



***THE INDIAN PENAL CODE –
An Overview***

**B.D Paulson, IPS
Deputy Director, SVPNPA**




Evolution of Criminal Law in India



Dicey – “Englishmen are ruled by law and by the law alone!”

Maxim convey 4 rules

- Non-retroactivity of Penal Laws.
- Neal statutes to be constructed strictly
- Certainty in legislation
- Accessibility of law



Do you think IPC reflects values of Indian society or Victorian society ?



***Substantive Law
&
Procedural Law***

Protection to the accused

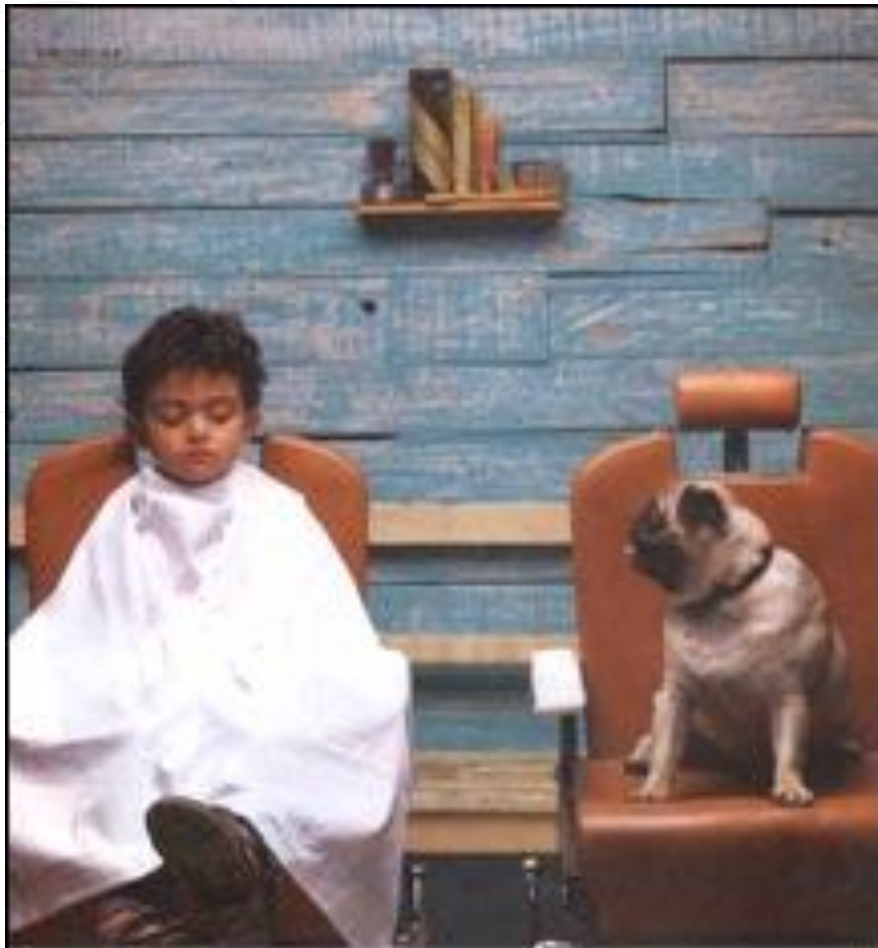
Principles of Criminal Jurisprudence

- Doctrine of double jeopardy
- Presumption of innocence
(BOP: Woolinton case) u/s. 105. IPC
- Doctrine of self incrimination (Art. 20(3))
- Right to legal aid (right to fair trial)

Principle of Legality

“Nullen crimen sine lege, nula poena sine lege”

- There **must** be **no** crime or punishment except in accordance with fixed predetermined law.



