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GENERAL EXCEPTION AND ITS INTRODUCTION

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Abstract

An accused can be absolved of criminal liability for any illegal act or omission (offense) committed by him if there are various circumstances that can render an act or action non-criminal/non-offense. General Exceptions are defenses available to the accused that absolve them of criminal culpability. These defenses are dependent on the circumstances at the time, the accused's men's rea, and the reasonableness of his or her actions. The Indian Penal Code, 1860 safeguards or makes an infraction a non-offense in order to keep you or another person in a similar situation from being fined. Sections 76 to 106 guarantee the "right of the people to safeguard his life and limb, as well as the lives and limbs of others".

Different methods and criteria for getting or protecting someone are given out further in this article. If found guilty, the accused must be held accountable for his actions and sentenced to the appropriate punishment.

Crime entails a guilty mentality, guilty intention, and guilty conduct, in addition to an illegal act or omission. An act that does not meet these criteria for being a criminal is then excused from becoming a crime. These are the most common exceptions that an accused person can use to avoid guilt or avoid committing a crime. There are some exceptions that an accused person can utilize to avoid responsibility or avoid committing a crime that could result in death or harm to an innocent person. Given the democratic structure of our country, the accused should be given the opportunity to be heard as well. This is why specific exceptions exist to allow people to represent themselves in court.

Keywords: Act, accused, criminal, defence, general exceptions, Indian penal.

Introduction

General Exceptions are defenses available to the accused that absolve them of criminal culpability. An accused can be absolved of criminal liability for any illegal act or omission (offense) committed by him, which indicates that there are various circumstances that can render an act or action non-criminal/non-offense. Men's rea (evil purpose) and actus rea (commission of the act in furtherance of the evil intention) are the two sines qua non- essentials that must be met in order to charge an accused with a crime under the Indian Penal Code.

If either is missing, the accused person cannot be charged with the offence of committing the crime and may plead for his defence, as clearly specified by the IPC, 1860. Sections 76 to 106 guarantee the right of the people to safeguard their own and others' lives and limbs. Section 6 of the IPC states that all offences in the IPC are to be read with general exclusions.

According to Section 105 of the Indian Evidence Act of 1872, the accused bears the burden of proving broad exceptions to the IPC. Another major decision by the Supreme Court criminalized sex with a minor wife aged 15 to 18 years. The court dismissed a rape law exception that permitted a husband to have sex with his wife aged 15 and up regardless of consent, including punishment. The NGO Independent Thought filed a PIL in court, paving the door for this verdict, which will be applied even in the context of Muslim personal law. In India, criminal law deals with such matters, which are classified into several divisions based on their nature. Criminal law encompasses a wide range of sanctions that vary depending on the circumstances. However, it is not always necessary for a person to be punished for a crime that he or she has done. Under "General Exceptions," the Indian Penal Code (IPC) of 1860 recognises defences. These defences, which are founded on the presumption that a person is not accountable for the crime committed, are covered in sections 76 to 106. These defences are dependent on the circumstances at the time, the accused's men's rea and the reasonableness of his or her actions.

Assume you have been attacked in an aggressive manner by an aggressor, and you will undoubtedly strive to defend yourself as a result of your stimulation.

Are you responsible for causing harm or offense to the aggressor if you cause harm or offense to the assailant during that defense? As a result, the Indian Penal Code, 1860 safeguards or makes an infraction a non-offense in order to keep you or another person in a similar situation from being

fined. Not only do you get protection out of necessity, but you also get exemptions if you're insane or intoxicated, among other things. Sections 76 to 106 guarantee the "right of the people to safeguard his life and limb, as well as the lives and limbs of others." Different methods and criteria for getting or protecting someone are given out further in this article, which will be dealt with in detail for the reader's convenience.

Why is a necessity for a general exception?

