OHCHR Technical Note

Preliminary Assessment of May 2025 Amendments to Bangladesh's International Crimes Act (November 2024 revision) and Anti-Terrorism Act (2009)

*The assessment below is based on English translations of the above acts and their amendments, which were received by OHCHR.

May 2025 Amendments to International Crimes Act (ICA)

Section 2(bbb) – Definition of "organization"

The definition of "organization" is restricted to political parties but is extremely broad within this category. Only sole individuals appear to be exempt from the definition (the smallest declination is "group of individuals").

Section 20(B) – Punishments for organizations

This section introduces a variation of a section[1] that was proposed in September 2024 before being removed. Section 20(A) proposed at that time set forth a series of punishments for political organizations that were *found* to be responsible for international crimes. This foresaw a full judicial process to determine whether an organization was criminally responsible.

The new section 20(B) gives the ICT the power to punish a political organization by suspending or prohibiting its activities, banning the organization, suspending or canceling its licence, and confiscating its property if it *appears* to the tribunal that the organization is responsible for international crimes.

As a threshold matter, the language in new Section 20(B) is inconsistent with the substance of the International Crimes Act, which centres on individual criminal responsibility. As set forth in Article 25 of the Rome Statute, individual criminal responsibility refers to how a *person* is alleged to have carried out a crime. It does not include the conduct of organizations, as such. It is unclear how and when the conduct of a particular individual could be attributed to an organization, to justify a ban.

Bearing this distinction in mind, it would be important to know what the specific threshold is for determining the "appearance" of responsibility for an international crime. It would also be key to understand what the legal consequences would be, if any, for a person – legal or natural – who "appears" to be responsible for an international crime.

Any restrictions on the activities of an organization should be consistent with international human rights law, in particular Article 22(2) of the ICCPR, which allows for restrictions on the right to freedom of association in very limited circumstances. Restrictions must be prescribed by law and necessary in a democratic society in the interests of national security or public safety, public order, the protection of public health or morals, or the protection of the rights and freedoms of others.

A ban or prohibition of an organization or its activities is amongst the most severe forms of restriction of freedom of association. The UN Human Rights Committee has thus noted that the threshold for ban or prohibition of any association is high. It must be a last resort, and limited to circumstances where it would avert a real and not only hypothetical danger to national security or democratic order. The extent of any restrictions, including a ban, would also have to meet the test of proportionality under Article 22(2) of the ICCPR.

Any organization concerned must also have the right to appeal the ban.

[1] The prior proposed section was titled "Section 20(A): Prohibition of Political Organizations Engaged in International Crimes".

OHCHR has consistently urged Bangladesh to uphold its international human rights obligations and refrain from political party bans as they undermine a return to a genuine multi-party democracy and effectively disenfranchise a large part of the Bangladeshi electorate.

May 2025 Amendments to Anti-Terrorism Act (ATA)

The amendments to Sections 18 and 20 appear to accelerate and expand the Government's power to impose restrictions on people and organizations, including complete bans on all activities, without having to wait for the potentially long and politically sensitive process for proscribing and listing a person or entity as involved in terrorist activities.

Section 18(1) – Proscription and enlistment

This amendment empowers the Government to prohibit all activities of a person or an entity, on reasonable grounds that the person or entity is involved in terrorist activities, without having to proscribe or list it formally as being involved in terrorist activities.

Section 20(1) – Actions against enlisted persons or proscribed entities

This amendment allows the Government to impose additional restrictions against a person or entity that has had their activities prohibited under amended Section 18(1). Due to the amendment to Section 18(1), this means that the additional restrictions can be imposed on a person or entity without having to formally proscribe or list the person or entity as being involved in terrorist activities.

Section 20(1)(c) – Restriction on departure from country

This amendment empowers the Government to restrict people from departing Bangladesh if they are members of an entity that has had its activities prohibited under the Act without it being formally proscribed and listed as being involved in terrorist activities.

Section 20(1)(e) – Expanded restrictions on expression and assembly

This amendment gives the Government the power to prohibit online communication and the organization of any procession, meeting, or assembly by people or entities that have had their activities prohibited under amended Section 18(1).

The amendment also prohibits publication or printing of any press release in support of "the said entity" rather than "the proscribed organization". This appears to extend the expanded restrictions in the amendment to people and affiliated entities that are not members of, but merely support, an organization subject to restrictions that was not formally proscribed and listed as being involved in terrorist activities.

Section 20(2) – Disclosure of income and expenditure

This amendment empowers the Government to force an organization to submit accounts of its income and expenditures and disclose all sources of its income to an authority nominated by the Government. The organization subject to an order for disclosure of income and expenditure no longer needs to be formally proscribed and listed as an entity involved in terrorist activities.

The UN Human Rights Committee has stated that counter-terrorism offences should be clearly defined to ensure that they do not lead to unnecessary or disproportionate interference with freedom of expression.

Even before these amendments were introduced, Section 18 of the Act raised serious concerns because it restricted freedom of expression based on offences listed in Section 17 that were not clearly defined. Section 18 also applied a vaguely worded and overly broad standard of "reasonable grounds that a person or an entity is involved in terrorist activities". Finally, it did not set forth clear procedures for proscribing and listing an entity as being involved in terrorist activities.

In its amended form, Section 18 is even more concerning for the right to freedom of expression. It continues to rely on the list of vaguely worded offences in Section 17 and the troublesome "reasonable grounds" standard while expanding restrictions on expression to include restrictions on online communication. Amended Section 18(1) also removes the requirement for proscription and listing, which expedites the implementation of the restrictions and reduces the transparency of the process.

The UN Human Rights Committee has also emphasized that counterterrorism offences must not be overbroad or discriminatory and must not be applied to curtail or discourage the exercise of the right of peaceful assembly.

The amendments to Sections 18(1) and 20(1)(e) of the Act raise serious concerns also regarding the right to freedom of assembly because they give the Government the power to prohibit online communication and the organization of "any procession, meeting, or assembly" based on the vaguely worded offences in Section 17 and overly broad "reasonable grounds" standard in Section 18. The amendments also permit the Government to impose these additional restrictions on persons and entities who have not been officially proscribed and listed, even if they are not members of, but merely "support" the sanctioned entity.

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For further reference, OHCHR recently published a briefer on counterterrorism legislation and human rights, available here: https://www.ohchr.org/sites/default/files/2025-03/ohchr-guidance-note-defining-terrorism-in-national-legislation.pdf. The United Nations has also produced the UN Reference Guide on the Proscription of Organizations in the Context of Countering Terrorism, available here: BHRRG_on_Proscription_of_Organizations_EN_WEB.pdf