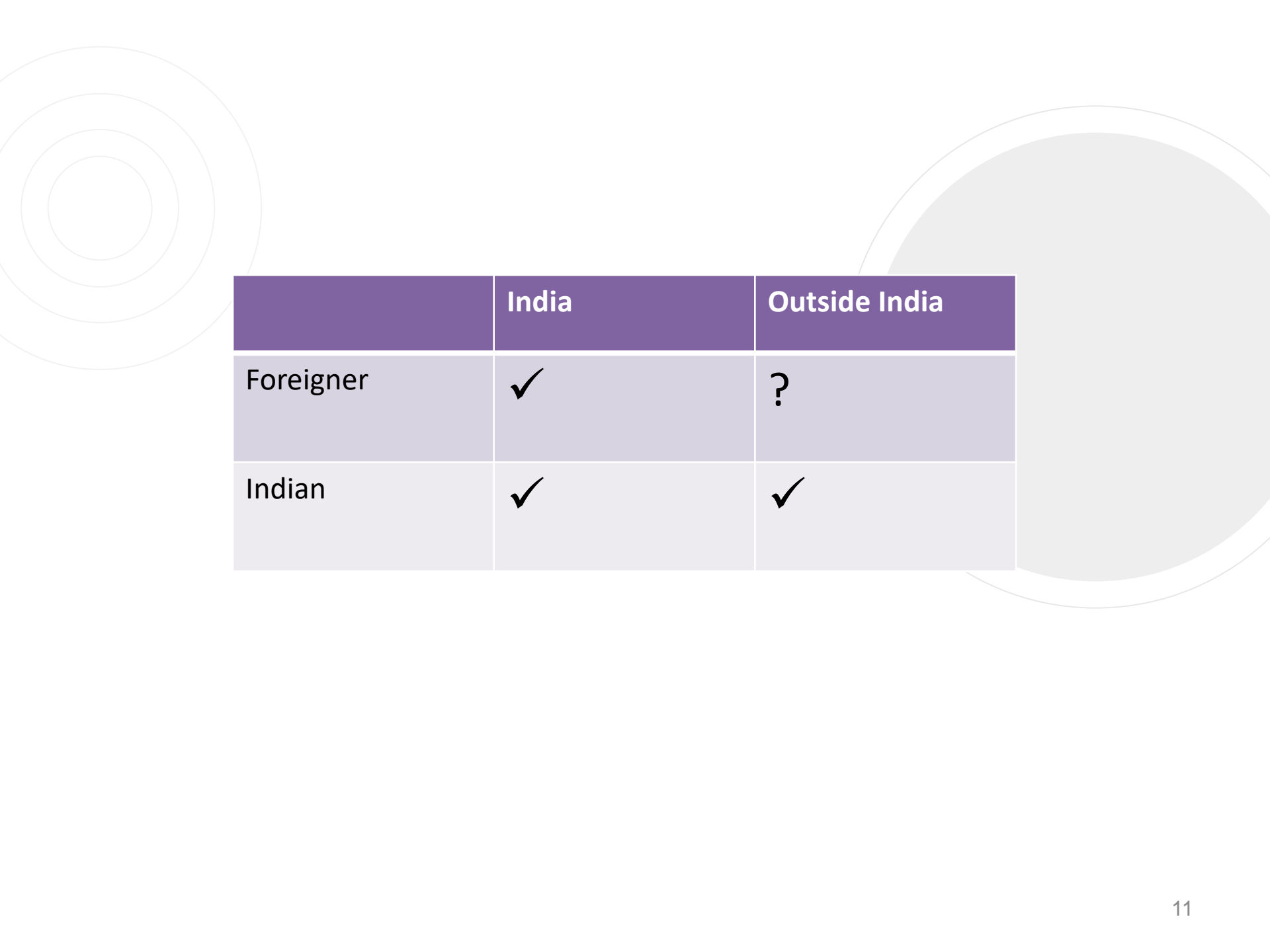
Wherever you go
our network follows.



Extent & Jurisdiction

THE INDIAN PENAL CODE

- **Object** – To provide general penal code for India.
- Came into force from **1.1.1862**.
- Applicable to the whole of India **except the State of Jammu and Kashmir**.
- **Operation of the provisions:**
 - **Territorial** – Provisions applicable to offences committed within India.
 - **Extra-territorial** – Provisions applicable to
 - a) offences committed by citizens of India outside India;
 - b) offences committed on ships and aircrafts regd. in India




	India	Outside India
Foreigner	✓	?
Indian	✓	✓

Case: Italian Marines



Concept of Sovereignty



Crime Vs. Morality

Characteristics

- Public Wrong*
- Moral Wrong*



- The nature of the acts in question, their morality/immorality and consequences won't change overnight, but their legal nature does.
eg. adultery, homosexuality, etc. consuming ganja!?

