

THE WHIPPING ACT, 1909

ACT NO. IV OF 1909

[22nd March, 1909]

An Act to consolidate and amend the law relating to the punishment of whipping. *

WHEREAS it is expedient to consolidate and amend the law relating to the punishment of whipping;

It is hereby enacted as follows:—

Short title and extent

1. (1) This Act may be called the Whipping Act, 1909; and

(2) It extends to the whole of Bangladesh.

Whipping added to punishments described in Act XLV, 1860

2. In addition to the punishments described in section 53 of the Penal Code, offenders are also liable to the punishment of whipping.

Offences punishable with whipping in lieu of other punishment

3. Whoever commits any of the following offences, namely:—

- (a) theft, as defined in section 378 of the Penal Code other than theft by a clerk or servant of property in possession of his master;
- (b) theft in a building, tent or vessel, as defined in section 380 of the said Code;
- (c) theft after preparation for causing death or hurt, as defined in section 382 of the said Code;

* Throughout this Act, except otherwise provided, the words “Bangladesh”, “Penal Code” and “Government” were substituted, for the words “Pakistan”, “Pakistan Penal Code” and “Provincial Government” respectively by section 3 and 2nd Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

- (d) lurking house-trespass, or house-breaking, as defined in sections 443 and 445 of the said Code, in order to the committing of any offence punishable with whipping under this section;
- (e) lurking house-trespass by night, or house-breaking by night, as defined in sections 444 and 446 of the said Code, in order to the committing of any offence punishable with whipping under this section;

may be punished with whipping in lieu of any punishment to which he may for such offence be liable under said Code.

4. Whoever—

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| <ul style="list-style-type: none"> ¹[(a) abets, commits or attempts to commit, kidnapping as defined in sections 360 and 361 of the Penal Code in respect of any person under the age of fourteen; (ab) abets, commits or attempts to commit, kidnapping or abduction as defined in sections 360, 361 and 362 of the ²[said Code] in respect of any person under the age of fourteen in order that such person may be murdered or subjected to grievous hurt or slavery, or to the lust of any person or may be so disposed of as to be put in such danger; (ac) abets, commits or attempts to commit, kidnapping or abduction as defined in sections 360, 361 and 362 of the ²[said Code] with intent to cause the persons kidnapped or abducted to be secretly and wrongfully confined, where that person is under the age of fourteen; (ad) abets, commits or attempts to commit the wrongful concealment or confinement of a person under the age of fourteen, knowing that person to have been kidnapped or abducted within the meaning of sections 360, 361 and 362 of the ²[said Code]; | <p>Offences punishable with whipping in lieu of or in addition to other punishment</p> |
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¹ Clauses (a), (ab), (ac) and (ad) were inserted by section 3 of the Criminal Law Amendment Act, 1958 (Act No. XXXIV of 1958).

² The words “said Code” were substituted, for the words “Pakistan Penal Code” by section 3 and 2nd Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

- ¹[(ae)] abets, commits or attempts to commit, rape, as defined in section 375 of the ²[said Code];
- (b) compels or induces any person by fear of bodily injury, to submit to an unnatural offence as defined in section 377 of the said Code;
- (c) voluntarily causes hurt in committing or attempting to commit robbery, as defined in section 390 of the said Code;
- (d) commits dacoity as defined in section 391 of the said Code;
- (e) abets, commits or attempts to commit an offence of insult to the modesty of a woman punishable under section 509 of the ²[said Code] ³[;
- (f) being a member of an assembly of two or more persons the common object of which is to commit an offence punishable under section 366 of the said Code abets, commits or attempts to commit such offence; or
- (g) abets, commits or attempts to commit in respect of any female person any offence punishable under section 366A, 366B, 367, 372 or 373 of the said Code,]

may be punished with whipping in lieu of or in addition to any other punishment to which he may for such offence, abetment or attempt be liable under the said Code.

Juvenile offenders when punishable with whipping

5. Any juvenile offender who abets, commits or attempts to commit—

- (a) any offence punishable under the Penal Code, except offences specified in Chapter VI and in sections 153A and 505 of that Code and offences punishable with death, or

¹ Existing clause (a) was re-lettered as clause (ae) by section 3 of the Criminal Law Amendment Act, 1958 (Act No. XXXIV of 1958).

² The words "said Code" were substituted, for the words "Pakistan Penal Code" by section 3 and 2nd Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

³ A semi-colon ";" was substituted, for the full-stop "." at the end of clause (e) and thereafter clauses (f) and (g) were added by section 3 and 2nd Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

- (b) any offence punishable under any other law with imprisonment which the Government may, by notification in the official Gazette, specify in this behalf,

may be punished with whipping in lieu of any other punishment to which he may for such offence, abetment or attempt be liable.

Explanation.—In this section the expression “juvenile offender” means an offender whom the Court, after making such enquiry (if any) as may be deemed necessary, shall find to be under sixteen years of age, the finding of the Court in all cases being final and conclusive.

6. ¹[Whenever the] Government has, by notification in the official Gazette, declared the provisions of this section to be in force in any frontier district or any wild tract of country within the jurisdiction of ²[the Government], any person who in such district or tract of country after such notification as aforesaid commits any offence punishable under the Penal Code with imprisonment for three years or up-wards, may be punished with whipping in lieu of any other punishment to which he may be liable under the said Code.

Special provision as to punishment with whipping in frontier districts

7. [Repealed by the Repealing Act, 1938 (Act No. I of 1938), section 2 and Schedule.]

8. [Repealed by the Second Repealing and Amending Act, 1914 (Act No. XVII of 1914), section 3 and 2nd Schedule.]

THE SCHEDULE.—[Repealed by the Second Repealing and Amending Act, 1914 (Act No. XVII of 1914), section 3 and 2nd Schedule.]

¹ The words "Whenever the" were substituted for the words "Whenever any" by section 3 and 2nd Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

² The words "the Government" were substituted, for the words "such Provincial Government" by section 3 and 2nd Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).