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GENERAL EXCEPTIONS IN IPC: A DETAILED ANALYSIS- Himanshu¹**INTRODUCTION**

It is conceivable for an accused individual to be exonerated of criminal liability for any illegal act or omission (offence) that he committed if a range of variables might render an act or action noncriminal or non-offense. General exceptions are legal defences that an accused person may employ to absolve them of criminal liability. These defences depend on the circumstances surrounding the alleged crime, the accused's men's rea, and the reasonableness of their actions. The Indian Penal Code of 1860 has provisions that either invalidate an offence or treat it as a precaution to safeguard you and anybody else who may find themselves in a similar situation from having to pay a fine. Sections 76 through 106 of the Constitution provide "the right of the people to protect their lives and limbs, as well as the lives and limbs of others." These sections range from 1976 through the year 106. Following are a variety of strategies and requirements for acquiring someone's trust or assuring their safety.

If proved guilty, the defendant must be held accountable for their actions and receive the appropriate punishment. In addition to committing an unlawful act or omission, the commission of a crime involves a guilty attitude, guilty purpose, and guilty conduct. The commission of an act that does not meet these elements for criminality is not deemed to constitute a crime. These are the most common defences that a person accused of a crime may employ to clear their reputation or avoid culpability for the offence. A person accused of a crime can exploit a few legal loopholes to avoid taking responsibility for their conduct or committing a crime that could result in the death or harm of an innocent person. Since our country functions under a democratic

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framework, it is only just that the accused be given the opportunity to explain their side of the story. People may represent themselves in court because the law permits exceptions for specific circumstances.²

Assuming that you have been assaulted by a person who is acting violently toward you, you will surely make an effort to defend yourself. If the assailant gets injuries when you defend yourself, may it be considered that you are liable for such injuries or have offended the aggressor?

AIMS AND OBJECTIVES

This study intends:

- To research and analyse the concept of defences from multiple perspectives.
- In the context of intellectual property law, to explore the essence of the right to defence or exception, and to investigate its legal precedents.
- To conduct research into the significance of the defenses offered by the IPC and the requirements for having them.
- Conduct research into and evaluation of India's pre-existing legal framework pertaining to the right to defend oneself.
- To research, examine, and contrast the legal systems of India, England, the United States of America, and Australia regarding self-defense and other exceptions allowed by the Indian Penal Code.
- To determine whether there are any loopholes or statutory restrictions in the currently applicable legislation regarding the right of defense in India.
- to investigate the most recent judicial and legislative developments concerning the universal defense right.

HYPOTHESIS

We'll determine whether the following statement is true or false: The presence of a well-developed legal system that regulates human life and grants it the sanctity required for its development is an indication of a society's development. The ability of a society to respect human life is a sign of its development. At all costs, the old exalted and inalienable status of the

² Bhattacharya, Prof. T , Indian Penal Code, 5th Edition, Central Law Agency, Allahabad, 2007.

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most fundamental right to universal defense must be protected. Given this, it is vital to compare India to other nations in order to establish if India's current legal framework for such arguments is adequate. This can be accomplished by comparing India to other countries.

RESEARCH QUESTIONS

- Is the right to general defences a violation of the human rights of the victim.
- Does India's current legal framework for the right to universal defence do away with all loopholes and limitations imposed by statute?

RESEARCH METHODOLOGY

The researcher has chosen a doctrinal research approach that excludes the use of empirical data in order to make the current research meaningful. Secondary sources were used to perform the research. Secondary material was acquired from a variety of sources, including books, statutes, journals, encyclopedias, reports, government publications, periodicals, and any other easily accessible sources. A number of comparative, historical, and analytical approaches are employed to study secondary materials throughout the investigation. Investigations have also been conducted into significant self-defense instances from Australia, England, India, and the United States. Footnoting has been used throughout to appropriately attribute the essential writing. The researchers used every option at their disposal to give this research a more genuine appearance and to add more significant and approachable materials. All of the aforementioned sources, as well as journals and acts from India, England, the United States of America, and Australia, were consulted. Furthermore, the researcher obtained secondary material from media reports, relevant legal and other websites, and any other sources that were available at different times and upon request.