“Moral condemnation of the society” formal & solemn pronouncement.

ELEMENTS OF CRIME

- *Actus non facit reum nisi mens sit rea*

There can be no crime without a guilty mind

Two components of crime

Actus reus – Guilty act

Mens rea – Guilty mind

Actus Reus

- Nectar,
- Proved,
- Causation
- Willed mind
- State of affairs
- Omissions.



MENS REA UNDER IPC

- No mention made, but doctrine incorporated in two ways.
- Mens rea included in the definition of the offence (through terms like ‘dishonestly’, ‘fraudulently’, ‘voluntarily’, ‘intentionally’, ‘knowingly’)
- Concept included in the provisions relating to ‘general exceptions’ in Chapter IV.
- When the definition does not include mensrea, it means that the liability is strict.

Stages of Crime

- Intention
- Preparation
- Attempt
- Commission



Structure
of the Code

- 
- 
- 23 Chapters
 - 511 Sections

How to read each section of the Penal Code ?

- Definition
- Explanation
- Illustration
- Punishment Prescribed



How to Learn the Indian Penal Code ?

CRIMINAL LAW - MAIN PARTS

- **General part** deals with principles and doctrines.

This includes

- the principles of criminal liability,
- defences to criminal liability,
- rules relating to punishments and
- doctrines governing preliminary crimes

- **Special part** deals with specific crimes.

This includes

- rules defining individual crimes and
- prescribing punishments for them that apply the general principles and doctrines to particular crimes.

IPC

Jurisprudence/General Principals

- ✓ General Explanation
- ✓ Concept of Liability
- ✓ Punishment
- ✓ General Exceptions
- ✓ Inchoate offences

Specific Offences

Offence against State

- ✓ War
- ✓ War with friendly neighbour
- ✓ Assaulting high officers
- ✓ Sedition
- ✓ Escape of state prisoner

Offence Against Society /Public Order

- ✓ Unlawful assembly
- ✓ Rioting
- ✓ Nuisance

Against Person

Against body

- ✓ Hurt
- ✓ Assault
- ✓ Kidnapping /abduction
- ✓ Homicide
- ✓ Rape

Against property

- ✓ Theft extortion
- ✓ Robbery
- ✓ Decoity
- ✓ Cheating
- ✓ CBT/CMA

Against Reputation

- ✓ Intimidation
- ✓ Insult
- ✓ defamation

INDIAN PENAL CODE

- **General Principles**
 - **Sections 1-120-B & 511**
- **Specific Offences**
 - **Sections 121-510**

General Explanations (Ss 6-52A)

- **Interpretation Clause giving definitions of various terms in the Code for the purpose of the Code.**
- **Examples**
 - **‘Dishonestly’ defined under Section 24**
 - **‘Counterfeit’ defined under Section 28**
 - **‘Injury’ defined under Section 44**
 - **‘Good faith’ defined under Section 52**

Concept of Criminal Liability

- General liability
- Joint liability
- Strict liability

Punishments (Ss 53-75)

- **Death**
- **Imprisonment for Life**
- **Imprisonment, rigorous or simple**
- **Forfeiture of Property**
- **Fine.**

Offences punishable with death sentence


- Section 121 of Indian Penal Code, 1860: Waging War against the Government
- Section 132 of Indian Penal Code, 1860: [Abetment](#) of Mutiny
- Section 194 of Indian Penal Code, 1860: Giving or fabricating false evidence leading to procure one's conviction for capital offense.
- [Section 302 of Indian Penal Code, 1860](#): Murder
- Section 305 of Indian Penal Code, 1860: Abetment of suicide by child or insane person
- [Section 307 of Indian Penal Code, 1860](#): Attempt to murder by a life convict, if hurt is caused
- Section 396 of Indian Penal Code, 1860: Dacoity with murder
- Section 364A of Indian Penal Code, 1860: Kidnapping for ransom



