

UNIT – II (EXPANDED)

General Exceptions, Abetment, Conspiracy & Public Offences

With Real-Life Examples, Case Illustrations & Detailed Analysis

Criminal Law Series

Detailed Coverage

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General Exceptions – Deep Dive

Mistake, Accident, Infancy, Insanity, Intoxication

02

Right of Private Defence

Body & Property – Limits and Real Examples

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Abetment in Detail

Instigation, Conspiracy, Aid + Illustrations

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Criminal Conspiracy

120A/120B with case examples

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Offences against State

Waging war, Sedition, Related offences

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Public Tranquillity

Unlawful Assembly, Rioting, Affray

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Section 34 vs 149

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Contempt of Authority

Brief overview of Secs 172–190

Chapter IV – Sections 76 to 106

If an act falls under any general exception, it ceases to be an offence. These are complete defences. The accused must generally prove the existence of circumstances bringing the case within the exception (Section 105, Indian Evidence Act).

Justification

Acts done under legal authority or justification (Secs 76–79)

Excuse

Acts where moral culpability is absent (accident, infancy, insanity)

Private Defence

Right to protect body and property (Secs 96–106)

Consent & Compulsion

Acts with consent or under extreme threat (Secs 87–94)

When Ignorance of Fact Protects

Section 76: Act done by a person bound by law / believing himself bound by law in good faith due to mistake of fact.

Section 79: Act done by a person justified by law / believing himself justified by law in good faith due to mistake of fact.

Real-Life Example

A soldier is ordered by his superior to fire at a person who appears to be an enemy combatant. Later it turns out the person was a civilian. If the soldier believed in good faith he was bound by law to obey, Section 76 may protect him.

Key Limitation

Mistake of law is no defence (*Ignorantia juris non excusat*).

Only bona fide mistake of fact helps. The belief must be reasonable and held in good faith (due care and attention – Sec 52).

Sections 80 & 81

Section 80 – Accident

Nothing is an offence which is done by accident or misfortune, 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.

Example: A is cutting a tree with an axe. The head of the axe flies off and kills a person standing nearby. If A was exercising due care, it is an accident – no offence.

Section 81 – Necessity

Act likely to cause harm but done without criminal intent to prevent other harm to person or property.

Example: A pulls down houses to prevent a fire from spreading to a whole locality. Even if some property is destroyed, the act may be protected under necessity if done in good faith to avoid greater harm.

Sections 82, 83 & 84

Sec 82 • Child under 7 years

Nothing is an offence done by a child under 7 years of age. Absolute immunity (doli incapax).

Sec 83 • Child 7–12 years

Nothing is an offence if the child has not attained sufficient maturity of understanding to judge the nature and consequences of his conduct.

Sec 84 • Unsoundness of Mind

Act of 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.

McNaughten Rules & Illustration

Indian law follows the McNaughten principles. The crucial time is the time of the act. Medical insanity is not enough — legal insanity must be proved (incapacity to know nature of act or that it is wrong).

Illustration / Case Approach

A, suffering from paranoid schizophrenia, kills B believing B is an evil spirit sent to destroy him. If medical evidence shows that at the time of the act A was incapable of knowing the nature of the act or that it was wrong, Section 84 can be pleaded. Courts examine conduct before, during and after the incident.

Sections 96 to 106 – Core Principles

Section 96: Nothing is an offence which is done in the exercise of the right of private defence. The right is available against offences affecting the human body and against certain offences affecting property.

Body (Sec 97, 100)

Right extends to causing death when there is reasonable apprehension of death, grievous hurt, rape, kidnapping, etc.

Property (Sec 97, 103)

Right extends to causing death in cases of robbery, house-breaking by night, mischief by fire on dwelling, etc.

Limits (Sec 99)

No right against acts of public servants acting in good faith; no right when there is time to seek public protection; force must not be more than necessary.

Duration

Right of defence of body starts when reasonable apprehension arises and continues till the danger continues (Sec 102).

How Courts Apply the Right

Example 1 – Body

A is attacked by B with a knife in a lonely place. A snatches the knife and stabs B, causing death. If A had a reasonable apprehension of death or grievous hurt and used only necessary force, private defence may protect him.

Example 2 – Exceeding Limit

A is slapped by B in a public place. A takes out a gun and shoots B dead. This would be exceeding the right of private defence – the force used is grossly disproportionate.

Example 3 – Property

A finds thieves breaking into his house at night. He fires and causes death of one thief. Under Section 103, the right may extend to causing death in case of house-breaking by night.

Example 4 – Time to Seek Help

A knows that B will attack him next week. A cannot claim private defence if he goes and attacks B first – there was time to seek protection of public authorities (Sec 99).

Section 107 – Three Modes

1

Instigation

Suggesting, encouraging, provoking or goading a person to commit an offence. Can be by words, letters, gestures or wilful omission.

Example: A continuously taunts B to kill C, saying B is a coward if he does not. If B kills C, A may be guilty of abetment by instigation.

2

Conspiracy

Engaging with one or more persons in any conspiracy for the doing of an illegal act (if an act or illegal omission takes place in pursuance of that conspiracy).

Note: Different from pure criminal conspiracy under 120A.

3

Intentional Aid

Intentionally aiding by any act or illegal omission the doing of the offence, or facilitating its commission.

Example: A supplies a weapon to B knowing B will use it to commit murder. A intentionally aids the offence.

