

## Chapter IV GENERAL EXCEPTIONS

This chapter states the General Exceptions(GE) enlisted under the IPC which exempts certain acts to be covered under the curb of an offence, it means these are defences which absolve the accused from any criminal Liability. Even if the Accused does not plead for these defences but if it is clear by the evidence that any of them are applicable the court will 'suo motu' apply them on his case.

Scope of general exceptions is very wide. GE is not only limited to the offences under IPC but it extends to the offences under special or local laws.

Chapter 4 consists of 31 sections sec.76-106) which may be further divided into 8 main heads:

1. **Mistake of fact / Mistake of law. 76,79**
2. **Act of a judge (Judicial Acts). 77, 78**
3. **Accidental acts. 80**
4. **Necessity. 81**
5. **Incapacity to commit a crime. 82 - 86**
6. **Acts done with consent. 87 -90**
7. **Triviality 95**
8. **Private defence 96- 106**

Two categories:

Excusable exceptions: Sec76, 79, 80, 82, 83, 84, 85-86.

Justifiable exceptions: Sec.77-78, 81, 87-89, 92, 93, 94, 95, 96-106.

### 1. Mistake of Fact / mistake of Law

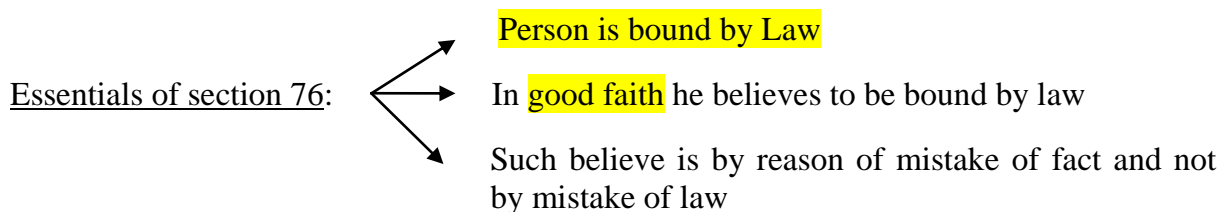
**Section 76:** Act done by a person bound, or by mistake of fact behaving himself bound, by law, Mistake of Fact' Misconception about the existence or nonexistence of fact in someone's mind.

Nothing is an offence which is done by a person who is, or who reason of a mistake of fact and not by reason, of a mistake of law in good faith believes himself to be, bound by law to do it.

The Act of subordinate officer is protected under this Section. This section is based on common law principle:

**Ignorantia facti excusat, ignorantia juris non excusat.**

(Ignorance of the fact excuses, ignorance of the law excuses not.)



**M.H George V. State of Maharashtra (Air 1965 Sc 722)**

M.H. George was not an Indian Citizen and was trying to smuggle gold through India. India recently passed a law prohibiting to carry that much gold through India.

M.H George was hiding the Gold in his jacket that too 34 kg of gold.

Court said that even if M.H. George didn't know the law he is supposed know it ignorance of law is no excuse and he was held liable under the relevant provision.

**Section 79-** Act done by a person justified, or by mistake of fact believing himself, justified, by law-

Nothing is an offence which is done by any person who is justified by law, or who by reason of a mistake of fact and not by reason of a mistake of law in good faith, believes himself to be justified by law, in doing it.

Essentials of section 79:

- ⇒ Person is justified by law.
- ⇒ In good faith he believes to be justified by law.
- ⇒ Such belief is by reason of mistake of fact and not by mistake of law.

**Note:** The difference between Sec. 76 and Sec. 79 is that in 76 it is legal compulsion and in 79 it is legal justification which the doer of the act believed he had).

**State of Andhra Pradesh v. Venu Gopal (1994 AIR 33)**

Policeman sub inspector one head constable and a constable) arrested a person on suspicion that he had received some stolen property and is involved in house breaking. Later the person was found deal with injuries on his body.

The prosecution alleged the police for wrongful confinement and torture for taking out a confession out of him; Trial Court convicted the police.

High court acquitted giving them the defence of Sector 79- whatever policeman do during investigation is justified by law. Supreme Court said that this view of High Court is wholly unwarranted in law beating and torturing has absolutely no relation to the process of investigation.