A need can be defined as the state or fact of being necessary of general exception for a broad sense. The defense of necessity is employed when a person commits a crime or causes harm to another person or property in order to prevent or avert more serious harm than what he has committed. This section includes a principle that allows a person to be forgiven for inflicting less harm in order to prevent or avoid doing more harm. From section 81, you can see that need is an exemption to the IPC.

According to Section 81 of the IPC, anything done with the knowledge that it is likely to cause injury, or to prevent or avert additional harm to a person or property, is not deemed an infraction if done without any criminal purpose and in good faith. Suppose, if any person committed to crime, at that time these kinds of exceptions are useful for them to get out of the dilemma of the law.

Excusable and Justifiable Exceptions

In general, a crime is committed when the two fundamental elements of the crime are fulfilled. Mens Rea and Actus Reus are their names. Aside from that, the crime committed should be justified and excused. As a result, the general exemption under IPC is divided into two main categories:

Excusable Exceptions

These are exceptions to the crime in which the bad character or evil intention of the person committing the crime cannot be established. They are as follows:

- Mistake of fact
- Infancy
- Accident

- Insanity
- Intoxication.

Justifiable Exceptions

Those exceptions in which crimes committed are wrongful under normal circumstances but were deemed tolerable and acceptable to everyone are referred to as justifiable exceptions. They are as follows:

- Judicial act
- Necessity
- Consent
- Duress
- Communication
- Trifles
- Private defense.

A mistake of Fact (Sections 76 and 79)

Section 76 states that an act is done by a person bound or mistakenly believing himself to be bound by law. Nothing constitutes an infraction if it is committed by a person who, in good faith, thinks himself to be compelled by law to perform the act in question. It is based on the legal adage "ignorantia facti excusat, ignorantia juris non excusat." For example, if a soldier fires at a mob in the direction of his office and in accordance with the law, he will not be held accountable. Section 79 includes the act is done by a person justified or by mistake of fact believing, himself justified, by law. Nothing is an infraction if done by a person who is justified by law, or who thinks himself to be justified by law because of an error of fact rather than a mistake of law in good faith. For example, "A" believes Z is a murderer and seizes him in good faith and in accordance with the law. A hasn't done anything wrong.

Section 79 case law

In Kiran Bedi v. Committee of Inquiry, the petitioner declined to be deposed at the start of the inquiry because she believed she could only be deposed at the end.

Accidents (Section 80)

Accidents under Section 80 include those that occur while doing a lawful act. Nothing is a crime if it is done by accident or misfortune, with no criminal intent or knowledge, in the course of performing an authorized act in a lawful manner, using lawful means, and with sufficient care and caution.

For example, if A is attempting to shoot a bird with a gun and the bullet reflected from an oak tree injures C, A will not be held accountable.

Section 80 case law

division bench ruled in **King Emperor v. Timmappa** that shooting with an unauthorized gun does not preclude an accused from claiming defense under Section 81 of the IPC. The acquittal appeal was dismissed, and the trial magistrate's order was upheld. The court determined that there was no basis to increase the sentence imposed under Section 19(e) of the Indian Arms Act. The responder was once responsible under the provision, but not anymore. He only borrowed a gun for a few minutes to kill because he was afraid a wild animal might attack him and his partners. Regarding the sentence augmentation, the motion was denied.

Infancy (Section 82 and 83) Section 82:

It includes an act committed by a kid under the age of seven. Nothing done offense by a kid under the age of seven constitutes an infraction. If a child under the age of seven presses the trigger of a gun and kills his father, the child will not be held responsible.

Section 83:

It covers an act of immature comprehension by a child aged seven to twelve. Nothing is an offense, committed by a child over the age of seven, but under the age of twelve who has not yet reached adequate maturity or understanding to determine the nature and consequences of his behavior on that occasion.

For example, if a 10-year-old boy shoots his father with a rifle while still immature, he will not be held accountable because he has not reached maturity.

