



THE INDIAN PENAL CODE – An Overview

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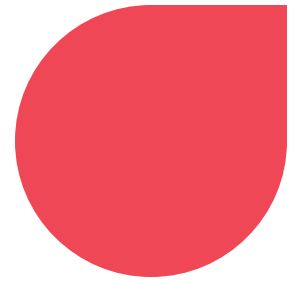
Evolution of Criminal Law in India



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



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.)

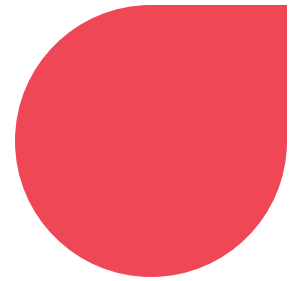
Non-retroactivity of Penal Laws.

Penal statutes to be constructed strictly.

Certainty in legislation.

Accessibility of law.

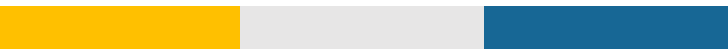
Principles of Criminal Jurisprudence



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



Test of Constitutionality





Is it an organic law?





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

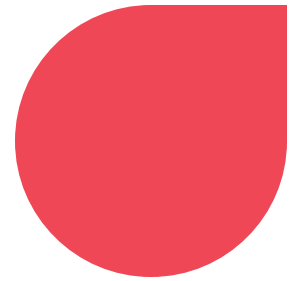


***Substantive Law
&
Procedural Law***

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



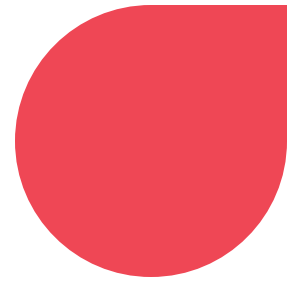
	India	Outside India
Foreigner	✓	?
Indian	✓	✓

Case: Italian Marines




Concept of Sovereignty

Crime Vs. Morality



Characteristics

- *Public Wrong*
- *Moral Wrong*



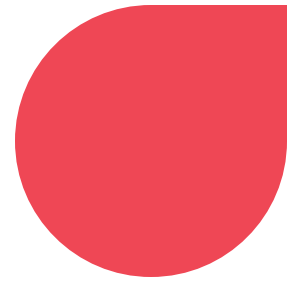
The nature of the acts in question, their morality/immorality and consequences won't change overnight, but their legal nature does.

eg. adultery, homosexuality, consuming ganja!?

Formal & solemn pronouncement of the
“Moral condemnation of the society”



ELEMENTS OF CRIME



Actus non facit reum nisi mens sit rea

The act itself does not make a man guilty, unless his intentions were so.

It is followed by another maxim “an act done by me against my will is not my act at all”.

- ✓ An act by a human being
- ✓ With an evil intent
- ✓ Act committed or omitted as per such intent
- ✓ It resulted in an injury

Actus Reus

Proved

Causation

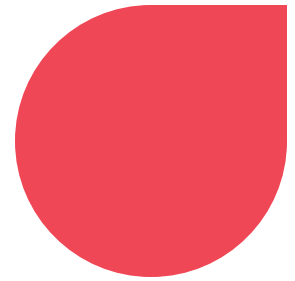
Willed mind

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

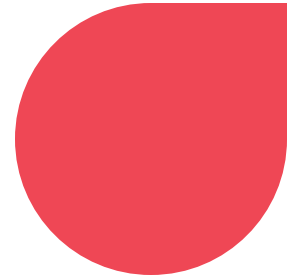
How to read each section of the Penal Code ?

- Definition
- Explanation
- Illustration
- Punishment Prescribed



How to Learn the Indian Penal Code ?

CRIMINAL LAW - MAIN PARTS



General part deals with principles and doctrines.

