

# **Terrorist and Disruptive Acts (Prevention and Punishment) Act, 2058 (2002)**

Date of Royal Seal and Publication

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The below-mentioned Act enacted by Parliament in the first year of reign of His Majesty King Gyanendra Bir Bikram Shah Dev is published for information to the general public.

Act Number 23 of the year 2058 (2002)

## **An Act made to provide for the prevention and punishment of terrorist and disruptive acts**

**Preamble** : Whereas, it is expedient to make legal provisions on the prevention of terrorist and disruptive acts for the maintenance of peace and order and for the security of the general public in the Kingdom of Nepal;

Now, therefore, be it enacted by Parliament in the first year of reign of His Majesty King Gyanendra Bir Bikram Shah Dev.

1. **Short Title and Commencement**: (1) This Act may be called as the "Terrorist and Disruptive Acts (Prevention and Punishment) Act, 2058 (2002)".

(2) This Act shall come into force immediately.

(3) This Act shall remain in force until Two years from the date of its commencement.

2. **Definitions**: Unless the subject or the context otherwise requires, in this Act;

(a) "Arms" means any rifle, gun, cannon, pistol, revolver, machinegun, rocket, rocket launcher or similar other means or

device of any kind, or spear, knife, *Khukuri* or any other risky weapon with or without sharp edge, which is fatal to the body.

- (b) "Ammunition" means any fog-signal, fuse, gunpowder, cap, bullet, shot, detonator, cartridge and other ammunition of similar kind.
- (c) "Bomb" means any grenade made of any kind of substance or means and which goes off automatically or with the help of any other means, which is used in military or non-military uses, or land-mines or any other kind of shell filled with explosive substance or any kind of substance to explode or causing explosion.
- (d) "Explosive substance" means tri-nitro-toluene (TNT), amatol, *barotol*, *pentolight*, RDX, *torpekus*, plastic explosives, dynamites, gunpowder, nitro-glycerin, gelignite, *stemite*, *selsite*, gun-cotton, blasting powder, mercury or other metal *flunite* that causes loss and damage when exploded and any other substance produced or used with intent to cause effect with explosion whether or not such substance is equivalent to those mentioned.
- (e) "Poisonous substance" means any kind of poison or solid or liquid substance with which such poison is mixed and also includes any kind of noxious flame or gas.
- (f) "Security personnel" means the Police or Armed Police or Royal Nepal Army or the person designated by His Majesty's Government in the prevention and control of terrorist and disruptive acts.
- (g) "Terrorist and disruptive act" means the terrorist and disruptive act as referred to in Section 3.
- (h) "Terrorist" means any person or group involved in the terrorist and disruptive act as referred to in Section 3.

- (i) "Accomplice" means the following person:
- (1) Any person who is in contact or involved with any person or group involved in the terrorist and disruptive act,
  - (2) Any person who gives any information to any person or group involved in the terrorist and disruptive act or who transmits information of the person or group involved in the terrorist and disruptive act,
  - (3) Any person who knowingly gives financial, physical assistance or assistance by giving shelter, directly or indirectly, to the person or group involved in the terrorist and disruptive act, except in cases of being under coercion.
- (j) "Property" means governmental or public or private movable or immovable property situated in or outside the Kingdom of Nepal.
- (k) "Informer" means any person who gives information to, or assists in giving information to, the security personnel and His Majesty's Government in respect of the terrorist and disruptive acts and explosive substances.
- (l) "Security official" means the Chief District Officer or such gazetted officer-level employee of His Majesty's Government as may be specified by His Majesty's Government by publishing a Notification in the Nepal Gazette.
- (m) "Order" means an order issued by His Majesty's Government or the security official.