GENERAL EXCEPTION IN CHAPTER IV OF IPC, 1860

The main exceptions covered in Chapter IV of the Indian Penal Code, 1860, are as follows:

1. Mistake of Facts and Mistake of Law (Section 76 and 79) :

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We are all familiar with the saying that says, "Ignorance of the facts is not an excuse, but ignorance of the law is never an excuse," and we are all aware of the meaning that the proverb conveys. On the other hand, If he breaks the law and then tries to defend himself by saying that he did not know what the law required of him, the law will not let him off the hook and will hold him accountable for the activities that he took even if he claims that he did not know what the law required of him.. According to the provisions of Section 76, an accused person is eligible for protection if he or she is charged with the committing of a crime by an individual who is unaware of the circumstances underlying the crime.and if the accused person honestly believes that they were required by the law to commit the crime in question” .

For example-: If a soldier fires into a crowd at the direction of his officer and in accordance with the law, he will not be held legally liable for his actions.

On the other hand, if an accused person is charged with committing the crime despite the fact that he or she was not aware of the In a similar vein, Section 79 of the Indian Penal Code states that a person is guilty of an offence if he believes that it is justified by the law, or if, due to a mistake of fact and not due to a mistake in the law, in good faith, he believes that he is justified by law in doing it. Both of these situations are examples of when a person may be found guilty of an offence. Both involve the same person. In each of these two possible outcomes, the offender is still liable for the crime they committed.”³

For example-: A suspected that Z was a murderer, therefore in good faith and in accordance with the law, A arrested Z to hand him over to the police. A has never been convicted of a crime..

Case Law: In Raj Kapoor v. Laxman⁴, “the Board of Censors accepted the petitioner's plea for a certificate under the Cinematography Act, 1952 for the public screening of a picture. When the petitioner was charged under Section 292 of the Code, they argued that once the certificate permitting public exhibition was issued by a competent authority in accordance with the Act of 1952, they could not be held liable even if the film is obscene or tends to debase or corrupt public morals because the certificate was issued by a competent authority in accordance with the

³ BELINDA MORRISSEY, WHEN WOMEN KILL: QUESTIONS OF AGENCY AND SUBJECTIVITY 73 (Maureen McNeil et al. eds., Rout ledge 2003).

⁴Raj Kapoor v. Laxman, 1980 AIR 605, 1980 SCR (2) 512.

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requirements of the Act. This was their reaction to the charge that they had committed the alleged offence. The Supreme Court agreed with the argument and reached the following conclusion: once the competent authority issued the required certificate in good faith, the petitioner producer and other agencies were protected under this section read with section 5-A of the Act of 1952, at least because they believed in good faith that the certificate was justificatory. This judgement was made after the Supreme Court agreed with the argument and reached the following conclusion: once the competent authority issued the required certificate in good faith”.

2. Judicial Acts (Section 77 and 78) :

Judicial acts are deeds performed by members of the judicial system in the course of exercising the statutory authority conferred upon them. While Section 77 of the Indian Penal Code protects acts committed while exercising powers within the court's jurisdiction, Section 79 of the IPC protects acts committed regardless of whether the authorized court has jurisdiction. However, in order to maintain this immunity, the judge must consistently perform their duties in good faith.⁵

3. Accident (Section 80) :

This includes accidents that occurred when you were obeying the law. When a legitimate conduct is carried out in a lawful manner, using authorised means, and with the proper level of care and caution, an accident or misfortune that occurred in the process of carrying out the lawful act does not constitute a breach of the law.

In order for the accused to be exonerated and utilize the excuse of accident as a defence, he or she must submit evidence that meets the following standards in a court of law:

- 1.The behavior is unexpected and the outcome of unfavorable circumstances or an accident.
- 2.There was no criminal intent when the conduct was carried out.
3. The offence was committed while the offender was lawfully engaged in a legal activity.
4. The activity was carried out with all the necessary caution and attention.

⁵ " JOSHUA DRESSLER, UNDERSTANDING CRIMINAL LAW 241 (Bender & Company 3rd ed 2001).
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5. The fact that the defendant has caused harm does not provide them the right to present a defence.

Example-: In the event that M is attempting to shoot a bird with a rifle and the bullet hits an oak tree and causes N to be injured, M will not be held responsible for N's injuries.

Case Law-:In the case of *King Emperor v. Timmappa*, a court division found that shooting an unauthorised handgun does not preclude the use of Section 81 of the Indian Penal Code as a defence. It was decided not to review the appeal of the acquittal, and the verdict of the trial magistrate was affirmed. The court ruled, in accordance with Section 19(e) of the Indian Arms Act, that there is no legal basis for increasing the sentence.. The provision just held the respondent accountable for the offence. Because he feared that a wild animal might attack him and his coworkers,he borrowed a firearm from a friend for a few minutes to pass the time. In response to the request for a longer sentence, the motion to do so was rejected”.