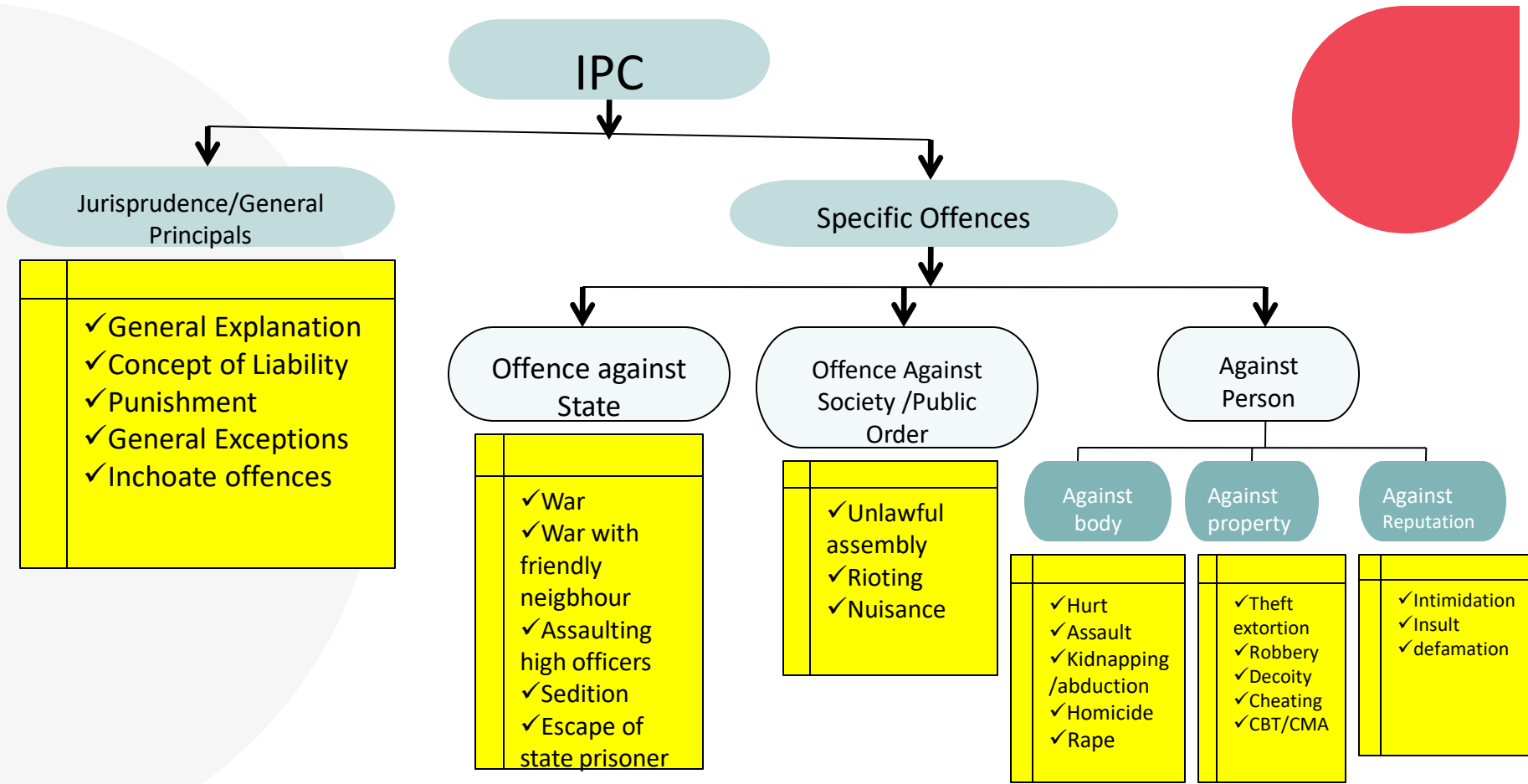
This includes

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

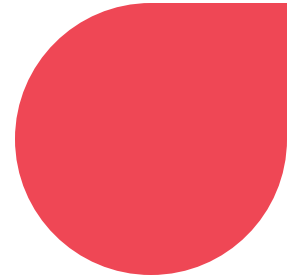
Special part deals with specific crimes.

This includes

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



INDIAN PENAL CODE



General Principles

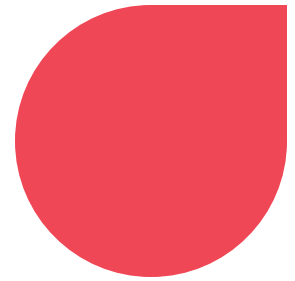
- Sections 1-120 B & 511

Specific Offences

- Sections 121-510

General Explanations

(Ss 6-52A)

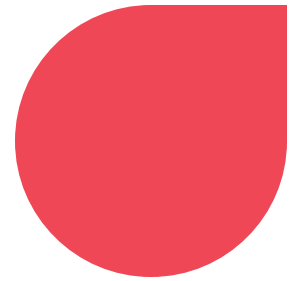


Interpretation Clause giving definitions of various terms in the Code for the purpose of the Code.

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

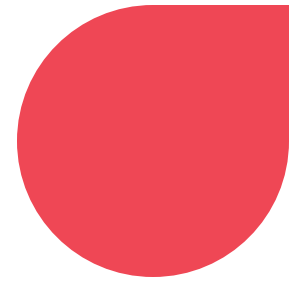
- Section 121 of Indian Penal Code, 1860: Waging War against the Government
- Section 132 of Indian Penal Code, 1860: [Abetment](#) of Mutiny
- Section 194 of Indian Penal Code, 1860: Giving or fabricating false evidence leading to procure one's conviction for capital offense.
- [Section 302 of Indian 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