2. **Judicial Acts**

**Section 77:** Act of judge with acting judicially, Nothing is an offence which is done by a judge when acting judicially in the exercise of any power which is, or which in good faith he believes to be, given to him by law.

**Section 78:** Act done pursuant to the judgment or order of Court

Nothing which is done pursuant or which is warranted by the judgment or order of, a court of justice, if done whilst such judgment or order remain in force, is an offence, notwithstanding the Court may have had no jurisdiction to pass such judgment or order, provided the person doing the act in good faith believes that the Court had such jurisdiction.

3. **Accident**

**Section 80.** Accident in doing lawful act

Nothing is an offence which is done by accident or misfortune, and without any criminal intention or knowledge in the doing of a lawful act in a lawful manner by lawful means and with proper care and caution.

The main objective for providing this defence is that there is no criminal intention (Mens rea) in Accident, if these 5 conditions are fulfilled it will be obvious that there was no criminal intention and the person would get protection under section 80.

1. Act is done by accident or misfortune;
2. Act done was lawful;
3. Done in a lawful manner,
4. By lawful means;
5. Done with due care and caution

Example: A person killed by mistake by the use of hatchet.

### **Absence of Criminal Intent**

**Section 81.** Act likely to cause harm, but done without criminal intent, and to prevent other harm.

Nothing is offence merely by reason of its being done with the knowledge that it is likely to cause harm, if it be done without any criminal intention to cause harm, and in good faith for the purpose of preventing or avoiding other harm to person or property.

***Jus Necessitates, Quod necessitas non habet legem*** (Necessity knows no law)

There essentials for this section mandates act to be done in good faith and without any criminal intention i.e. there should be absence of Mens Rea.

**R v. Dudley & Stephens caselaw (shipwreck case)** is the most important case on self preservation.

Examples: houses on fire, titanic ship, the burning train etc.

### **Section 82: Act of a child under seven years of age**

Nothing is an offence which is done by a child under seven years of age.

Section gives the defence of infancy

**Doli incapax** (incapable of committing an offence): states Absolute immunity.

### **Section 83: Act of a child above seven and under twelve of immature understanding**

Nothing is an offence which is done by a child above seven years of age and under twelve, who has not attained sufficient maturity of understanding to judge of the nature and consequence of his conduct on that occasion.

In case there is no evidence to prove 'immature understanding' court will assume that the child above seven and below 12 understood the nature of his acts.

Ulla Mahapatra v. The King (AIR 1950 Ori 261)- The boy below 12 years shouted 'will cut you into pieces and did so to the victim, He was convicted under Section 302.

### **Section- 84 Act of person of unsound mind**

Nothing is an offence which is done by a person who, at the time of doing it, by reason of unsoundness of mind, is incapable of knowing the nature of the act, or that he is doing what is either wrong or contrary law.

### **M' Naughten Case – House of lords**

Daniel M Naughten suffered from a delusion and killed Edward Drummod (Secretary of PM). The accused was suffering from an insane delusion that Robert peel had injured him and believing Mr. Drummod to be Sir Robert peel he shot and killed him. The Medical evidence also showed that he infact was delusional which carried him away from self control over his acts.

He was acquitted which attracted criticism by public. Thereafter, Principles devised after his case which are followed for Section 84 of IPC:

1. The accused was incapable of knowing the nature of the act.
2. The accused was precluded by reason of unsoundness of mind from understanding that what he was doing was either wrong or contrary to law.

**Section 85:** Act of a person incapable of judgment by reason of intoxication caused against his will.

Nothing is an offence which is done by a person who, at the time of doing it, is by reason of intoxication, incapable of knowing the nature of the act, or that he is doing what is either wrong, or contrary to law provided that the thing which intoxicated him was administered to him without his knowledge or against his will.

Essentials to claim defence of intoxication:-

1. Accused must be intoxicated at the time of the commission of the crime and he is incapable of knowing the nature of the act.
2. Because of reason of intoxication he was not in a condition to know the nature of his act.
3. Intoxicant must have been administered to him without his consent or against his will. (Voluntary intoxication is no defence).