When and How Liability Arises

Offence Committed (Sec 109)

If the act abetted is committed, the abettor is punished with the punishment provided for the offence.

Offence Not Committed (Sec 115/116)

Different (usually lesser) punishment is prescribed when the offence is not committed, depending on the gravity of the offence abetted.

Presence at Scene

If the abettor is present when the offence is committed, he may also be treated as a principal (depending on facts).

Classic Illustration

A instigates B to murder C. B refuses. A is still guilty of abetment of murder (though punishment differs because the offence was not committed).

Another Illustration

A points out C to B (a hired killer) and says “that is the man”. B kills C. A has intentionally aided the murder.

Important Note

Mere knowledge that an offence might be committed is not enough. There must be instigation, conspiracy or intentional aid.

Sections 120A & 120B – Detailed View

Criminal conspiracy is an independent offence. The gist of the offence is the agreement itself. When two or more persons agree to do an illegal act or a legal act by illegal means, the offence is complete (subject to the requirement of an overt act in some cases).

Agreement is Key

Mere discussion or intention is not enough. There must be a meeting of minds – an agreement.

Illegal Act / Illegal Means

The object can be an offence, or a legal act achieved through illegal means.

Overt Act Rule

For conspiracy to commit an offence punishable with < 2 years, some overt act is required. For serious offences, agreement alone suffices.

Real Example

A, B and C agree to run a fake recruitment scam and collect money from candidates. Even before money is collected, the agreement can attract 120B if the object is cheating.

Sections 121–130 – Key Provisions

Sec 121 **Waging War**

Waging, attempting to wage, or abetting war against the Government of India. Punishment: Death or imprisonment for life + fine.

Sec 121A **Conspiracy to Wage War**

Conspiracy to commit offence under Sec 121 or to overawe the Central/State Government by means of criminal force.

Sec 122 **Collecting Arms**

Collecting men, arms or ammunition with the intention of waging war against the Government of India.

Sec 124A **Sedition**

Bringing or attempting to bring into hatred or contempt, or exciting disaffection towards the Government established by law in India. Explanation clarifies that fair criticism is not sedition.

Sec 125-130 **Allied Offences**

Waging war against Asiatic power at peace with India; permitting or aiding escape of State prisoners; etc.

Sections 141–148 – Core Concepts

Unlawful Assembly (141)

An assembly of 5 or more persons is designated an “unlawful assembly” if the common object is:

- To overawe Government / public servant by force
- To resist execution of law or legal process
- To commit mischief, criminal trespass or other offence
- To take possession of property by force
- To compel any person to do what he is not legally bound to do

Mere presence is not enough – common object is essential.

Rioting (146–148)

Whenever force or violence is used by an unlawful assembly or by any member thereof, in prosecution of the common object, every member of the assembly is guilty of the offence of rioting.

Section 148: Rioting armed with deadly weapon – enhanced punishment.

Real Example: A mob of 20 persons gathers to prevent demolition of an illegal structure and starts pelting stones at police and municipal officials. This can constitute unlawful assembly + rioting.

Common Intention vs Common Object

Point of Difference	Section 34	Section 149
Nature	Rule of constructive liability	Creates a specific offence
Minimum Persons	Two or more	Five or more
Mental Element	Common intention	Common object
Prior Concert	Usually requires pre-arranged plan	May develop spontaneously
Participation	Must share the intention & participate	Membership of assembly is enough
Illustration	Two persons attack X with shared plan to kill	A mob of 8 persons goes to beat X; one kills X

How to Distinguish on Facts

Section 34 Scenario

A and B plan to kill C. They go together. A holds C while B stabs him. Both are liable for murder under Section 302 read with Section 34 — even though only B inflicted the fatal injury — because of shared common intention and participation.

Section 149 Scenario

A group of 10 persons goes to the house of X to teach him a lesson for an earlier dispute. Suddenly one of them pulls out a knife and kills X. Even members who did not assault can be liable under Section 302/149 if the murder was done in prosecution of the common object of the assembly (or was such as the members knew was likely).

Sections 172–190 – Brief Survey

Avoiding Process (172–174)

Absconding to avoid service of summons; preventing service; non-attendance in obedience to order from public servant.

Disobedience to Order (175–179)

Omission to produce document; refusing to take oath; refusing to answer questions; refusing to sign statement.

False Information (182)

Giving false information to a public servant with intent to cause him to use his lawful power to the injury of another person.

Obstruction & Resistance

Obstructing public servant in discharge of duty; resistance to taking of property by lawful authority; threat of injury to public servant.

Unit-II – Consolidated Points

01

General Exceptions

Complete defences. Mistake of fact, accident, infancy, insanity, intoxication, consent, compulsion and private defence are the main heads.

02

Private Defence

Available against body and property offences. Force must be proportionate. No right when public help is available in time.

03

Abetment

Three modes – instigation, conspiracy, intentional aid. Liability generally follows the main offence when it is committed.

04

Conspiracy

Agreement itself is punishable. Independent offence under 120A/120B.

05

34 vs 149

34 = common intention (2+); 149 = common object of unlawful assembly (5+). Different mental elements and requirements.

06

Public Order Offences

Unlawful assembly, rioting and related offences protect public tranquillity and the authority of the State.

Thank You

“The right of private defence is a shield, not a sword.”

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