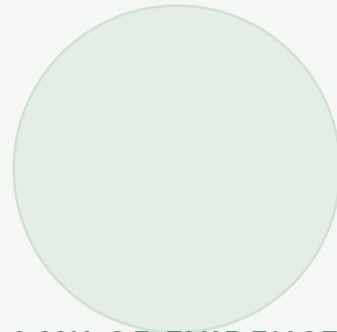




LAW OF EVIDENCE

UNIT – IV

Burden of Proof • Presumptions • Estoppel

Twenty slides in this unit

1. Onus s.101

2. s.102 shifting

3. ss.103–105

4. s.106 special knowledge

5. s.112 legitimacy

6. s.113A / 113B

7. s.114 illustrations

8. Judicial notice 56–57

9. Estoppel idea s.115

10. Not res judicata

11. Waiver vs estoppel

12. Promissory estoppel

13. Tenant s.116

14. Licensee s.117

15. Cases burden

16. Cases 113B

17. Cases estoppel

18. Takeaways

19. BSA map

20. Close

s.101 – the general onus

Whoever desires a court to give judgment as to any legal right or liability dependent on facts, must prove those facts. The prosecution / plaintiff starts with the baton.

Criminal

Prosecution must prove the charge beyond reasonable doubt.

Civil

Plaintiff must prove the story on probabilities.

Does not move

Because the other side is silent, if the first onus was never discharged.

Woolmington echo

No accused need prove innocence as a starting rule.

ss.102-106 – how the burden moves

s.102

Burden lies on the person who would fail if no evidence were given on either side.

s.103

Particular fact – burden on the one who wants the court to believe it.

s.104

Proof of a fact needed to make other evidence admissible.

s.105

Exceptions in the IPC/BNS – accused must show the exception, but the standard is lower.

s.106

Facts especially within knowledge – e.g. what the accused did inside a locked room.

Shivaji / Jagdish

s.106 does not wipe s.101; it is a helper.

ss.112–114B selected presumptions

These are the syllabus stars: legitimacy, dowry death, suicide of a married woman, and the general s.114.

s.112

Child born in valid marriage – conclusive legitimacy unless non-access.

s.113A

May presume abetment of suicide of a married woman in 7 years + cruelty.

s.113B

Shall presume dowry death if soon after demand + cruelty.

s.114

Court may presume existence of likely facts – illustrations (a)–(i) are gold.

s.114 illustrations to recite

(a)

Stolen goods soon after – receiver may be the thief or a knower.

(b)

Accomplice is unworthy unless corroborated.

(e)

Judicial / official acts regularly performed.

(g)

Evidence withheld – may presume it was unfavourable.

(h)

Refusing to answer – inference.

(i)

Document in hands of obligor – may be satisfied.

Estoppel – s.115

When a person by declaration, act or omission intentionally caused another to believe a thing and to act upon it, he cannot deny the truth of that thing in a suit between them.

Ingredients

Representation + intention/cause + reliance + detriment / change of position.

Rationale

Equity and consistency; courts will not let a person blow hot and cold.

Not a cause of action

A shield more than a sword in the classical common-law view – India is more flexible.

Not res judicata

Res judicata is a decree between parties; estoppel is a rule of evidence / equity.

Kinds of estoppel in the syllabus

Estoppel by representation

s.115 classic.

Promissory estoppel

A clear promise, relied on; used against Government with limits (Motilal Padampat; later Pournami).

Proprietary / equitable

Land and construction on another's land.

s.116 tenant

Tenant cannot deny landlord's title during tenancy.

s.117 bailee / licensee

Cannot deny bailor's / licensor's title at the start.

Waiver

Abandonment of a known right – cousin, not a twin.

Burden and 113B

Woolmington (1935 HL)

Golden thread – cited for the criminal starting point.

Shambhu Nath Mehra

s.106 – special knowledge.

Trimukh Maroti Kirkan

Last seen + s.106 in homicides inside a house.