**Section 86:** Offence requiring a particular intent of knowledge committed by one who is intoxicated

In cases where an act done is not an offence unless done with a particular knowledge or intent, a person, who does the act in a state of intoxication shall be liable to be dealt with as if he had the same knowledge as he would have had if he had been intoxicated, unless the thing which intoxicated him was administered to him without his knowledge or against his will.

Now this section basically says that if you are intoxicated voluntarily you will be taken as person who has the same knowledge as a normal person (who is not intoxicated), But this section does not assume that you have the same intention as a normal person while intoxicated.

So if you voluntarily drunk and stab your friend then it will be assumed that you had knowledge that it will kill him, but if you can prove that you didn't have intention at that time then you might be given less harsher punishment (say for culpable homicide instead of murder)

**Basudeo v. State of Pepsu**

The appellant Basdev belonging to the village of Harigarh is a retired military Jamadar. He is charged with the murder of a young boy named Maghar Singh, aged about 15 or 16 under Section 302 of the Indian Penal Code. People living in the same village had gone to attend a wedding in another village. All of them went to the house of the bride to take the midday meal on 12th March, 1954. Some had settled down in their seats and some had not. The appellant asked Maghar Singh, the young boy to step aside a little so that he may occupy a seat of his choice. However, Maghar Singh did not move. The appellant whipped out a pistol and shot the boy in the abdomen. The injury proved to be fatal.

In the present case, evidence proved that the accused was capable of moving himself independently and talking coherently. He also came to the 'darwaza' of Nath Singh

himself. After shooting the deceased, he also attempted to get away, which proved that he realized the consequences of his actions.

Hence, according to the SC “The accused had, therefore, failed to prove such incapacity as would have been available to him as a defence, and so the law presumes that he intended the natural and probable consequences of his act, in other words, that he intended to inflict bodily injury to the deceased and the bodily injury intended to be inflicted was sufficient in the ordinary course of nature to cause death.” The conviction and sentence were held right.

**NOTE:** Section 87 to 93 of the code deals with consent as a general exception. Sections 87 and 91 lay down consent as a defence, while section 88, 89, 92 and 93 lay down the law relating to the immunity for the harm caused, in good faith, with or without consent, for the benefit of the sufferer; and section 90 explains what is not consent for the purposes of the code.

**Section 87:** Act not intended and not known to be likely to cause death or grievous hurt, done by consent.

Nothing which is not intended to cause death, or grievous hurt, and which is not known by the doer to be likely to cause death or grievous hurt, is an offence by reason of any harm which it may cause, or be intended by the doer to cause, to any person, above eighteen years, of age, who has given consent, whether express or implied to suffer that harm, or by reason of any harm which it may be known by the doer to be likely to cause to any such person who has consented to take the risk of that harm.

**‘Volenti non fit injuria’** - He who consent to an act has no right to claim damages for the injury caused to him by that act.

**Ingredients:**

1. The Act is not intended and is not likely to cause death or grievous hurt.
2. The person consenting must be 18 years or above (consent can be express or implied).

**Section 88:** Act not intended to cause death, done by consent in good faith for person’s benefit.

Nothing, which is not intended to cause death, is an offence by reason of any harm which it may cause or be intended by the doer to cause, or be known by the doer to be likely to cause, to any person for whose benefit it is done in good faith, and who has given a consent, whether express or implied to suffer that harm, or to take the risk of that harm.

**Ingredients:**

1. Act not intended to cause death,
2. Act must be for the benefit of that person and done in good faith
3. It should be with the person’s consent (consent can be express or implied)

**Section 89:** Act done in good faith for benefit of child or insane person, by or with consent of guardian.

Nothing which is done in good faith for the benefit of a person under twelve years of age, or of unsound mind, by or by consent, either express or implied, of the guardian or other person having lawful charge of that person, is an offence by reason of any harm which it may cause, or be intended by the doer to cause or be known by the doer to be likely to cause to that person:

Provisos:

First- That this exception shall not extend to the intentional causing of death, or to the attempting to cause death,

Secondly- That this exception shall not extend to the doing of anything which the person doing it knows to be likely to cause death, for any purpose other than the preventing death or grievous hurt, or the curing of any grievous disease of infirmity;

Thirdly- That the exception shall not extend to the voluntary causing of grievous hurt, or to the attempting to cause grievous hurt, unless it be for the purpose of preventing death or grievous hurt, or the curing of any grievous disease or infirmity;

Fourthly- That this exception shall not extend to the abetment of any offence, to the committing of which offence it would not extend.