IPC

“Says when an act is a crime”

“Says same act is not a crime”



**‘General Exceptions (Sec 76 to 106)
make an offence, a non-offence’**

S.6 of IPC

“Every definition of offence in the code to be understood subject to the general exceptions”



Enforceables and Justifiabiles

**CHART DEPICTING THE SCHEME OF THE CHAPTER RELATING TO GENERAL EXCEPTIONS
(I.P.C. SECTIONS 76 TO 106)**

Excusable Act

Justifiable Act

**Mistake of fact
(Ss. 76, 79)**

**Accident
(S. 80)**

**Infancy
(Ss. 82, 83)**

**Insanity
(S. 84)**

**Intoxication
(Ss. 85, 86)**

Judicial Act

**Necessity
(S. 81)**

**Duress
(S.94)**

Consent

**Communication
(S. 93)**

**Trifles
(S. 95)**

**Private Defence
(Ss. 96-106)**

Act of a Judge

**Order of a court
(S. 78)**

**With
(Ss. 87-89)**

**With
(S. 92)**

Abetment (Ss 107 – 120)

- Instigating the commission of an offence
- Engaging in conspiracy and doing any act towards committing an offence
- Intentionally aiding in the commission of an offence

Criminal Conspiracy (Ss 120A & 120B)

- When more than one persons agree to do an illegal act or a legal act by illegal means, it is Criminal Conspiracy



Attempt (S. 511)

CLASS OF OFFENCES



Against State

- Offences against State – 121 to 130
 - Waging war and sedition 😊
- Offences relating to Army, Navy and Air Force – 131 to 140

CLASS OF OFFENCES
Against Public Order

- **Offences against public tranquility – 141 to 160**
 - Unlawful assembly, rioting 😊
- **Offences by or relating to public servant – 166 to 171**

- Offences relating to Elections – 171 A to 171 I
- Contempt of lawful authority of public servants – 172 to 190
 - Obstructing public servant in discharge of his duty, refusing to take oath, to answer questions or sign statements etc.
- False evidence and offences against public justice – 191 to 229
 - Giving or fabricating false evidence, destroying evidence, harboring offenders etc.

- Offences relating to coins and Government stamps – 230 to 263-A
- Offences relating to weights and measures – 264 to 267
- Offences affecting **public health, safety,**  convenience, decency and **morals** – 268 to 294-A
 - Various forms of **Public nuisance** 
- Offences relating to religion – 295 to 298

CLASSES OF OFFENCES

Against Human Body

- **Offences affecting human body – 299 to 377**
 - **Culpable homicide, murder, dowry death, hurt and grievous hurt, kidnapping and abduction, rape**

Homicide

```
graph LR; Homicide --> Lawful; Homicide --> Unlawful; Lawful --> Justifiable; Lawful --> Excusable; Unlawful --> Culpable; Culpable --> Murder; Culpable --> Negligence; Culpable --> DowryDeath;
```

Lawful

Justifiable
(Ss. 76-79, 81, 100, 103
IPC)

Excusable
(Ss. 82-85, 87, 88, 92 IPC)

Unlawful

- Culpable homicide
S.299/304
- Murder S. 300/302
- Death by negligence
S. 304 A
- Dowry Death S. 304 B

Culpable Homicide (Sec. 299)

Causing death of a human being

by doing an act

with the intention of causing death, or

with the intention of causing such bodily injury as is likely to cause death, or

with the knowledge that he is likely by such act to cause death

Clause 1

- Except in the cases hereinafter excepted, culpable homicide is murder, if the act by which the death is caused is done with the intention of causing death, or
- Manifestation of motive/Intention is gravest
- Case 1 : Set fire to wife and pouring Kerosene
- Case 2 : Stabbing on left chest with 2 feet blade
- Case 3: Vasant Vs Maharashtra (Crushing with Jeep)
- Identical in both Sec. 299 & 300

Clause 2

- If it is done with intention of causing such bodily injury as the offender knows to be likely to cause the death of the person to whom the harm is caused, or
- Intention to Cause bodily injury
- Subjective knowledge that such injury is likely to cause death
- “In perception of accused”
- Likely + Knowledge = Definiteness of certainty of death not a mere probability
- Case : Srikanthiah Vs. Karnataka