4. Necessity (Section 81) :

The concept of necessity can be broken down into two distinct subcategories, which are referred to as public necessity and private necessity respectively. The thought of being forced to do something has its roots in the Latin phrase "Quod necessitas non hebet leegam," which may be translated as "necessity knows no law." This is where the philosophical concept of necessity first emerged. However, the need argument can't be utilised if the evidence doesn't show that the issue was urgent in the first place. This is a requirement for the necessity argument. The following conditions need to be satisfied in order to be eligible to use the necessity defence under the IPC:

1. There must be a knowledge of the possibility of damage, even though the act itself may be carried out even if there was no purpose to commit a crime.
2. It is essential to cause the harm in order to safeguard the life of the accused as well as any other person and their property.
3. The action must be done out with the intention of doing no wrong and not with the intent of engaging in fraudulent activity.

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Case Law :The defendants in the 1884 case *Dudley v. Stephens*⁶were sailors. “After the storm caused their ship to capsize, they and a boy of approximately seventeen years old floated to safety on a wooden plank.

They wandered aimlessly without access to food or drink for an extended period of time. They slaughtered the child when they realised they were all going to die of famine soon, and even after they were rescued,they proceeded to eat his flesh for a few more days until it was found that they were doing it..

When they were tried for murder, their defence was that self-defense was of the utmost importance and that they had no choice but to murder the boy. Both defendants were found guilty of murder, and their defence of self-defense as a measure essential to preserve their lives was declared unsuccessful. Consequently, both of them were sentenced to death”.

5. Infancy (Section 82 and 83) :

Section 82-: "It covers, according to Section 82, the behavior of a kid younger than seven years old. Nothing done by a youngster younger than seven years old can be considered a crime.

In the instance if a kid younger than seven years of age pressed the trigger of the pistol and caused the death of his father, the child will not be held accountable for the death of his father".

Section 83-: It includes the behavior of a child with an immature intellect who is older than seven but younger than twelve. There is no offence that may be committed by a youngster older than seven but younger than twelve who lacks the maturity of understanding to evaluate the nature and consequences of his behavior on that occasion.

If a 10-year-old kills his father with a gun while still immature, he will not be held accountable if he has not reached maturity.

In Section 82, it is stated that any actions taken by a child younger than seven years of age are not considered illegal, whereas in Section 83, it is stated that any actions taken by a child older

⁶*Dudley v. Stephens, (1884) 14 QBD 273*

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than seven years of age but younger than twelve years of age who has an immature understanding or has not yet attained sufficient maturity are not considered illegal. Children's intrinsic limits or lack of comprehension is the major reason why infancy can be invoked as a legal defence under the IPC. Doli capax refers to children who have not attained a certain level of maturity and comprehension.

Case Law for Section 83:-In *Krishna Bhagwan v. State of Bihar*⁷, “The Patna High Court held that a kid who is accused of a crime during trial and has reached the age of seven, or who has reached the age of seven at the time of the court's ruling, may be convicted of the crime if he has the understanding and knowledge of the crime he did. In 2010, the Patna High Court confirmed this verdict”.

6. Insanity (Section 84) :

Conduct of a person with impaired mental faculties. The commission of an act by a person who is unaware of the nature of the act or that he is acting in a manner that is either unlawful or against the law is not considered an offence. This is because the individual's mental condition prevented them from understanding either of these facts.

A person with an unsound mind or mental disease cannot be deemed to possess this essential norm of human behaviour, and if he commits a crime, he is eligible for the Code's immunity. The following conditions must be met in order to use the defence provided by Section 84 :

1. The defendant must have been suffering from a mental illness at the time the crime was committed.
2. There is no evidence that the criminal act was motivated by anything.
3. Due to his mental incapacity, the defendant is unaware of the consequences that will result from his actions.

This defence is unquestionably supported by the M'Naughten Rule. It was argued that everyone is believed to be sane unless the contrary is proven, and that in order to establish a defence based on insanity, one must demonstrate that the accused was suffering from a disordered state of mind

⁷*Krishna Bhagwan v. State of Bihar, 1991 CriLJ 1283*

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and was unconscious of the nature and quality of the action he performed. To establish a defence of insanity, one must demonstrate that the defendant suffered from a mental condition and did not intend to commit the crime.