**Section 90:** Consent known to be given under fear or misconception

A consent is not such a consent as is intended by any section of this Code, if the consent is given by a person under fear of injury, or under a misconception of fact, and if the person doing the act knows, or has reason to believe, that the consent was given in consequence of such fear or misconception; or

Consent of insane person: if the consent is given by a person who, from unsoundness of mind, or intoxication is unable to understand the nature and consequence of that to which he gives his consent; or

**Consent of child:** unless the contrary appears from the context, if the consent is given by a person who is under **twelve years of age**.

**NOTE:** If consent has been received by fear or injury (coercion, undue influence, misconception of fact or unsoundness of mind, intoxication or immaturity of age in understanding the nature of act, is then regarded as no consent.

**Section 91:** Exclusion of acts which are offences independently of harm caused.

The exception in sections 87, 88 and 89 do not extend to act which are offences independently of any harm which they may cause, or be intended to cause, or be known to be likely to cause, to the person giving the consent or on whose behalf the consent is given.

The exception in section, 87, 88 and 89 do not extend to each which are offences independently of any harm which they may cause, or be intended to cause, or be known to be likely to cause, to the person giving the consent, or on whose behalf the consent is given.

There is an Act (Miscarriage)- It causes some harm to the women- if the women even consent for the harm- It won't be covered under 87, 88, 89- because- Causing Miscarriage is also an offence against the child – so the act is independently an offence under section.312 (IPC) other than the harm caused which was consented.

The illustration under IPC gives the exception where Miscarriage is necessary to save the women's life but after Medical Termination of Pregnancy Act, 1971' other exceptions are also there apart from 'saving the life of the women'

Other Acts on which defences of 87, 88, 89 do not extend are offences affecting public health, safety convenience, decency morals etc. Like publication of obscene material even with the consent of the concerned person is an offence because it is independently an offence for reasons other than the harm caused to the consenting person.

This section extends only **against human body and property** and not against the public policy and other provisions of law.

For example: Posting any obscene material, publishing of such obscene material etc are all offence under the IPC.

**Section 92:** Act done in good faith for benefit of a person without consent.

Not even a single act or thing is a crime if such reasons are present:

- If any harm caused to a person for whose benefit it is done in good faith, even without the person's consent, and
- Even when the circumstances were such that it was impossible for that person to signify the consent, or
- That the person was incapable of giving consent, and
- Also the person has no guardian or any other person in lawful charge of him from whom it is possible to obtain consent in time for the thing to be in benefit.

Essentials of Section 92

- An **act** done for the **benefit of a person** who suffers harm.
- The act done must be in **good faith**.
- There was **no time** to obtain the **consent of the person**.
- Where it **is impossible to signify** the consent of that person.
- There was **no guardian** or **lawful in charge of that person to obtain the consent**.

Exceptions to section 92

- The doer cannot take advantage of this Section if he does the act intentionally to cause death or intentionally attempts to cause death.
- If the doer knows that such an act if done then the result is likely to cause death then he cannot be benefited under this Section.
- The doer should not extend the act to voluntarily causing hurt or even attempting to cause hurt.
- The doer should not enhance his act in order to instigate or abet any person to make him commit an offence.

**Section 93:** Communication made in good faith

No communication made in good faith in an offence by reason of any harm to the person to whom it is made, if it is made for the benefit of that person.

Essentials to this section

- The communication must be made in good faith.
- It must be made for the benefit of the person.

**Section 94:** Act to which a person is compelled by threats-

Except murder, and offences against the State punishable with death, nothing is an offence which is done by a person who is compelled to do it by threats, which, at the time of doing it, reasonably cause the apprehension that instant death to that person will otherwise be the consequence: Provided the person doing the act did not of his own accord, or from a reasonable apprehension of harm to himself short of instant death, place himself in the situation by which he became subject to such constraint.

Explanation 1.

A person who, of his own accord, or by reason of a threat of being beaten, joins a gang of dacoits, knowing their character, is not entitled to the benefit of this exception, on



the ground of him being compelled by his associates to do anything that is an offence by law

Explanation 2.