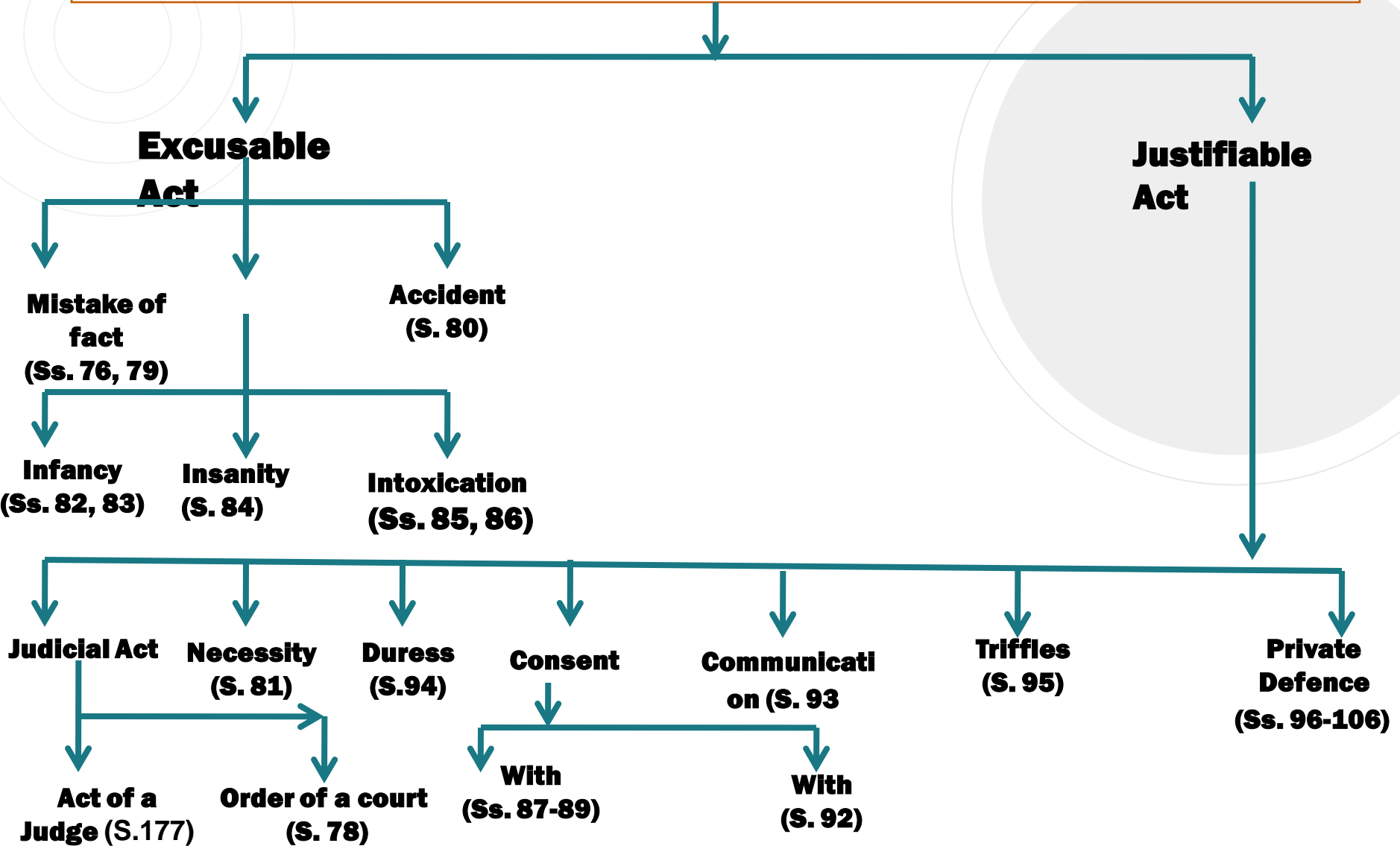
“Every definition of offence in the code to be understood subject to the general exceptions”





Enforceables and Justifiabiles

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



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

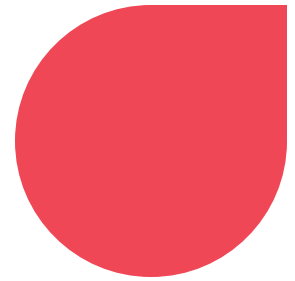
- Various forms of **Public nuisance** 😊