Example : A, who is either mad or otherwise unsuitable, stabbed B to death because he thought it was a game. A will not be held liable for B's death since he did not appreciate the nature of the act or the law at the time of B's death. He was incapable of logical or rational cognition.

Case Law :“In the case of *Ashiruddin Ahmed v. State*⁸, the accused Ashiruddin asserted that he was given the order to sacrifice his own child, who was only four years old at the time, by someone in paradise. He took his son to a mosque the next morning and killed him there. He then went straight to our uncle, but when he The following morning, he took his kid to a mosque where he murdered him. He then went directly to our uncle, but when he encountered a chowkidar, he was escorted to a site beside a tank and told the story there.

The Supreme Court reached the conclusion that the accused did not understand why the act he was accused of committing was illegal despite the fact that he was aware of the nature of the crime itself. Therefore, the accused is permitted to make their defence presentation”.

7. Intoxication (Section 85 and 86) :

Intoxication is only a valid defence under the Indian Penal Code of 1860 if the intoxication was involuntary. If the defendant willfully became intoxicated with the goal of employing drunkenness as a legal defence for the conduct of a crime, the defendant cannot use the intoxication defence. Under sections 85 and 86, an intoxicated person is only granted immunity if the substance that induced their drunkenness was delivered against their will or without their knowledge. The offences that need specific intent and knowledge are covered by Section 86, whereas Section 85 include all of the possible intoxication-related offences .

Section 85: An act committed by a person who is incapable of exercising sound judgement due to alcohol intoxication. The commission of any act by a person who, at the time the act is committed, is incapable of understanding the nature of the act or that he is doing something

⁸*Ashiruddin Ahmed v. State, 1949 CriLJ 255*

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wrong or illegal is not considered an offence if the intoxicant was administered against the person's will and without his knowledge, it is considered administered against his consent.

Example: Someone drank alcohol offered to them by a friend in the mistaken belief that it was a cold drink. While returning home, he became inebriated and was responsible for a collision. Due to the fact that he was provided alcohol against his choice and without his knowledge, he will not be held accountable for his actions .

Section 86: Intoxication as a factor in the commission of a crime requiring special intent or knowledge on the part of the perpetrator. This rule applies when an action is not unlawful unless it is carried out with specific knowledge or intent. In some circumstances, a person who engages in an action while intoxicated is treated as if he had the same level of knowledge as if he had not been intoxicated. Unless the intoxicating substance was administered without his consent or against his will, this is the circumstance.

Example : If an intoxicated person stabs another person while under the effect of alcohol given against their consent or knowledge at a party, the drunken person will not be held accountable for the stabbing. However, if that person stabbed the victim while willfully under the influence of alcohol, he will be held responsible for the assault”.

Case Law :In the case of *Babu Sadashiv Jadhav*⁹, “the defendant was intoxicated when he fought with his wife. Then, he doused her in kerosene, set her ablaze, and quickly began extinguishing the fire. According to section 299 of the Criminal Code, the court determined that he intended to cause severe bodily harm that would likely result in death”.

8. Consent (Section 87-90 and 92) :

Section 87 : Behavior that is based on consent but does not intend to cause death or serious injury and is also not aware that it is likely to do so. Nothing that is not intended to cause death or grievous bodily harm, and that the doer does not know is likely to cause death or grievous bodily harm, is an offence because of any harm that it may cause, or be intended by the doer to cause, to any person over the age of 18 who has given express or implied consent to suffer that harm; or

⁹ Babu Sadashiv Jadhav, 9 April, 1984.

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because of any harm that the doer may know it is likely to cause to any such person who has consented to suffer that harm .

Case Law :In the case of *Poonai Fattmah v. Emp*¹⁰, “the defendant, who posed as a snake charmer, persuaded the victim that he had the power to protect him from any potential harm induced by the snake bite. The dead believed him, which resulted in him being bitten by the snake, which finally led to his demise. The consent-based defence was not permitted to advance”.

Bishamber versus Roomal¹¹(rape of a Harijan girl) “To protect the complaint from the onslaught of Harijans, the Self-constituted Panchayat had him parade through the hamlet with his face blackened and gave him a public beating. It has been decided that the accused Panchayat's actions were authorised by the complaint”.

Section 88 : Act not intended to cause death, committed voluntarily, in good faith, and for the benefit of the individual. Nothing that is not done with the intent to cause death 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 express or implied consent to suffer that harm, or to assume the risk of that harm. This is the lone exception when the perpetrator intends to kill”.