Clause 3

- If it is done with the intention of causing bodily injury to any person and the bodily injury intended to be inflicted is sufficient in the ordinary course of nature to cause death, or
- Objective View Point
- Purely objective, Inferential and No subjectivity
- Sufficiency = Very high probability of injury resulting in death
- Case : Virsa singh Vs. Punjab
- Knowledge is immaterial only question of fact
- Intention to cause particular injury is required

Clause 4

- If the person committing the act knows that it is so imminently dangerous that it must, in all probability, cause death or such bodily injury as is likely to cause, death, and commits such act without any excuse for incurring the risk of causing death or such injury as aforesaid.
- Act must be imminently dangerous
- Person committing act must have knowledge tat its imminently dangerous
- That in all probability it will cause death or bodily injury likely to cause death
- Act is done without any excuse/justification, running risk of causing death
- Knowledge is sufficient!!!
- Hubby pouring kerosene
- Shehaj vs. haryana
- Holika dahan case

CH is not Murder if the offender---

Exceptn 1

- On grave and sudden provocation.

Exceptn 2

- In exercise in good faith of the RPD.

Exceptn 3

- Offender being a **public servant**/Aiding a public servant acting for the advancement of public justice, **exceeds the power given to him.**

Exceptn 4

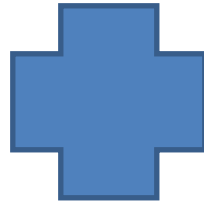
- In a sudden fight in the heat of passion

Exceptn 5

- When the person whose death is cause being the above the age of 18 years, suffers death or takes the risk of death with his own consent

Culpable
Homicide

Presence of special
characteristics (mentioned
in secondly, thirdly and
fourthly of Sec. 300)



Absence of exceptional
circumstances (mentioned
as exceptions to Sec. 300)

Murder

Section 354

Whoever **assaults** or uses criminal force to any **woman, intending** to outrage or knowing it to be likely that he will thereby outrage her modesty, shall be punished with imprisonment of either description for a term which **shall not be less than one year** but which may extend to five years, and shall also be liable to fine.

"The essence of woman's modesty is her sex. The modesty of an adult female is written large on her body. Young or old, Intelligent or imbecile, sleeping or awake the woman possesses a modesty capable of being outraged."

Bachawat. J

- *Rape is the most morally and physically reprehensible crime in a society, as it is an assault on the body, mind and privacy of the victim. While a murderer destroys the physical frame of the victim, a rapist degrades and defiles the soul of a helpless female. Rape reduces a woman to an animal, as it shakes the very core of her life. By no means can a rape victim be called an accomplice. Rape leaves a permanent scar on the life of the victim, and therefore a rape victim is placed on a higher pedestal than an injured witness. Rape is a crime against the entire society and violates the human rights of the victim. Being the most hated crime, rape tantamounts to a serious blow to the supreme honour of a woman, and offends both, her esteem and dignity. It causes psychological and physical harm to the victim, leaving upon her indelible marks.*

“Dr. B.S. CHAUHAN ”

Definition of Rape (Sec.375)