Section 83 case law

In **Krishna Bhagwan v. the State of Bihar**, the Patna High Court ruled that a child who is accused of an offense during the trial and has reached the age of seven years or has reached the age of seven years at the time of the decision can be convicted if he has understanding knowledge of the offense committed by him.

Insanity (Section 84)

A person of unsound mind acts. Nothing is an offense if it is committed by a person who, at the time of the act, is incapable of comprehending the nature of the conduct and, he is not capable to understand that he is doing something unlawful or against the law.

For example, if A, who is insane or unsound, kills B with a knife in the belief that it is a fun game, he will not be held accountable for B's death because he was unaware of the nature of the crime and legislation. He was incapable of rational thought.

Section 84 case law

In **Ashiruddin Ahmed vs. State**, the accused Ashiruddin was told in heaven to sacrifice his own four-year-old son. The next morning, he brought his son to a Mosque and murdered him, then went to his uncle and informed him discreetly what he had done. But after spotting the chowkidar, he brought the uncle closer to a tank and told him the story. The Supreme Court ruled that the accused could employ the defense because, while he was aware of the nature of the crime, he had no idea what was unlawful.

Intoxication (Section 85 and 86) Section 85:

Act of a person rendered incapable of judgment due to intoxication committed against his will. Nothing is a crime done by a person who, at the time of performing it, is incapable of comprehending the nature of the act, or that he is doing something illegal or against the law, provided that the thing that inebriated him was administered involuntarily without his volition or knowledge.

Example: A drank alcohol supplied to him by a buddy, mistaking it for a cold drink. He grew inebriated and hit someone while driving back home. He will not be held accountable because

alcohol was provided to him against his consent and knowledge.

Section 86:

Offense requires a specific intent or knowledge perpetrated by an intoxicated person. This applies in cases where an act is not an offense unless done with specific knowledge or intent; a person who does the act while intoxicated is liable to be dealt with as if he had the same knowledge as if he had not been intoxicated unless the thing that intoxicated him was administered to him without his knowledge and understanding of his behavior or against his will.

For example, a person who is intoxicated and stabs another person while under the effect of alcohol that was provided to him at the party against his knowledge or will is not accountable. However, if that guy stabbed that victim while under the influence of alcohol, he will be held accountable.

Section 86 case law

The accused in the **Babu Sadashiv Jadhav case** was inebriated and clashed with their wife. He poured kerosene on her, set her on fire, and then began quenching the flames. The court determined that he intended to cause physical harm that was likely to result in death in violation of Section 299. (20 and sentenced under section 304, Part I of code).

Justifiable Acts Section 77:

When acting judicially, act as a judge. Nothing is an offense committed by a judge when acting judicially in the exercise of any power granted to him by law, or which he believes to be so in good faith.

For example, Ajmal Kasab was sentenced to death under the judicial authority of judges.

Section 78:

Act done in accordance with a court's judgement or order. Nothing is done in pursuance of or warranted by, a court of justice's judgement or order is an offence if done while such judgement or order is in force, even if the court had no jurisdiction to pass such judgement or order, provided the person doing the act in good faith believes that the court had such jurisdiction.

For example, a judge who issues an order of life imprisonment while believing in good faith that the court has jurisdiction is not accountable.

Necessity (Section 81)

Acts that are likely to cause harm yet are carried out without criminal intent and to prevent further harm. Nothing is an offence simply because it is done with the knowledge that it is likely to cause harm if it is done in good faith for the goal of preventing or avoiding additional harm to a person or property and without any criminal intent to cause harm.

Example: A Captain of a ship changes the course of a ship carrying 100 people in order to save their lives, but in the process endangers the lives of 30 people in a small boat, with no intention, negligence, or fault on his side. He will not be held accountable since necessity is a state in which a person does minor harm in order to avoid major harm.