**3. Terrorist and Disruptive Crime:** (1) If any person commits any of the following acts, such person shall be deemed to have committed the terrorist and disruptive crime:

- (a) Any act to cause loss of, or damage to, or destruction of, the property in any place or make such plot or any act to cause death of, or injuries to any person in such place or to set fire on such place or any act to cause physical or mental loss or damage in any other manner or any act to cause death of, or injuries to, any person by using a poisonous substance in daily consumable goods or in a public place or any act to terrorize the general public or passer-bys or assembling people by committing any of the above-mentioned acts, by using any kinds of arms, bombs, explosive substances or any other devices or articles, with intent to undermine or jeopardize the sovereignty and integrity of the Kingdom of Nepal or security or peace and order of the Kingdom of Nepal or any part thereof or the security of a Nepalese diplomatic mission or property situated abroad, or
- (b) Any act to detain or manhandle or terrorize any person in any place or any type of vehicle or to kidnap any person from such place and vehicle or kidnap any person who is traveling by such vehicle, with or without such vehicle, or terrorize with such act by threatening to kill, mutilate, injure any person or cause any other kind of destruction to such person by using, or threatening to use, the substance mentioned in Clause (a), for the purpose referred to in that Clause, or by using, or threatening to use, any substance or device other than such substance, or

- (c) Any act to produce, distribute, store, transport or export or import, sell, carry or install any kind of arms or bombs or explosive substances or poisonous substances or knowingly aid and abet in such act, with the intention referred to in Clause (a) or (b), or
- (d) Any act such as to gather people, give trainings for the object as referred to in Clause (a) or (b), or
- (e) Any act to forcefully collect cash or goods in-kind, to loot property for the object as referred to in this Sub-section.

(2) Any person who attempts or conspires to commit a terrorist and disruptive act or instigates or compels any other person to commit that act or gathers more than one person to commit, or to cause the commission of, that act or establishes any gang or group to commit such act or makes arrangement to commit such act or takes part in such act with or without receiving remuneration or publicizes or causes to publicize such act or causes obstruction in the public (governmental) communication system shall also be deemed to have committed the terrorist and disruptive crime.

Provided that, any act caused to be committed through coercion shall not be deemed to be a terrorist and disruptive act.

(3) Any person who commits any act referred to in Sub-section (1) or (2) shall be liable to action and punishment under this Act.

4. **Extra-territorial Application of the Act:** Any person who commits a terrorist and disruptive act targeting the Kingdom of Nepal or a Nepalese citizen or any property belonging to the Kingdom of Nepal staying outside the Kingdom of Nepal shall also be subject to the action

and punishment under this Act as if such person committed that crime within the Kingdom of Nepal.

**5. Special Power To Prevent Terrorist and Disruptive Act:**

Notwithstanding anything contained in the prevailing law, His Majesty's Government, in any or all parts of the Kingdom of Nepal, and the security official, in the area within his/her jurisdiction, may in order to prevent the terrorist and disruptive crime, order to carry out any or all of the following acts:

- (a) To arrest any person, on adequate and reasonable ground of suspicion on such person's involvement in a terrorist and disruptive act, and give a notice accompanied by the reason for arrest as soon as possible,
- (b) In the event of a suspicion that any illegal arms, ammunition, bombs or explosive substances are stored or any suspect related with a terrorist is hiding out, to search any house, shop, warehouse, transport vehicle or any other place belonging to any person whomsoever at any time, by giving a notice, and if any goods are seized in the course of searching, give a receipt thereof,
- (c) For purposes of preventing the terrorist and disruptive act, to search any person or goods that the person is carrying with him/her or any means or motor vehicle used by him/her in any place or road or junction,
- (d) If any person objects to or obstructs in making arrest under Clause (a) or doing search or taking any other action under Clause (b) or (c), to use necessary force or use arms where such person objects or obstructs by using arms,
- (e) If it appears that any person who commits or is committing the terrorist and disruptive act will go away or escape or cannot be arrested, to use necessary force or use arms,