A person seized by a gang of dacoits, and forced, by threat of instant death, to do thing which is an offence by law, for example a smith compelled to take his tools and to force the door of a house for the dacoits to enter and plunder it, is entitled to the benefit of this exception.

It exempts a man from **criminal liability** in respect of an act committed under **compulsion or duress**, that reasonably causes the apprehension of **death to** that person. This is founded on the well-known Maxim: "***Actus me invito factus est nisi actus***" an act which is done by me, against my will is not my act, and hence I am not responsible for it.

### **Exceptions**

- Murder punishable with death; (a man cannot kill another to save his own life, but the one who abets the murder or helps in disappearing the evidence is read under sec.94 for the defence)
- Waging a war against the state or government of India, punishable with death (Only one (O) which is punishable by death under IPC is under sec.121, the defence is not available to any under law because it presumes that "an individual should not place the sovereignty of his country, even above his life").

### **Essentials**

- The apprehension of threat must be reasonable and not voluntarily sought.
- The threat must be of instant death at the time of doing the act, and accused was with no other option but to act.
- The threat must be confined to the person himself.
- Presence of threatner.
- This law extends to the IPC as well as special and local laws under sec.40 IPC.

### **Important caselaws**

- Duress – defence to Bestiality – R v. Bourne (1952)
- Duress – defence to Perjury – R v. Hudson, R v. Taylor(1971)

### **Section 95:** Act causing slight harm / Acts of trivial nature

Nothing is an offence by reason that it cause or that it is intended to cause, or that it is known to be likely to cause, any harm if that harm is so slight that no person of ordinary sense and temper would complain of such harm.

Sec.95 is intended to prevent the penalisation of the negligible wrongs or offences of trivial nature. Further it is based on the maxim "***de minimis non curat lex***" means the law will not take notice of trifles( something of less importance or value).

"Harm" - connotes a wider meaning under section 95 it includes physical injury, financial loss, loss of reputation, mental worry or even apprehension of injury.

Important caselaws which establishes the law is not maintainable in cases of socio economic offences (food adulteration, trading in medical drugs) and any traffic offences.

- State of Maharashtra v. Taherbhai (1978)



- State of Karnataka v. M/s Lobo Medicals (1978)
- Bichitrananda Naik v. State of Orissa (1978)

Compounding of (O) – sec. 320 CrPc

### **PRIVATE DEFENCE** – (Sec.96-106)

The law of self defence is not written but is born with us. We do not learn it or acquire it somehow but it is in our nature to defend and protect ourselves from any kind of harm. Bentham has said that fear of law can never restrain bad men as much as the fear of individual resistance and if you take away this right then you become accomplice of all bad men.

#### **Munney Khan V. State (AIR 1971 Sc 149)**

All Sections (96-106) all read together to know the scope and limitation of this defence. The following limitations will apply to this defence:

1. Not your right to exercise if there is sufficient time for **recourse to public authorities**.
2. The **force used** and harm caused should be only as much as **reasonably necessary** (**Rafiq v. State of Maharashtra, 1979**) hit by sharp knife while he was being hit by lathi).
3. There should **be reasonable apprehension of hurt grievous hurt or death** to the person or damage to the property.

**Section 96:** The law of **private defence** to **body and property** has been mentioned here. This section lays down the general rule of the defence. It makes the acts, which are otherwise criminal, justifiable if they are done while exercising the right of private defence. Normally, it is the accused who takes the plea of self defence but the court is also bound to take cognizance of the fact that the accused acted in self defence if such evidence exists.

Scope and characteristics are defined from Sec.97-98 and 100-106 and section 99 defines the restrictions so imposed under Pvt. Defence.

**Section 97:** This allows a person to defend his or anybody else's body or property from being unlawfully harmed. Under English law, the right to defend the person and property against unlawful aggression was limited to the person himself or kindred relations or to those having community of interest e.g. parent and child, husband and wife, landlord and tenant, etc. However, this section allows this right to defend an unrelated person's body or property as well. Thus, it is apt to call it as right to private defence instead of right to self defence.

The right to private defence of the body exists against any offence towards human body, the right to private defence of the property exists only against an act that is either theft, robbery, mischief, or criminal trespass or is an attempt to do the same.