Consent (Section 87 – 89 & Section 92) Section 87:

Act is done by consent that is not intended or known to cause death or serious injury. Nothing is an offence if it causes, or is likely to cause, death or grievous harm to any person over the age of 18 who has given consent, whether express or implied, to suffer that harm; or if it causes, or is likely to cause, death or grievous harm to any such person who has given consent, whether express or implied, to suffer that harm or injury.

For instance, A and E agreed to fence each other for fun. This agreement means that both parties agree to suffer harm that may occur during the course of such fencing without foul play, and that if A injures E while playing fairly, A has done no offense.

Section 87 Case Law

In **Poonai Fattemah v. Emp**, the accused, who claimed to be a snake charmer, convinced the deceased that he had the power to shield him from the snake bite. The dead trusted him and was bitten by a snake, dying as a result. Consent as a defence was denied.

Section 88:

Act not meant to cause death, performed in good faith for the benefit of another. Nothing is an offence because of any harm 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 consent, whether directly or by implication, to suffer that harm or to take the risk of that harm or any damage.

Section 88 case law

In **R.P Dhanda v. Bhurelal**, the appellant, a medical doctor, performed cataract surgery with the patient's consent. The procedure resulted in vision loss. This defence shielded the doctor since he acted in good faith.

Section 89:

Act has been done in good faith for the benefit of a child or crazy person, with the guardian's permission or approval. Nothing done in good faith for the benefit of a person under the age of twelve or who is mentally ill, with or without the express or implied consent of the guardian or other person in lawful charge of that person, is an offence because of any harm that it may cause, be intended to cause, or be known by the doer to be likely to cause to that person.

Section 90:

Consent granted under duress or misunderstanding. Permission does not mean the kind of consent that any section of this Code implies.

- if the permission is provided out of fear of harm or a misunderstanding of facts, and the person executing the act knows or has reason to believe that the consent was given out of fear or misunderstanding; or
- Consent of an insane person if the assent is provided by a person who is unable to appreciate the nature and consequences of what he consents to due to mental illness or intoxication; or
- Children's consent, on the other hand, appears from the context if it is granted by someone under the age of twelve.

Section 90 precedent

In *Jakir Ali v. State of Assam*, it was established beyond a reasonable doubt that the accused had sexual relations with the victim in exchange for a fraudulent promise of marriage. The Gauhati High Court ruled that a woman's offering of her body under duress or misinformation cannot be regarded as consent and that the accused's conviction under sections 376 and 417 of the Indian Penal Code was valid.

Section 91:

Acts that constitute crimes regardless of the harm they cause are excluded. The exceptions in sections 87, 88, and 89 do not apply to activities that are crimes in and of themselves, regardless of any harm they may cause, be intended to cause, or be known to be likely to cause, to the person giving consent or on whose behalf the consent is provided.

Section 92:

An act has been done in good faith for the benefit of another person without their agreement. Nothing is an offense because of any harm it may cause to a person for whose benefit it is done in good faith, even without that person's consent, if the circumstances are such that that person cannot signify consent, or if that person is incapable of giving consent, and has no guardian or other person in lawful charge of him from whom consent can be obtained in time for the object to be done with benefit.

Communication (Section 93)

Communication is done with the best of intentions. No communication made in good faith that causes injury to the person to whom it is addressed is an offense if it is done for that person's benefit. For example, a doctor informs the wife that her husband has cancer and that his life is in jeopardy. Hearing this, the wife died of shock. The doctor will not be held accountable because he gave this information in good faith.

Duress (Section 94)

Threats compel a person to perform an act. Except for murder and crimes against the state punishable by death, nothing is done by a person compelled to do it under threats that reasonably cause the apprehension that instant death will otherwise be the result provided the person doing

the act did not place himself in the situation by which he became subject of his own volition or from reasonable apprehension of harm to himself short of instant death.

Example: A was apprehended by a gang of robbers and was facing instant death. He was obliged to take a revolver and open the door of the house to allow dacoits to enter and harm the family. A will not commit an offense under duress.