- (f) In the course of setting free any place or motor vehicle, or aircraft or ship or any other means of transport forcefully detained or possessed by any person committing the terrorist and disruptive act or setting free any persons being taken hostages in such vehicles, to use necessary force or arms to save them from any possible bodily damage, risks or other loss or damage,
- (g) In cases where any person or group of persons attacks any security personnel in the course of carrying out the duty, to use necessary force or use arms,
- (h) In cases where any person or group of persons with arms gives or attempts to give threat to any security personnel on duty in any particular place with intent to cause bodily harm to such personnel, to use necessary force or use arms,
- (i) In cases where any person or group of persons makes an attack with intent to cause bodily injuries to those persons to be guarded by the security personnel or to the general public, employees on governmental duty, or governmental property being guarded by the security personnel or to the security personnel, to use necessary force or use arms,
- (j) In cases where there is an encounter with any armed person or group or where any person or group of persons with or without arms causes obstruction to the security personnel in carrying out the specified act, to use necessary force or use arms,
- (k) The security personnel is to use necessary force or use arms on or against any person or group of persons carrying arms, in the area where arms are stored or trainings launched with intent to commit the terrorist and disruptive act,

- (l) The security personnel is to take control of the arms with any armed person or group of persons or disarm such person or group, as per necessity,
- (m) To have surveillance of any suspicious person or place and, if required, arrest such person or lockout or blockade the suspicious place,
- (n) To withhold the bank account or passport of any person suspected, on adequate and reasonable ground, of being involved in the terrorist and disruptive act, for a certain period.

6. **Power To Requisition Property:** His Majesty's Government or the security personnel may requisition such private or governmental vehicle, food or other things or property as may be required in the course of prevention and control of the terrorist and disruptive act, on condition of providing compensation that is proper and equal to the prevailing rate or returning such requisitioned things subsequently.

7. **Power To Declare Terror Affected Area and Terrorist:** (1) His Majesty's Government may declare any area that is or might be affected by the terrorist and disruptive activities as the terror affected area.

(2) His Majesty's Government may declare any person, organization, association or group involved in the crime punishable under this Act as the terrorist.

(3) Notwithstanding anything contained in this Section, in cases where a state of emergency has been declared or ordered in accordance with the Constitution of the Kingdom of Nepal, 2047 (1990), the declaration of terror affected area shall be deemed to have *ipso facto* been made.

8. **Power To Prohibit Carrying Arms or Ammunition:** (1) Notwithstanding anything contained in the prevailing law, His Majesty's Government may so issue an order as to prohibit any person from

carrying any arms or ammunition licensed under the prevailing law in the terror-affected area declared under Section 7 for a specified period of time or to require such person to surrender such arms or ammunition in such place and for such period of time as may be specified.

(2) Any arms or ammunition held by a person who violates the order referred to in Sub-section (1) shall be confiscated.

**9. Power To Hold in Detention:** If there is a reasonable ground for believing that any person has to be prevented from committing any activity that could result in the terrorist and disruptive act, the security official may issue an order to detain such a person in any human friendly place for a period not exceeding Ninety days.

**10. Penalties:** (1) If any terrorist and disruptive act punishable under this Act has resulted in the death of any person, the principal who has committed, or caused the commission of, or conspired to commit, such a crime and any person who has ordered to commit such a crime shall be punished with imprisonment for life, with confiscation of his/her entire property.

(2) In cases where the crime has already been committed but it has not resulted in the death of any person, the principal who has committed, or caused the commission of, or conspired to commit, such a crime and the person who has ordered to commit such a crime shall be punished with imprisonment for life.

(3) If any person attempts to commit, or instigates or compels any one to commit, or gathers more than one person or establishes a group to commit, a crime referred to in this Act or makes arrangement to commit or causes the commission of such act or is involved in such act with or without taking remuneration or produces or distributes or holds or transports or imports or exports or otherwise exchanges arms, bombs, explosive substances or poisonous substances with intent to commit

such act or propagates or causes to propagate such act, such person shall be punished with imprisonment for a term from Five to Ten years according to the gravity of the offence.

(4) In cases where any person having committed the terrorist or disruptive act has caused loss of, or damage to, any property, such loss or damage shall be recovered from proceeds of confiscation of the property that belongs to such person as his partition share. If the amount of compensation to be paid cannot be fully recovered from his property, the offender has to undergo imprisonment for the period to be set as if the remaining amount were the amount of unrealized fine, in accordance with the prevailing law.