Case Law : In *R.P. Dhanda v. Bhurelal*¹², “The appellant was a medical doctor who consented to perform cataract surgery on the patient's eye. The patient eventually lost his or her vision as a result of the surgery. This defence protected the physician since he was deemed to have acted reasonably”.

Section 89 : Act undertaken in good faith for the benefit of a child or crazy person, either by the guardian or with the approval of the guardian. Nothing done in good faith for the benefit of a person under the age of twelve or of unsound mind by or with the express or implied consent of the guardian or other person lawfully in charge of that person constitutes an offence, regardless

¹⁰*Poonai Fattmah v. Emp, (1880) ILR 5 Cal 351*

¹¹*Bishamber versus Roomal, AIR 1951 All 500*

¹²*R.P. Dhanda v. Bhurelal, 1987 CriLJ 1316*

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of the harm it may cause, be intended to cause, or be known to the doer to be likely to cause to that person .

Section 90 regulates the operation of consent as required by Sections 87 through 89 and Section 92, although it does not define consent. Section 90 includes four distinct types of consent, none of which constitutes consent in and of itself:

In Section 90, there are four distinct types of consent, but none of them actually constitute consent in and of themselves :

- The consent is granted out of fear of harm.
- Consent is frequently granted despite a lack of understanding of the facts.
- Insane individuals are capable of giving consent.
- A child younger than 12 years of age provides consent for the procedure.

In order to successfully assert a Section 87, 88, or 89 defence, the following conditions must be met:

- The individual has given their consent to assume the risk.
- The individual's age must be at least 12 years greater than the minimum age requirement. If the child is younger than 12 years old, the parent or legal guardian must grant permission for the child's best interests.
- The individual does not suffer from any mental impairments.
- Consent can either be given explicitly or implicitly.
- Consent was never intended to cause serious injuries or death.
- Due to a misunderstanding of the facts or out of fear of harm, consent was withheld.

Section 92 does not require a breach of the law when a person acts without the agreement of another person in good faith for that person's benefit, even if that person is damaged as a result

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Case Law: In *Jakir Ali v. State of Assam*¹³, “It was shown beyond a reasonable doubt that the defendant engaged in sexual activity with the victim while pretending to propose marriage. The Gauhati High Court ruled that a woman's submitting of her body out of fear or misunderstanding of reality cannot be considered consent, and hence the accused was correctly convicted under sections 376 and 417 of the Indian Penal Code”.

9. Communication (Section 93) :

Even if the communication has the potential to do harm to the recipient, it is not deemed an offence if it is made in good faith with the intention of assisting the individual .

Example : The doctor confides in the patient's wife that her husband has a form of cancer that is incurable and that his life is in jeopardy. The wife was so distressed by the news that she passed away. Since the physician communicated this information to the patient in good faith, he will not be held liable for any resulting damages” .

10. Duress (Section 94) :

An act that a person is compelled to perform after being threatened. Nothing constitutes an offence if it was committed by a person who was coerced to do it by threats that, at the time it was committed, caused a reasonable apprehension that instant death would otherwise result, so long as the person who committed the act did not, of his own volition or out of a reasonable apprehension of harm to himself short of instant death, place himself in the situation in which he became subjected to the threat. Exceptions to this rule are only homicide and offence.

With the exception of murder and crimes against the state punishable by death, if a person is forced to do something under threat and at the time of doing it, reasonably causes the apprehension that instant death to that person will otherwise be the result, the accused is not guilty of the crime as long as he did not do it of his own volition or out of a reasonable fear of harm to himself short of instant death .

¹³*Jakir Ali v. State of Assam, 2007 (3) GLT 497*

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Example : A band of robbers had captured A, and there was a very real probability that he would die immediately. He was pressured into taking a gun and into allowing the robbers to enter his home and harm his family. Because the crime was performed under duress, A will not be held guilty of it .

11. Trivial Acts / Trifles (Section 95) :

This section addresses conduct that causes only minimal harm. Nothing constitutes an offence solely on the ground that it causes, is intended to cause, or is known to be likely to cause harm, so long as the harm in question is so minor that no reasonable person in his or her right mind would complain about it.

Acts that are deemed trivial are violations of the law that cause minimal harm and for which the average person would not file a complaint. Section 95 grants immunity to those who commit violations deemed minor. The maxim "de minimus non curat lex" encapsulates the principle that the legal system does not consider insignificant actions".