Shanmugam v. State of T.N.

s.113B – soon before; live link with cruelty.

Satbir Singh (2021)

Dowry death – contemporaneous cruelty, not stale taunts only.

Goutam Kundu

s.112 – DNA and the conclusive presumption fight.

Estoppel

Pickard v. Sears

Classic representation estoppel.

Motilal Padampat (1979)

Promissory estoppel against Government.

Union of India v. Godfrey Phillips

Estoppel and fiscal representations.

B.L. Sreedhar

s.116 tenant estoppel.

Provash Chandra Dalui

Waiver must be knowing and voluntary.

Pournami Oil Mills / later GST-era notes

How far the State is bound by a promise.

s.105 exceptions – how much must the accused show?

Not beyond doubt

Preponderance / reasonable probability is enough on an exception.

Accident / private defence

Once a dent is made, prosecution must still prove the charge.

Insanity s.84

McNaughten + s.105 together.

Alibi

A s.103 fact; late alibi is weak.

Plea of guilt

Different – no trial onus left.

BSA

Burden cluster is restated, policy same.

Judicial notice – ss.56–57

Some facts need no proof: laws, public matters the court is taken to know. s.57 lists them; the court may also notice other notorious facts.

Must notice

Parliament's law, course of nature in some lists.

May notice

Geography, history, almanacs.

Not a substitute

Do not judicially notice a disputed street fight.

Pair with s.114(e)

Regularity of official acts.

Promissory estoppel – public law limits

Promise

Clear and unambiguous.

Reliance

The other side changed position.

Government

Bound unless a lawful public-interest override exists.

No estoppel against statute

Cannot freeze an ultra vires promise.

Tax holidays

Frequent battlefield.

Not Unit 1 admissions

Different doctrine, same 'you said so' flavour.

IEA → BSA map (Unit IV)

IEA 101-104

BSA burden general.

IEA 105-106

Exceptions + special knowledge.

IEA 112

Legitimacy.

IEA 113A-113B

Suicide / dowry presumptions.

IEA 114-114A

General + rape consent presumption
(as in force).

IEA 115-117

Estoppel / tenant / bailee.

Key takeaways

- 01 s.101 starts the case; ss.102–106 tell you who will fail if nobody speaks.
- 02 s.105 exceptions and s.106 special knowledge do not flip the whole criminal onus.
- 03 s.113B is a shall-presume in dowry death – learn the ingredients.
- 04 s.114 illustrations are easy marks.
- 05 s.115 estoppel ≠ res judicata; s.116 is the tenant rule.
- 06 Cite Mehra, Satbir Singh, Motilal Padampat, Goutam Kundu.

Who loses if nobody speaks?

Plaintiff on contract

s.102 – plaintiff.

Prosecution on murder

s.101 – State.

Accused on exception

s.105 – accused, lower standard.

Alibi

Accused, s.103.

What he did alone in a room

s.106 helper.

Dowry death ingredients met

s.113B shifts explanation.

Estoppel vs res judicata vs waiver

Estoppel

Representation + reliance in this court.

Res judicata

Former decree on the same matter.

Waiver

Knowing drop of a right.

Issue estoppel

Criminal – same issue already decided.

s.116

Tenant's special mouth-shut rule.

Against statute

None of them can revive an illegal act.

s.112 DNA controversy

Goutam Kundu and later cases struggle with a conclusive 19th-century presumption in a DNA century. Write both the text and the fairness problem.

Text

Born in wedlock → conclusive unless non-access.

DNA

May show biological non-paternity.

Court trend

Reluctant to order DNA as a fishing tool.

Answer style

State the section, then the constitutional tension.

Presumption vocabulary

May

Discretion – s.114.

Shall

Must until rebutted – s.113B.

Conclusive

Sealed – s.112.

Rebuttal

Other evidence, not a bare denial.

Live link

‘Soon before’ in 113B is a favourite question.

BSA

Learn the new numbers beside the old.

End of UNIT – IV

Next: UNIT-V · Witnesses, examination, corroboration