A **man** is said to commit 'rape' if he –

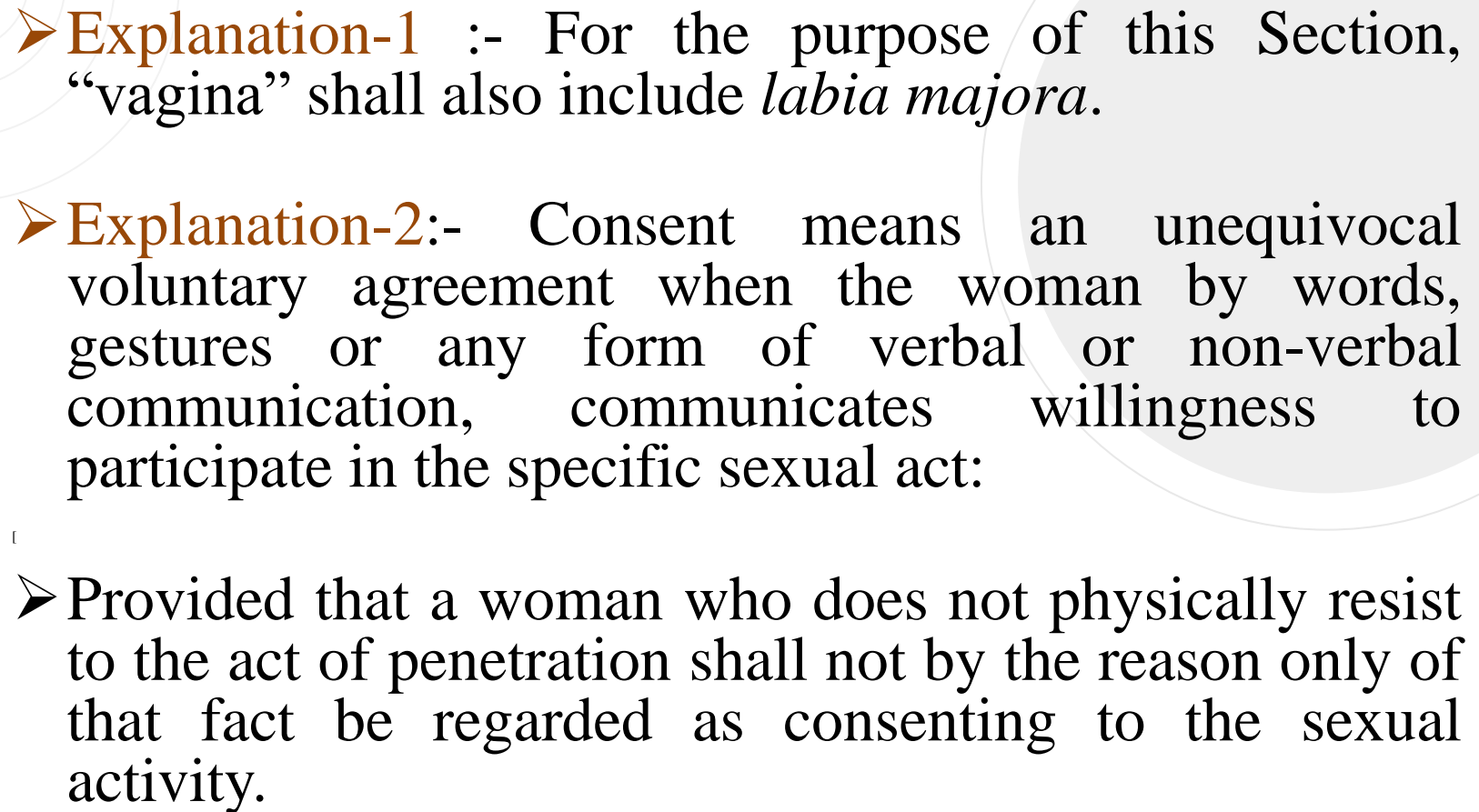
- (a) **penetrates** his penis, to any extent, into the vagina, mouth, urethra or anus of a woman or makes her to do so with him or any other person; or
- (b) **inserts**, to any extent, any object or a part of the body, not being the penis, into the vagina, the urethra or anus of a woman or makes her to do so with him or any other person; or
- (c) **manipulates** any part of the body of a woman so as to cause penetration into the vagina, urethra, anus or any part of body of such woman or makes her to do so with him or any other person; or
- (d) **applies his mouth** to the vagina, anus, urethra of a woman or makes her to do so with him or any other person.

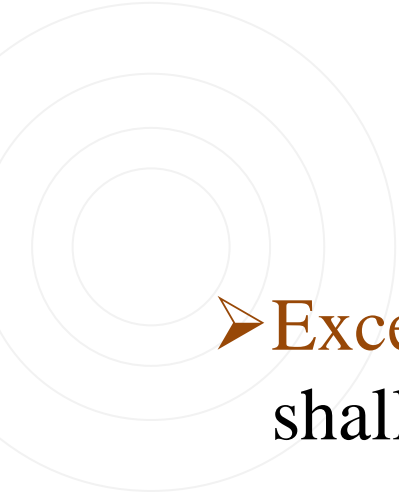
Definition of Rape – contd.

