THE INTERNATIONAL CRIMES (TRIBUNALS) ACT, 1973

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THE INTERNATIONAL CRIMES (TRIBUNALS) ACT, 1973

ACT NO. XIX OF 1973 [20th July, 1973]

An Act to provide for the detention, prosecution and punishment of persons for genocide, crimes against humanity, war crimes and other crimes under international law.

WHEREAS it is expedient to provide for the detention, prosecution and punishment of persons for genocide, crimes against humanity, war crimes and other crimes under international law, and for matters connected therewith;

It is hereby enacted as follows:-

1. (1) This Act may be called the International Crimes (Tribunals) Act, 1973.

(2) It extends to the whole of Bangladesh.

(3) It shall come into force at once.

2. In this Act, unless there be anything repugnant in the subject or context,-

(a) "auxiliary forces" includes forces placed under the control of the Armed Forces for operational, administrative, static and other purposes;

(b) "Government" means the Government of the People's Republic of Bangladesh;

(c) "Republic" means the People's Republic of Bangladesh;

(d) "service law" means the Army Act, 1952 (XXXIX of 1952), the Air Force Act, 1953 (VI of 1953), or the Navy Ordinance, 1961 (XXXV of 1961), and includes the rules and regulations made under any of them;

(e) "territory of Bangladesh" means the territory of the Republic as defined in article 2 of the Constitution of the People's Republic of Bangladesh;

(f) "Tribunal" means a Tribunal set up under this Act.
3. (1) A Tribunal shall have the power to try and punish any person irrespective of his nationality who, being a member of any armed, defence or auxiliary forces commits or has committed, in the territory of Bangladesh, whether before or after the commencement of this Act, any of the following crimes.

(2) The following acts or any of them are crimes within the jurisdiction of a Tribunal for which there shall be individual responsibility, namely:-

(a) Crimes against Humanity: namely, murder, extermination, enslavement, deportation, imprisonment, abduction, confinement, torture, rape or other inhumane acts committed against any civilian population or persecutions on political, racial, ethnic or religious grounds, whether or not in violation of the domestic law of the country where perpetuated;

(b) Crimes against Peace: namely, planning, preparation, initiation or waging of a war of aggression or a war in violation of international treaties, agreements or assurances;

(c) Genocide: meaning and including any of the following acts committed with intent to destroy, in whole or in part, a national, ethnic, racial, religious or political group, such as:

(i) killing members of the group;

(ii) causing serious bodily or mental harm to members of the group;

(iii) deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part;

(iv) imposing measures intended to prevent births within the group;

(v) forcibly transferring children of the group to another group;
(d) War Crimes: namely, violation of laws or customs of war which include but are not limited to murder, ill-treatment or deportation to slave labour or for any other purpose of civilian population in the territory of Bangladesh; murder or ill-treatment of prisoners of war or persons on the seas, killing of hostages and detenues, plunder of public or private property, wanton destruction of cities, towns or villages, or devastation not justified by military necessity;

(e) violation of any humanitarian rules applicable in armed conflicts laid down in the Geneva Conventions of 1949;

(f) any other crimes under international law;

(g) attempt, abetment or conspiracy to commit any such crimes;

(h) complicity in or failure to prevent commission of any such crimes.

4. (1) When any crime as specified in section 3 is committed by several persons, each of such person is liable for that crime in the same manner as if it were done by him alone.

(2) Any commander or superior officer who orders, permits, acquiesces or participates in the commission of any of the crimes specified in section 3 or is connected with any plans and 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, is guilty of such crimes.

5. (1) The official position, at any time, of an accused shall not be considered freeing him from responsibility or mitigating punishment.

(2) The fact that the accused acted pursuant to his domestic law or to order of his Government or of a superior shall not free him from responsibility, but may be considered in mitigation of punishment if the Tribunal deems that justice so requires.