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 --> UnlawfulList
```

The diagram is a flowchart starting with a large brown rounded rectangle labeled 'Homicide'. Two arrows branch out from it to a red rounded rectangle labeled 'Lawful' and a dark blue rounded rectangle labeled 'Unlawful'. From the 'Lawful' box, two arrows point to a light blue rounded rectangle labeled 'Justifiable (Ss. 76-79, 81, 100, 103 IPC)' and a yellow rounded rectangle labeled 'Excusable (Ss. 82-85, 87, 88, 92 IPC)'. From the 'Unlawful' box, an arrow points to a large orange rounded rectangle containing a list of offenses: '- Culpable homicide S.299/304', '- Murder S. 300/302', '- Death by negligence S. 304 A', and '- Dowry Death S. 304 B'.

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 that it is 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

Shehaji 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)

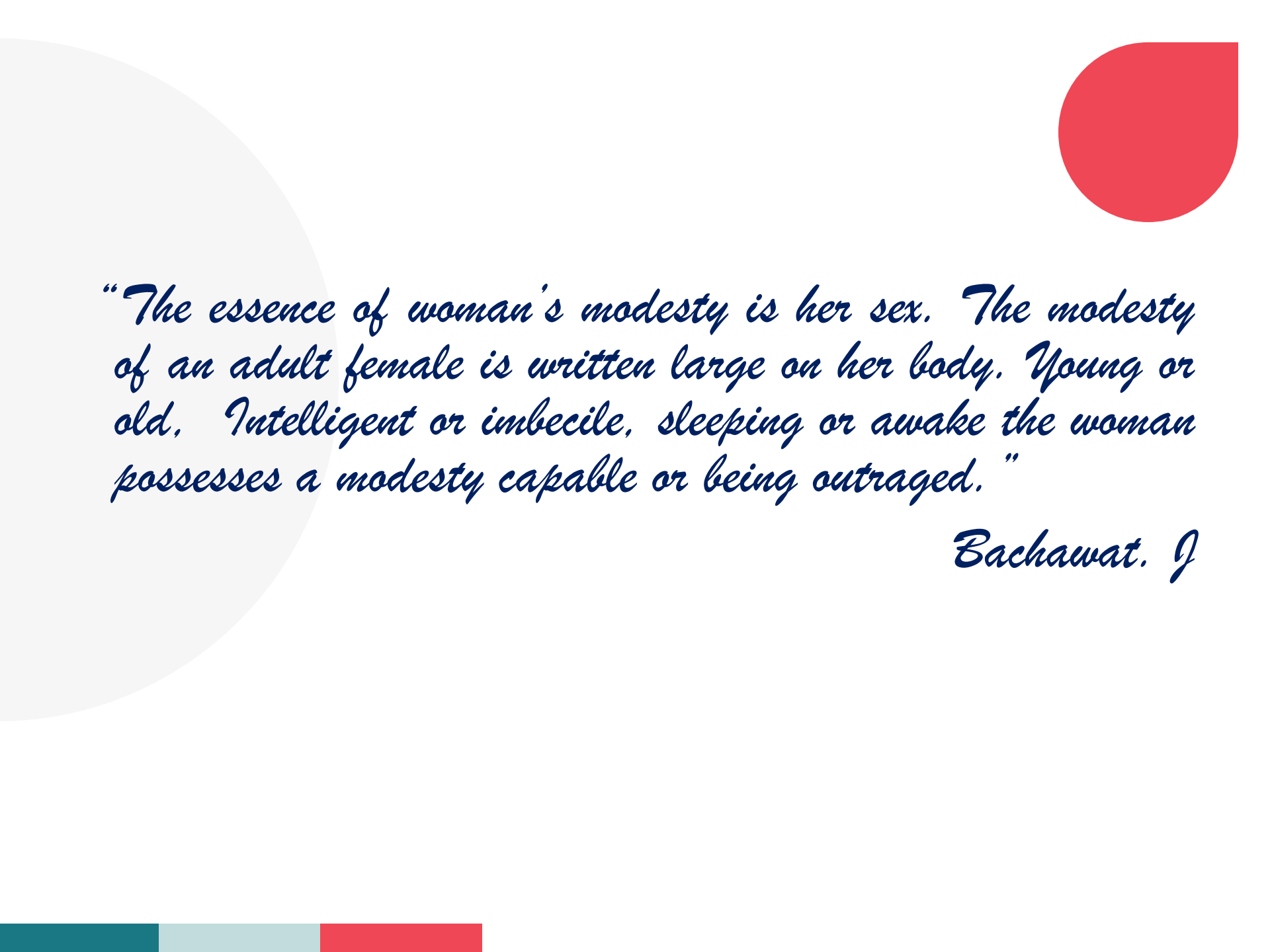


Absence of exceptional
circumstances (mentioned as
exceptions to Sec. 300)

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.



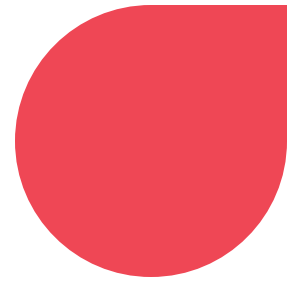
“The essence of woman’s modesty is her sex. The modesty of an adult female is written large on her body. Young or old, Intelligent or imbecile, sleeping or awake the woman possesses a modesty capable of being outraged.”

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 ”

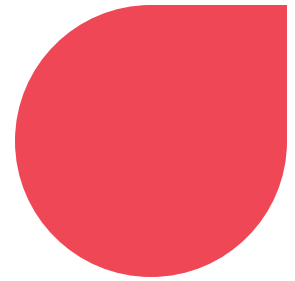
Definition of Rape (Sec.375)



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

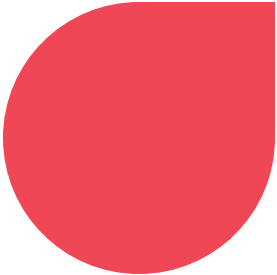

- (a) **penetrates** his penis, to any extent, into the vagina, mouth, urethra or anus of a woman or makes her to do so with him or any other person; or
- (b) **inserts**, to any extent, any object or a part of the body, not being the penis, into the vagina, the urethra or anus of a woman or makes her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



Definition of Rape – contd.

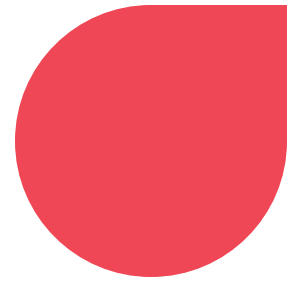