Under the circumstances falling under any of the following seven descriptions:-

- First :- Against her will
- Secondly :- Without her consent
- Thirdly :- With her consent, when her consent has been obtained by putting her or any person in whom she is interested, in fear of death or of hurt
- Fourthly :- With her consent, when the man knows that he is not her husband, and that her consent is given because she believes that he is another man to whom she is or believes herself to be lawfully married.

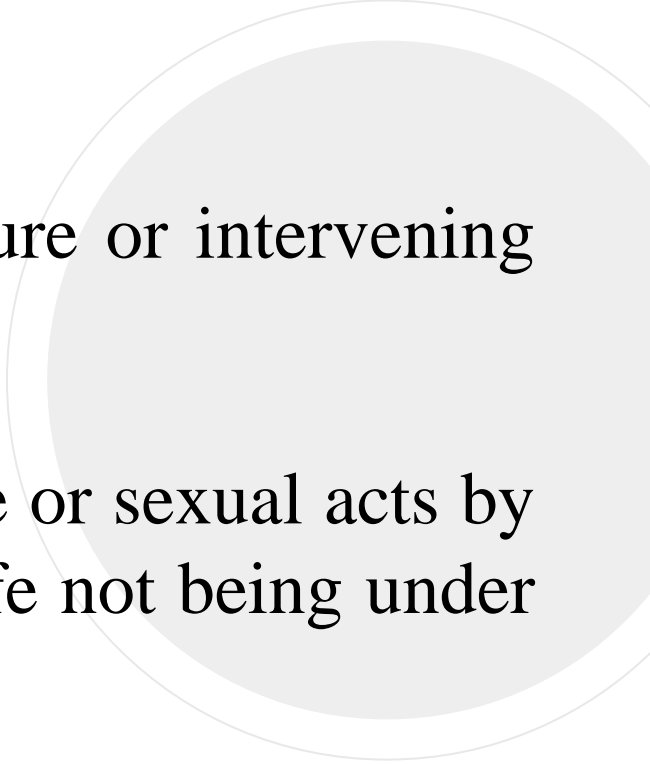
- **Fifthly** :- With her consent, when, at the time of giving such consent, by reason of unsoundness of mind or intoxication or the administration by him personally or through another of any stupefying or unwholesome substance, she is unable to understand the nature and consequences of that to which she gives consent.
- **Sixthly** :- With or without her consent, when she is under eighteen years of age.
- **Seventhly**:- When she is unable to communicate consent.

- 
- **Explanation-1** :- For the purpose of this Section, “vagina” shall also include *labia majora*.
 - **Explanation-2**:- Consent means an unequivocal voluntary agreement when the woman by words, gestures or any form of verbal or non-verbal communication, communicates willingness to participate in the specific sexual act:
 - Provided that a woman who does not physically resist to the act of penetration shall not by the reason only of that fact be regarded as consenting to the sexual activity.



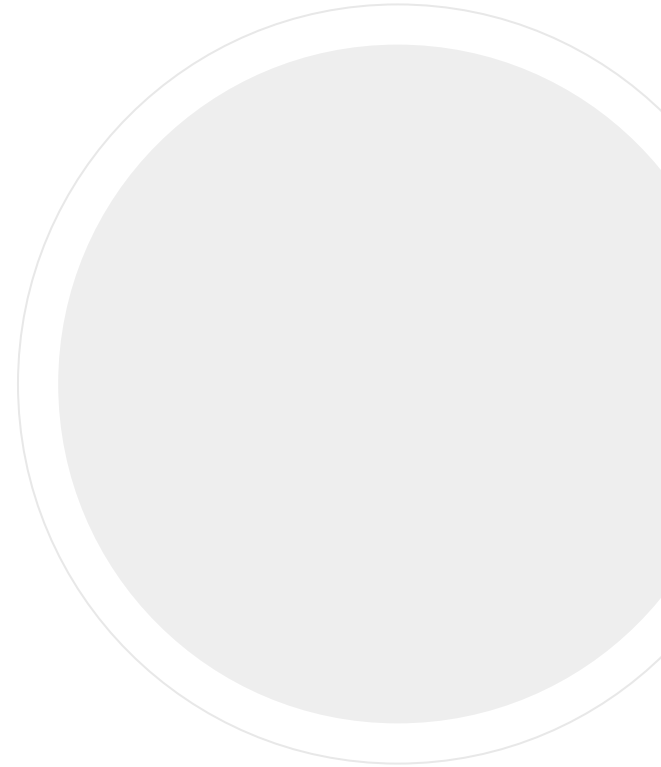
➤ **Exception-1:-** A medical procedure or intervening shall not constitute rape.