It is important to note that the right exists only against an act that is an offence. There is no right to defend against something that is not an offence. For example, a policeman has the right to handcuff a person on his belief that the person is a thief and so his act of handcuffing is not an offence and thus the person does not have any right under this section.

Similarly, an aggressor does not have this right. An aggressor himself is doing an offence and even if the person being aggressed upon gets the better of the aggressor in the exercise of his right to self defence, the aggressor cannot claim the right of self defence. As held by SC in Mannu vs State of UP AIR 1979, when the deceased was waylaid and attacked by the accused with dangerous weapons the question of self defence by the accused did not arise.

**Ram Ratan v. State of Bihar, AIR1965**

**Jai Dev v. State of Punjab, AIR 1963**

**Section98:** Right of private defence against the act of a person of unsound mind etc.

When an act which would otherwise be a certain offence, is not that offence, by reason of the youth, the want of maturity of understanding, the unsoundness of mind or the intoxication of the person doing that act, or by reason of any misconception on the part to that person, every person has the same right of private defence against that act which he would have if the act were that offence.

When any of these are attacking your other person or your property or other person's property.

Person Acting under Mistake of Fact- Section 76 and 79

Child protected via-doli incapax – Section 82

Child of immature understanding – Section 83

Insane Person – Section 84

Person not voluntarily intoxicated – Section85

They are committing no offence because they are protected, but if you Protect yourself from this attack it will be treated as if you are protecting yourself from someone who is committing an offence.

**Section 99:** Acts against which there is no right of private defence.

There is no **right of private defence against an act which does not reasonably cause the apprehension of death or of grievous hurt**, if done or attempt to be done, by a **public servant acting in good faith** under colour of his office, though that act may not be strictly justifiable by law.

There is no right of private defence against an act which does not reasonably cause the apprehension of **death of grievous hurt**, if done, or attempt to be done, by the direction of a public servant acting in good faith under colour of his office though that direction may not be strictly justifiable by law.

There is no right of private defence in cases in which there is **time to have recourse to protection of the public authorities**.

Extent to which the right may be exercised; The right of private **defence in no case extends to the inflicting of more harm than it is necessary** to inflict for the purpose of defence.

**The person should know that act is done by public servant.**

**[And should show the authority proof if demanded]**

**Like a policeman search in house should show the search warrant**

**Refiq v. State of Maharashtra (AIR 1979 SC1179)**

The deceased was attacking the accused with a lathi but the accused took out a knife and stabbed him to death. The medical showed that the wound was deep and the knife pierced through the heart with great force resulting in death because of pouring out of blood from the heart

It was held that it was self defence but the Accused used excessive force so he is liable for culpable homicide not amounting to murder.

**Section 100.** When the right of private defence of the body extends to causing death.

The right of private defence of the body extends, under the restrictions mentioned in the last preceding section, to the voluntary causing of death or of any other harm, to the assailant, if the offence which occasions the exercise of the right be of any of the descriptions hereinafter enumerated namely:-

First – Such an assault as may reasonable cause the apprehension that death will otherwise be the consequence of such assault;

Secondly- Such an assault as may reasonably cause the apprehension that grievous hurt will otherwise be consequence of such assault;

Thirdly- An assault with the intention of committing rape;

Fourthly- An Assault with the intention of gratifying unnatural lust;

Fifthly- An assault with the intention of kidnapping or abducting;

Sixthly- An assault with the intention of wrongfully confining a person, under circumstances which may reasonable cause him to apprehend that he will be unable to have recourse to the public authorities for his releases.

Seventhly- An act or administering acid or an attempt to throw or administer acid which may reasonable cause the apprehension that grievous hurt will otherwise be the consequence of that act. (Added by Criminal law (amendment) Act, 2013.

**Section 101.** When such right extends to causing any harm other than death.

- If the offence be not of any of the descriptions enumerated in the last preceding section, the right of private defence of the body does not extend to the voluntary causing of death to the assailant, but does extend, under the restrictions mentioned in section 99, to the voluntary causing to the assailant of any harm other than death.