(5) Any accomplice of any offence punishable under this Act shall be punished with half a punishment to be imposed on the principal.

(6) If any person knowingly obstructs in making a search under Clause (b) or (c) of Section 5, such a person shall be punished with imprisonment for a term not exceeding one month or with a fine of up to Five Hundred Rupees or with both.

11. **To Hold in Detention for Trial**: In trying a person who is accused of having committed the crime under this Act, such accused shall generally be tried by holding him in detention, taking into account of the gravity of the crime.
12. **Permission To Hold Assembly and Exercise the Freedom of Expression**: Nothing contained herein shall prevent the holding of assembly peacefully and without arms, the exercise of the freedom of opinion and expression in the terror-affected area declared under Section 7 or making movement in any part of the Kingdom of Nepal, without prejudice to this Act.
13. **Monitoring and Coordination Committee**: (1) Any person who has suffered from any activity carried out by the competent authority in

the course of investigating the terrorist and disruptive crime, in exercise of the powers conferred by this Act or any one on behalf of such person may make a petition to the monitoring committee with the chairman and the members as follows:

- (a) A retired judge designated by His Majesty's Government from amongst the retired judges of the Supreme Court - Chairman
- (b) Secretary, Ministry of Defense - Member
- (c) Secretary, Ministry of Home - Member
- (d) Secretary, Ministry of Law, Justice and Parliamentary Affairs - Member
- (e) Deputy Attorney General, Office of the Attorney General of the Kingdom of Nepal - Member

(2) The monitoring committee shall set its procedures on its own.

(3) If, in making inquiry as to the petition made under Sub-section (1) by the monitoring committee, it appears that the petitioner has suffered, it shall give necessary advice to the concerned body in order to remove such suffering and also give necessary suggestion to His Majesty's Government on the problem having noticed and resolution of such problem.

(4) Information of the activities carried out by the monitoring committee under Sub-section (3) shall be given to the State Affairs Committee of the House of Representatives.

(5) There shall be formed one coordination committee under convenorship of the concerned Regional Administrator or the Chief District Officer, and comprising the Royal Nepal Army, Nepal Police, Armed Police, National Investigation and the chief of other

governmental body as its members as per necessity, so as to maintain coordination among the Royal Nepal Army, Nepal Police, armed Police and other necessary governmental bodies in order to prevent or control the terrorist and disruptive acts in its jurisdiction.

(6) The coordination committee referred to in Sub-section (5) shall set its procedures on its own.

- 14. Confiscation:** (1) If any person has committed any crime punishable under this Act and used any property, equipment or vehicle for the commission of such crime, such property, equipment or vehicle shall also be confiscated.

Provided that, in cases where such property, equipment or vehicle has been used without consent of the owner, such property, equipment or vehicle shall not be confiscated.

(2) The means of publicity, arms, cash and goods in-kind that have been intentionally used in the commission of, or in assisting the commission of, the act punishable under Section 3 shall all be confiscated.

(3) If any person is held to have committed any act punishable under this Act from any place outside the Kingdom of Nepal, in addition to imposition of the punishment referred to in Section 10 on such person, the movable and immovable property belonging to such person as his partition share situated in the Kingdom of Nepal shall also be confiscated.

- 15. Adjudicating Authority and Appeal:** (1) A court constituted or designated by His Majesty's Government by publishing a Notification in the Nepal Gazette shall have the power to try the cases relating to the offences under this Act.

(2) The court referred to in Sub-section (1) shall, while trying and disposing the cases under this Act, follow the procedures referred to in the Special Court Act, 2031 (1975).

(3) An appeal against a judgment or a final order made by the court referred to in Sub-section (1) may be made to the Supreme Court.

**16. To Be State Cases:** A case under this Act shall be a state case and that case shall be deemed to be included in Schedule-1 of the State Cases Act, 2049 (1993).