Under the circumstances falling under any of the following seven descriptions:-

- 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.

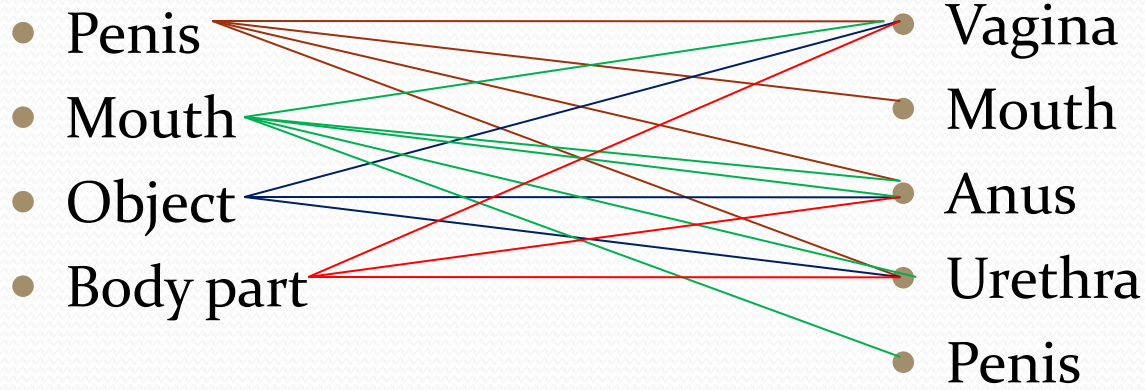
“Women of easy virtue”?.

Delay in FIR.



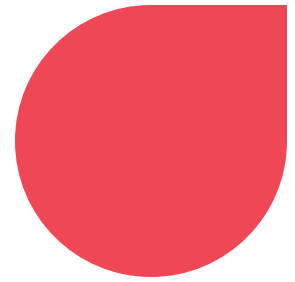
Penetration by

Penetration of



CLASSES OF OFFENCES

Against Property



Offences against property – 378 to 462

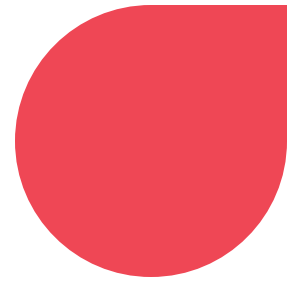
Theft, extortion, robbery, dacoity, criminal misappropriation, criminal breach of trust, cheating, mischief and trespass

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

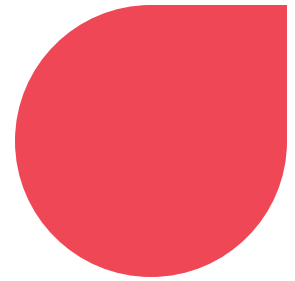
Fraudulent deeds and dispositions of Property

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

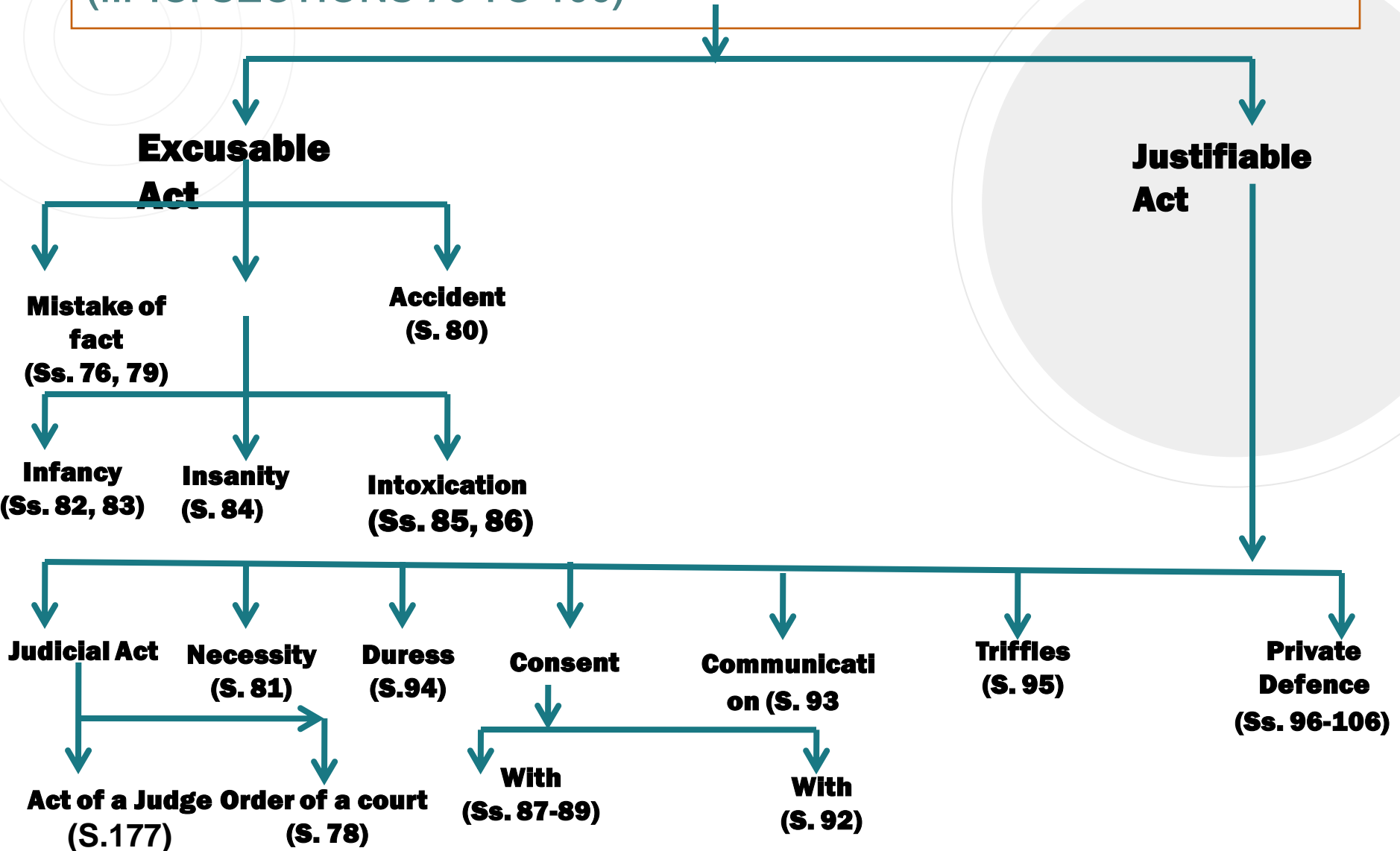
- Adultery, bigamy

Cruelty by husband or relatives of husband –
498-A

Defamation – 499 to 502

Criminal intimidation, insult and annoyance –
503 to 510

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

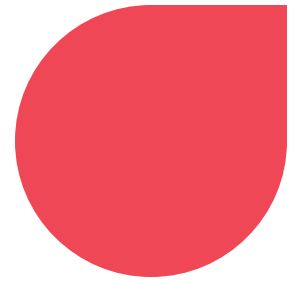




General Exceptions (Sec 76 to 106)
make an offence, a non-offence



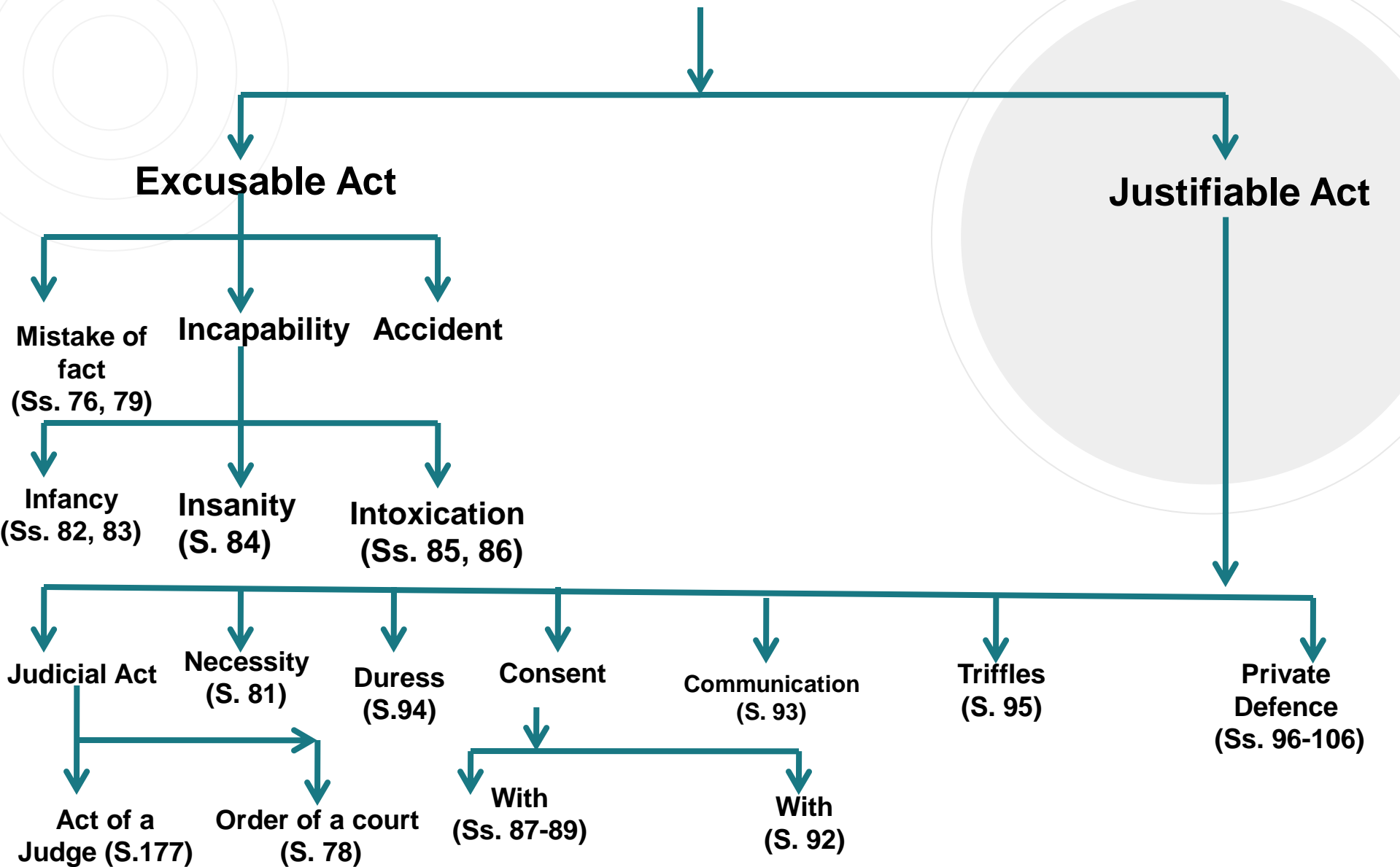
S.6 of IPC



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



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



General Exceptions

Judicial acts (Sec.77, 78)

Mistake of fact (Sec.76, 79)

Accident (Sec.80)

Absence of criminal intent (Sec.81- 86 & 92 - 94)

Consent (Sec.87- 90)

Trifling acts (Sec.95)

Private defence (Sec.96 to 106)

Burden of Proof reg. General Exceptions

Section 105 Indian Evidence Act

When a person is accused of any offence, the burden of proving the existence of circumstances bringing the case within any of the General Exceptions in IPC..... is upon him, and the court shall presume the absence of such circumstances.



‘Ignorantia facti excusatur’

‘Ignorantia juris non excusatur’.





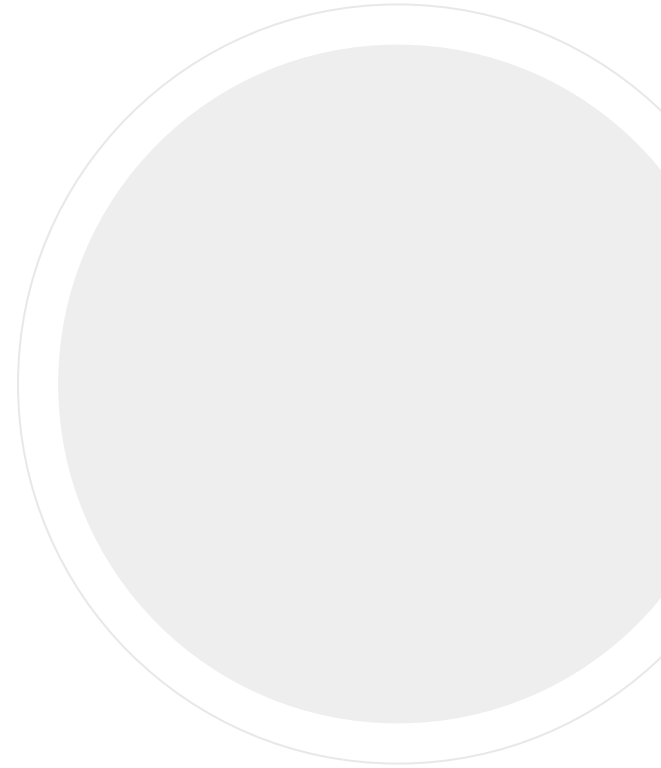
By reason of mistake of fact, in good faith
believes himself is bound by law (Sec. 76).

Not by mistake of law.