**Section 102.** Commencement and continuance of the right of private defence of the body.

- The right of private defence of the body commences as soon as a reasonable apprehension of danger to the body arises from an attempt or threat to commit the offence through the offence may not have been committed; and it continues as long as such apprehension of danger to the body continues.

**Section 103:** When the right of private defence of property extends to causing death. – the right of private defence of property extends, under the restrictions mentioned in section 99, to the voluntary causing of death or of any other harm to the wrong-doer, if the offence, the committing of which, or the attempting to commit which, occasions the exercise of the right, be an offence of any of the descriptions hereinafter enumerated, namely:

First. – Robbery;

Secondly, - House-breaking by night;

Thirdly- Mischief by fire committed on any building, tent or vessel, which building, tent or vessel is used as a human dwelling, or as a place for the custody of property;

Fourthly- Theft, mischief, or house-trespass, under such circumstances as may reasonably cause apprehension that death or grievous hurt will be the consequence, if such right of private defence is not exercised.

**Section 104.** When such right to causing any harm other than death.-

If the offence, the committing of which, or the attempting to commit which occasions the exercise of the right of private defence, be theft, mischief, or criminal trespass, not of any of the descriptions enumerated in the last preceding section, that right does not extend to the voluntary causing of death, but does extend, subject to the restrictions mentioned in section 99, to the voluntary causing to the wrong-doer of any harm other than death.

**Section 105.** Commencement and continuance of the right of private defence of property.

- The right of private defence of property commences when a reasonable apprehension of danger to the property commences.
- The right of private defence of property against theft continues till the offender has effected his retreat with the property or either the assistance of the public authorities is obtained, or the property has been recovered.
- The right of private defence of property against robbery continues as long as the offender causes or attempts to cause to any person death or hurt or wrongful restraint or as long as the fear of instant death or of instant hurt or of instant personal restraint continues.
- The right of private defence of property against criminal trespass or mischief continues as long as the offender continues in the commission of criminal trespass or mischief.
- The right of private defence of property against house-breaking by night continues as long as the house-trespass which has been begun by such house-breaking continues:

**Section 106.** Right of private defence against deadly assault when there is risk of harm to innocent person — If in the exercise of the right of private defence against an assault which reasonably causes the apprehension of death, the defender be so situated that he cannot effectually exercise that right without risk of harm to an innocent person, his that right without risk of harm to an innocent person, his right or private defence extends to the running of that risk.

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## CHAPTER 6 - OFFENCES AGAINST THE STATE

**Section.121** provides whoever

- wages war against Government of India or
- attempts to wage such war
- abets the waging of such war, shall be punished with death, or imprisonment for life and shall also be liable to fine.

In **state (NCT of Delhi) versus Navjot Sandhu**, Supreme Court held that to constitute offence of waging war under section 121 of the code, the intention and purpose of the warlike operations directed against the government is **sine qua non.**

**Section.121A** provides punishment for conspiracy to commit offences punishable by Sec.121

**Section.122** provides punishment for collecting arms, etc, with intention of waging War against the Government of India.

**Section 124A (sedition)** provides that whoever by

- words either spoken or written or
- by sign or
- by visible representation or
- otherwise

Brings or attempts to bring into

- hatred or contempt or
- Excites or attempts to excite disaffection towards the government established by law in India, Which may extend to three years, to which fine may be added, or with fine.

The expression disaffection includes disloyalty and all feelings of enmity.

comments expressing disapprobation of the measures of the government with a view to obtain their alteration by lawful means without exciting or attempting to excite hatred, comment or disaffection, do not constitute an offence under this section.

Comments expressing disapprobation of the administrative or other action of the government without exciting or attempting to excite hatred, contempt or disaffection, do not constitute an offence under this section.

In **Kedarnath versus state**, Supreme Court held that Section 124A does not violate Article 19(1)(a) or the constitution as it is a reasonable restriction.

**Section 130**: Aiding escape of, rescuing or harbouring such prisoner.—Whoever knowingly aids or assists any State prisoner or prisoner of war in escaping from lawful custody, or rescues or attempts to rescue any such prisoner, or harbours or conceals any such prisoner who has escaped from lawful custody, or offers or attempts to offer any resistance to the recapture of such prisoner, shall be punished with 1[imprisonment for life], or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine. Explanation.—A State