Trifles (Section 95)

This section covers acts that cause minor injury. Nothing constitutes a crime just because it produces, or is intended to cause, or is known to be likely to do, any injury if the harm is so minor that no person of ordinary sense and temper would complain about it.

Case Law

Mrs. Veeda Menezes v. Khan involved an argument between the appellant's husband and the respondent during which the latter threw a file of papers at the former, which hit the appellant and caused a scrape on the elbow. Because the injury was minor, the SC found the defendant not guilty.

Private Defence (Section 96 – 106)

Section 96:

Things are done in private defence under this Section 96. Nothing is an offence if someone harms another person in the name of self-defence or private defence.

Section 97: Right to private bodily and property defence. Under Section 99, everyone has the right to private defence, subject to reasonable limitations.

- Protecting his or another's body from any crime that poses a threat to life.
- Defending his or another's mobile or immovable property against theft, robbery, mischief, or criminal trespass, or an attempt to commit theft, robbery, mischief, or criminal trespass.

For example, in order to protect his daughter from a thief's onslaught, a parent shoots him in the leg. However, because he was safeguarding his daughter's life, the father will not be held

accountable.

Section 97 case law

The Gauhati High Court declared in **Akonti Bora v. State of Assam** that in exercising the right of private defence of property, the act of dispossession or throwing out a trespasser includes the right to throw away the material objects with which the trespass was committed.

Section 98: Right to private defence against the act of an insane person, etc.

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

Example: A attempts to murder Z while insane, but A is not guilty. To protect himself against A, Z can use private defence.

Section 99: Acts against which no private defence is available.

There is no right of private defence against an act that, if done, does not rationally induce the fear of death or great bodily harm.

- Attempted to be done by a public officer acting in good faith under the colour of his authority, even though the act is not strictly legal.
- There is no right of private defence against an act that, if done, does not rationally induce the fear of death or great bodily harm.
- Attempted to be done under the instruction of a public official operating in good faith under the colour of his position, even though that directive is not absolutely legal.
- There is no right to private defence in circumstances where there is time to seek public authorities' protection.
- The harm done should be proportional to the threat or attack.

Section 99 case law

The Supreme Court stated in **Puran Singh v. State of Punjab** that where there is an element of invasion or aggression on the property by a person who has no right of possession, there is definitely no room for recourse to public authorities and the accused has the undeniable right to oppose the attack and use force if necessary.

Section 100: This section addresses the issue of "where the right to private defence of the body extends to causing death." According to the provisions of this section, the right of private defence of the body extends, subject to the restrictions mentioned in the preceding section, to the voluntary causing of death or other harm to the assailant if the offence that prompts the exercise of the right is of any of the following descriptions:

Assault resulting in a realistic fear of death.

- Reasonable fear of severe harm.
- Raping someone.
- Irrational lust.
- Kidnapping or kidnapping.
- Wrongfully confining a person in a situation in which that person reasonably suspects an assault but is unable to call public authorities.
- Throwing or attempting to throw acid, generates fear in the mind that the assault may inflict great harm.

Section 100 Case Law

In **Yogendra Morarji v. State**, the Supreme Court went into great depth into the scope and limitations of the right to private bodily defense. There must be no safe or reasonable means of escape or retreat for the individual faced with imminent danger to life or bodily damage other than death.

Section 101: When such rights include the ability to cause injury other than death. If the offence does not fit any of the descriptions in the preceding section, the right to private defence of the body does not extend to the voluntary causing of death to the assailant, but it does extend, subject to the restrictions mentioned in section 99, to the voluntary causing of any harm other than death

to the assailant.

Section 101 case law

The burden of proof to establish the right to private defence is not as onerous in *Dharmindar v. State of Himachal Pradesh* as it is for the prosecution to show its case. When the facts and circumstances point to a majority of probabilities in favour of the defence case, it is sufficient to discharge the burden of proving self-defence.