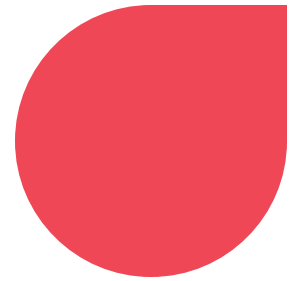
Act is bound by law



Incapability



Infancy



Sec 82 - Nothing done by a child below 7 yrs of age is an offence.

Sec 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 the nature and consequences of his conduct on that occasion.

Insanity

Sec 84 - Act of a person of **unsound mind**

Nothing is an offence if 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 to law

Intoxication

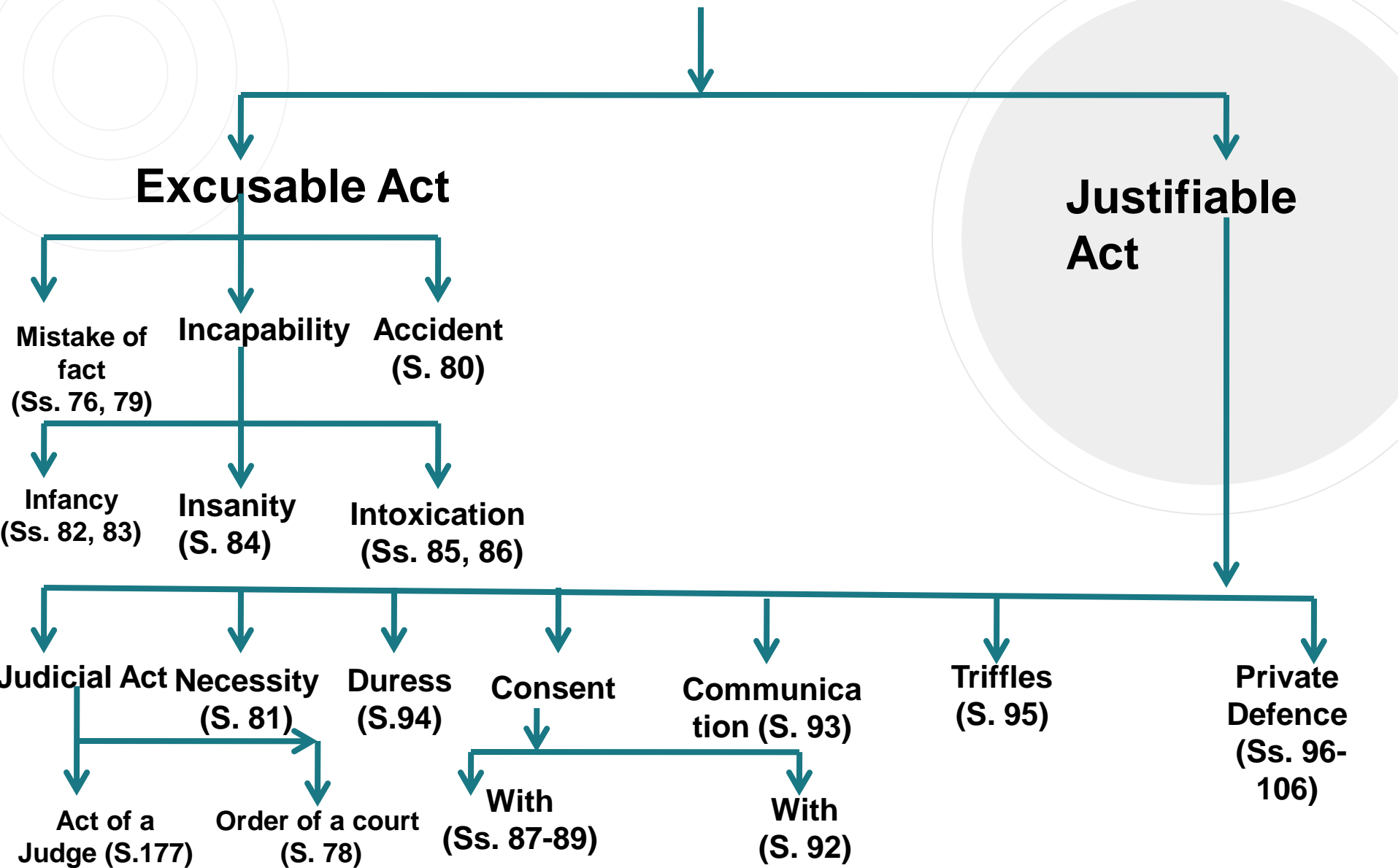
Sec 85 - Act of a person incapable of judgment by reason of **intoxication** caused against his will

Nothing is an offence, which is done by a person who, at the time of doing it, by reason of intoxication, is 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

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



Consent & Submission ?

Case: Rao Harinarain Vs Punjab (1955)

Kaloram: induced/pressure to surrendered wife to APP & others - ravished, died !

Mere helplessness

- ✓ Freely exercising choice between resistance & assent
- ✓ Under influence of fear or terror
- ✓ Every consent involves submission but not other wise



RIGHT OF PRIVATE DEFENCE

Sections 96 to 106



Right of private defence

Nothing is an offence which is done in the exercise of right of private defence (Sec. 96)

Right of private defence of body and of property (Sec. 97)

Right of private defence of body and property (Sec.97)

Every person has a right to defend

Person/body -
own and of
any other

Property - own
and of any
other

Against

Against

Any offence affecting
human body

Theft

Robbery

Mischief

Criminal Trespass

Right of private defence (Contd..)

What he may do for himself, he may do for others under similar circumstances

Does *not* depend on actual criminality of person resisted

Depends *solely* on wrongful or apparent wrongful character of *act attempted*

Apprehension must be real & reasonable even if mistaken

Limitations of right of private defence (Sec. 99)

No right of private defence

Against an act of public servant
done in good faith