➤ **Exception-2 :-** Sexual intercourse or sexual acts by a man with his own wife, the wife not being under fifteen years of age, is not rape.



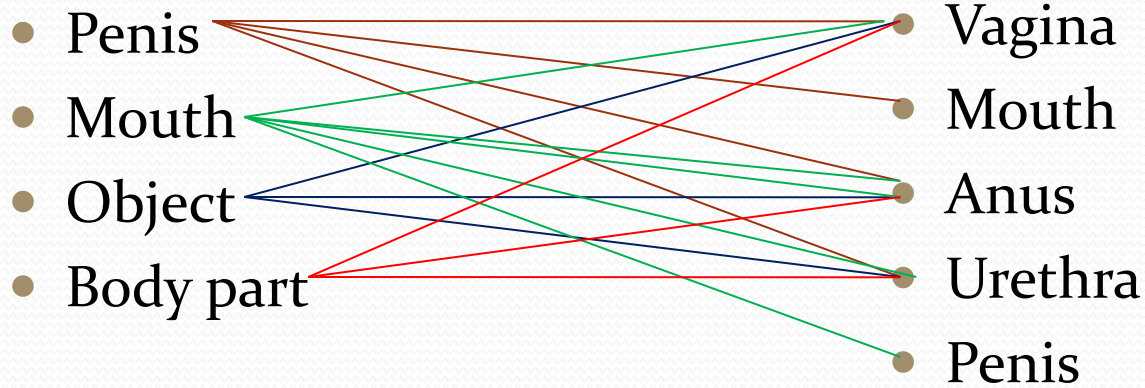
Issues

- Violation of fundamental right.
- Penetration.
- Consent.
- Marital Rape.
- Absence of injury.
- Testimony of the prosecutrix.
- “Women of easy virtue”?.
- Delay in FIR.



Penetration by

Penetration of



CLASSES OF OFFENCES

Against Property

- Offences against property – 378 to 462
Theft, extortion, robbery, dacoity, criminal misappropriation, criminal breach of trust, cheating, mischief and trespass
- Offences relating to documents and property marks – 463 to 489-E
Forgery
- Criminal breach of contract of service – 490 to 492

OFFENCES AGAINST PROPERTY

- Theft
- Extortion
- Robbery
- Dacoity
- Criminal misappropriation of Property
- Criminal Breach of Trust
- Receiving stolen property
- Cheating
- Fraudulent deeds and dispositions of Property
- Mischief
- Criminal Trespass

Property offences may be grouped into three clusters :-

- Offences dealing with deprivation of property (Sections - 378-424)
- Offences dealing with injury to property (Sections - 425-440)
- Offences dealing with violation of rights of property in order to the commission of some other offence (Sections - 441-462)

THEFT (Sec 378)

Whoever

- ***intending to take dishonestly***
 - ***any movable property***
 - ***out of the possession of any person***
 - ***without that person's consent***
 - ***moves that property in order to such taking***
- is said to commit theft.***

CLASSES OF OFFENCES Against Marriage etc.

- Offences relating to marriage – 493 to 498
 - Adultery, bigamy
- Cruelty by husband or relatives of husband – 498-A
- Defamation – 499 to 502
- Criminal intimidation, insult and annoyance – 503 to 510



ANY QUESTIONS ?



Thank you

Email ID: bdpaulson@svpnpa.gov.in

Mob No: +91 768-00-11-222