Section 102: Establishment and maintenance of the right to private bodily defence. The right to private defence of the body begins when there is a reasonable concern of harm to the body as a result of an attempt or threat to conduct the offence, even if the offence is not performed; it continues as long as such apprehension of risk to the body exists.

For example, A, B, and C were pursuing D in order to kill him in order to exact revenge when they noticed a police officer approaching from the other side. They became terrified and turned to flee. However, D shoots B in the leg despite the fact that there is no imminent danger of harm. D will be held accountable because there was no fear of death or harm.

Section 103: When the right to private property protection extends to causing death. □ Robbery; □ nighttime housebreaking □ Mischief by fire perpetrated against any house, tent, or vessel used as a human residence or a place for the custody of property; □ Theft, mischief, or house-trespass, if there is a reasonable fear that death or serious bodily harm would result if such right of private defense is not used.

Example: C tries to stab D deliberately while breaking into D's residence. D had a realistic fear that C will cause him great harm, therefore in order to safeguard himself and his property, D choked C with a knife in his chest, resulting in Death. D will not be held accountable.

Section 103 case law

The slain worker and some of his coworkers were making demands outside the plant in **Mohinder Pal Jolly v. State**. They also threw brickbats at the property of the owner, who fired two rounds from outside his office room, one of which killed the deceased worker. The court ruled that it was

a case of mischief, and the accused will not be able to use this part as a defense.

Section 104: When such right includes the ability to cause harm other than death.

If the offense, the commission of which, or the attempting to commit which, gives rise to the exercise of the right of private defense is theft, mischief, or criminal trespass, 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 of any harm other than death to the wrongdoer.

For example, if A commits illegal trespass in order to irritate or harm B, B has the right to harm A in a proportional manner that does not result in the person's death.

Section 105: Establishment and continuation of the right to private property defence. The right to private property defence begins when:

- The reasonable fear of threat to the property begins.
- The right to private property defence against theft continues until the criminal has fled with the goods.
- Alternatively, the support of public authorities is engaged.
- Alternatively, the property has been recovered.
- The right to private property defence against robbery exists as long as the,
- Offender causes or attempts to cause death or bodily harm to someone.
- Alternatively, wrongful restraint
- As long as there is the threat of sudden death or Immediate pain or Personal constraint remains instant.
- As long as the offender is committing criminal trespass or mischief, the right to private property defence against criminal trespass or offence exists.

The right to private property defence against nighttime housebreaking continues as long as the house-trespass that was started by such housebreaking persists.

For example, if a burglar breaks into an individual's home and attempts to injure him immediately

with a knife, the individual has the right to act in self-defense and harm the thief in order to safeguard life and property.

Section 106: Right of private defence against fatal assault when an innocent person is at risk. If a person generates apprehension of death in the course of exercising private defence against an assault, and the defender has no alternative but to damage an innocent person, his right will be extended to that danger.

For instance, C is attacked by a crowd that tries to assassinate him. He can't use his right to self-defence without shooting at the rabble. To rescue himself, he is forced to harm innocent children while firing, hence C did not commit an offence by exercising his privilege.

Conclusion

General Exceptions are legal defenses that exonerate the accused of criminal responsibility. A variety of situations can make an act or conduct non-criminal or non-offense. Any illegal act or omission (offense) performed by an accused can be freed of criminal culpability. The Indian Penal Code (IPC) Sections 76 through 106 provide emergency protection. This suggests that a person can be pardoned for doing less harm to avoid or prevent doing more harm. It could even result in a person's death or injuring an innocent person. So those are the general exceptions that an accused person can utilize to avoid culpability or spare himself from committing a crime. Depending on the circumstances, it could even result in a person's death or harm an innocent person. Considering our country's democratic nature, the accused should likewise have the chance to be heard. This is why certain exceptions exist so that one can represent oneself in a court of law.