under colour of office though not
justifiable by law
not causing reasonable apprehension
of death/grievous hurt
(Read explanations 1 & 2)

Where there is time to have recourse
to the protection of public authority

Right of pvt defence does not extend to inflicting of more
harm than is necessary for the purpose of defence

Right of pvt. defence against public servant can be exercised only

1. If act of public servant reasonably caused apprehension of death/grievous hurt
2. Public servant does not act in good faith
3. The person exercising right of pvt. defence does not know that the person against whom right is being exercised is a public servant

Right of pvt. defence of body extending to causing death (Sec. 100)

Subject to restrictions u/s 99, right of pvt. defence of body extends to voluntary causing of death when offence occasioning exercise of right is any of the following :

1. Assault reasonably causing apprehension of death
2. Assault reasonably causing apprehension of grievous hurt
3. Assault with intention of committing rape
4. Assault with intention of gratifying unnatural lust
5. Assault with intention of kidnapping/abduction
6. Assault with intention of wrongfully confining a person causing into apprehend that he will be unable to have recourse to public authorities for his release

Commencement and continuance of right of pvt. defence of body (Sec. 102)

Commences as soon as a reasonable apprehension of danger to body arises from an attempt or threat to commit the offence

Continues as long as apprehension of danger to body continues

State of UP vs. Ram Swarup

AIR 1974 SC 1570

Facts - Ganga Ram had contract of Tehbazari of vegetable market from MC for about 15 years - then Munimji got the contract. Ganga Ram went in noon to buy melons - Munimji declined to sell saying that it had already been sold - hot words ensued. Munimji said he was the thekedar and so his word was final. An hour later Ganga Ram went with 3 sons to the market. Ganga Ram with knife, Ram Swarup with gun and rest 2 had lathis. No direct evidence of morning incident - Prosecution story was that deceased had narrated the incident to other PWs.