**17. Special Procedures:** (1) Notwithstanding anything contained in the prevailing law, if any person who commits any act considered as the terrorist and disruptive crime under this Act is not found and is absconding, a Fifteen days warrant, setting out his identification to the extent possible, shall be issued to arrest such person. Nothing shall prevent taking action against the person who has not been found or arrested even within that time-limitation.

(2) Any person, employee or security personnel may be used as an informer in any group committing the terrorist and disruptive act; and that person, employee or security personnel shall not be held liable to any punishment under the prevailing law on the ground of such involvement in that group.

(3) The identity of an informer shall be kept confidential.

(4) Notwithstanding anything contained in the prevailing law, if an accused charged in a case instituted under this Act discloses any important matter or evidence to His Majesty's Government, Police employee or other official in a believable manner, or renders direct assistance in finding out the main offender who has really led the crime, such an accused may be taken as a governmental witness; and if such an accused is so taken as a governmental witness, he shall not be punished under the prevailing law.

Provided, however, that if such person sets down a false matter or furnishes a fabricated evidence or appears to have so acted with premeditation in absence of any reasonable ground, such person shall be deemed to be an accused, and the adjudicating authority may punish him/her if punishment has been claimed.

(5) Notwithstanding anything contained in the prevailing law, an accused charged in the crime under this Act may be held in police custody for investigation for a period not exceeding Sixty days from the date of arrest, with the approval of the adjudicating authority.

**18. Control in the Means of Communication:** His Majesty's Government may control the means of communication such as letters, telephones or faxes that belong to any person or group involved in the terrorist and disruptive activities.

**19. Provisions Relating to Treatment Expenditure and Compensation:** (1) If any security personnel or police deputed in controlling and investigating the terrorist and disruptive acts dies or sustains injuries, His Majesty's Government shall provide reasonable medical expenditure and compensation.

(2) His Majesty's Government shall make provision on necessary medical treatment of any person affected or victimized from the terrorist and disruptive activities and on relief to be granted to such person.

(3) His Majesty's Government shall provide reasonable compensation to the dependent families of the *bona fide* general public who have died as a result of action taken by any person involved in the terrorist and disruptive activities and by the security personnel.

(4) If this Act is proved to have been used with ulterior motive, a reasonable compensation shall be given to the victim in the course of making judgment in the concerned case.

20. **Saving for the Act Done in Good Faith:** Any official or person shall not be liable to punishment for any activity carried out or attempted to be carried out in good faith under this Act or the Rules framed under this Act.
21. **No Application of Limitation:** No limitation shall apply to the filing of cases under this Act.
22. **Power to Give Reward:** His Majesty's Government may give proper reward to any person who arrests, or renders assistance in arresting, a person who plays the main role in the commission of the terrorist and disruptive act.
23. **Delegation of Powers:** His Majesty's Government may, as per necessity, delegate any of the powers conferred on it under this Act to any official or may withdraw the delegated power.
24. **Power to Frame Rules:** His Majesty's Government may frame necessary Rules in order to carry out the objective of this Act.
25. **Saving:** The matters contained in this Act shall be governed by this Act, and the other matters shall be governed by the prevailing law.
26. **Consequence of Ineffectiveness of the Terrorist and Disruptive Acts (Prevention and Punishment) Ordinance, 2058 (2001):** (1) After the Terrorist and Disruptive Acts (Prevention and Punishment) Ordinance, 2058 (2001) has become ineffective, unless a different intention appears, the ineffectiveness shall not-
- (a) Revive anything not in force or existing at the time when the Ordinance became ineffective.
  - (b) Affect any matter which came into operation in accordance with the Ordinance or any act duly operated previously under or any matter already suffered under, the Ordinance.

- (c) Shall not affect any right, privilege, obligation or liability acquired, accrued or incurred under that Ordinance.
- (d) Affect any penalty, punishment or forfeiture made under that Ordinance.
- (e) Affect any activity or remedy carried out in respect of any of such right, privilege, obligation, liability or punishment mentioned above, and any such legal proceeding or remedy may be instituted, continued or enforced as if the Ordinance were in force.

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