criminal Procedures shall, so far as there is nothing to the contrary contained in this Act, apply in the case of investigating, trying and deciding any case and a Court shall be deemed to be a Sessions Court. (2) The person conducting a case before a Court on the part of the complainant shall be deemed to be a Public Prosecutor.

**24. Submission of appeal.-** The party affected by any order issued, judgement pronounced, or punishment imposed, by a Court may, within thirty days from the date on which the order has been issued, appeal against such order, judgement or punishment to the High Court Division.

**25. Approval of death sentence.-** A Court which has passed a death sentence shall, in accordance with the provisions of section 374 of the Code of Criminal Procedures, send without any delay the records of the case concerned to the High Court Division, and no death sentence shall be executed without the confirmation by such Division.

**26. Taking cognizance etc. .-** (1) All offences punishable under this Act shall be cognizable. (2) Subject to the other provisions of this Act, no person accused or punishable shall be released on bail, if-

- (a) the complainant party has not been given opportunity for a hearing in respect of the application for his release, and
- (b) the Court is satisfied that there are reasonable grounds for believing that he is guilty of the accusation brought against him.

**27. Power to make rules.-** The Government may, by notification in the official Gazette, make rules for carrying out the purposes of this Act.

**28. Amendment of Act XIV of 1974.-** Paragraph 4B and Paragraph 4C of the Schedule of the Special Powers Act, 1974 (XIV of 1974) shall be omitted.

**29. Repeal and saving of Ordinance LX of 1983.-** (1) The Cruelty to Women (Deterrent Punishment) Ordinance, 1983 (LX of 1983) stands herewith repealed.

(2) All cases of offences under the said Ordinance which are under trial immediately before such repeal and all appeals against any order issued, judgement pronounced or punishment imposed in such case shall be conducted and decided upon as if the said Ordinance had not been repealed and Paragraph 4B and 4C of the Schedule of the Special Powers Act, 1974 (XIV of 1974) had not been omitted.

(3) All cases for an offence under the said Ordinance the depositions and charge sheet in view of which have been made shall also be deemed to be cases under trial under sub-section (2).