Scuffle ensued. Resistance put up by deceased and his men. Ganga Ram got simple injuries. Ram Swarup fired at Munimji's chest from close range. Presence of blood near door leading to another room and pellet marks on door frame.

Right of pvt. defence of property extending to causing death (Sec. 103)

Subject to restrictions u/s 99, right of pvt. defence of property extends to voluntary causing of death when offence/attempt occasioning exercise of right is any of the following :

Robbery

House-breaking by night

Mischief by fire to any building/tent/vessel, used as human dwelling or as a place for the custody of property,

Theft, mischief, or house-trespass reasonably causing an apprehension of death or grievous hurt if such right of private defence is not exercised.

Commencement and continuance of right of pvt. defence of property (Sec. 105)

Commences when a reasonable apprehension of danger to property arises

In case of theft it continues till

- offender has effected his retreat with property, or
- Assistance of public authority is obtained, or
- Property is recovered

Commencement and continuance of right of pvt. defence of property (Sec. 105)

In case of robbery it continues as long as

- offender causes/attempts to cause to any person death/hurt/wrongful restraint, or
- as long as fear of instant death/ instant hurt/ instant personal restraint continues

Commencement and continuance of right of pvt. defence of property (Sec. 105)

In case of criminal trespass or mischief the right continues as long as the offender continues in the commission of criminal trespass or mischief.

In case of house breaking by night the right continues as long as house trespass which has begun by such house-breaking continues.

Amjad Khan Vs the State

(Case :Self Study)
Group discussion



ANY QUESTIONS ?



Thank you

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