Case Law -:In the case of *Mrs. Veeda Menezes v. Khan*¹⁴, "the respondent threw a file of papers at the appellant's husband during an argument between the appellant's husband and the respondent, which resulted in a scratch on the appellant's elbow. The husband of the appellant was found to be innocent of all charges. The defendant was found not guilty because the Supreme Court determined that the degree of harm was insignificant".

12. Private Defence (Section 96 – 106)

Section 96 of the Indian Penal Code of 1860 describes in great detail the circumstances under which a person may claim the immunity of private defence to protect his life and property, as well as the lives and properties of others for injuries sustained in self-defense, which is not an offence. This immunity protects a person not just for injuries sustained in self-defense, but also for injuries sustained in the defence of others .

Section 96: Actions undertaken in the name of private defence.

¹⁴*Mrs. Veeda Menezes v. Khan, 1966 SCR 123*

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A person who injures someone while using their right to self-defense is not guilty of committing an offence.

Section 97: The right to defend oneself and one's property with private force.

Protect both his own and other people's property, as well as his own and another person's bodies.

Section 98: A person who is attacked by a young person due to ignorance, insanity, or intoxication may use private defence.

Section 99 provides that everyone has the right to participate in private defence, subject to reasonable constraints.

1. defending his or another's body against any criminal act that constitutes a threat to their life.
2. Defending himself or another's mobile or immovable property against any offence, such as theft, robbery, mischief, or criminal trespass, or an attempt to commit any of those offences; preventing the property from being stolen, robbed, destroyed, or entered illegally.

Example: A father shoots a thief in the leg to protect his daughter, who is in imminent danger of being attacked by a robber. However, nothing will be held against the father because he was attempting to save his daughter's life”.

Case Law for Section 97: In *Akonti Bora v. State of Assam*¹⁵, “the Gauhati High Court ruled that, when exercising the right to private property defence, the act of dispossession or eviction of a trespasser includes the right to dispose of the material things used to conduct the trespass.. This decision was made as a result of the court's ruling that the right to private property defence includes the right to dispose of physical things”.

Section 98: Right of private defence against the act of person of unsound mind, insane person, etc.

¹⁵*Akonti Bora v. State of Assam, 1980 CriLJ 138*

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Every person has the same right to a private defence against an act that would otherwise constitute a particular crime but is not that crime because of the person's immaturity, lack of comprehending maturity, mental incapacity, or intoxication, or because of a misunderstanding on their side. In other words, when an act that would normally constitute a certain crime is not punished as such due to the immaturity, lack of maturity, or intoxication of the perpetrator .

Example :Under the influence of insanity, A makes an effort to assassinate Z, although A is innocent. Self-defence is a method that Z can employ to protect himself from A.

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

- There is no right to private defence against an act that does not produce a reasonable fear of death or severe injury if it is committed, or against an act that does not create a reasonable fear of death or serious injury if it is not committed.
- An act attempted by a public official working in good faith under the guise of his job, despite the activity not being strictly lawful in its entirety.
- A person does not have the right to a private defence against an act that does not legitimately produce the apprehension of death or of grave pain, even if the act is committed or could result in any of those outcomes.
- Attempted to be done, on the instruction of a public official acting in good faith under the colour of his office, even though the instruction is not strictly permissible under the law in its original form.

A person does not have the right to a private defence when there is still time to seek the protection of the public authorities. This holds true in every circumstance.

The level of injury inflicted must be proportional to the approaching threat or assault .

Case Law: In *Puran Singh v. State of Punjab*¹⁶, “The Supreme Court of India stated that if there is an element of invasion or aggression on the property by a person with no right to ownership, then there is plainly no recourse to the public authorities, and the accused has the

¹⁶*Puran Singh v. State of Punjab, 1975 SCR 299*

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absolute right to resist the attack and use force if necessary. In view of the court's assessment that recourse to the public authorities is impossible, this was noted”.

Section 100 :When exercising one's right to self-defense of the body results in death.

In this section of the document, the topic "where the right to private defence of the body extends to inflicting death" is addressed.

According to the provisions of this section, the right to private defence of the body extends, subject to the restrictions outlined in the section preceding it, to the voluntary causing of death or other harm to the assailant if the offence that prompts the exercise of the right falls into one of the following categories:

- Assault that poses a significant risk of bodily injury or death.
- A rational dread of sustaining a life-threatening injury
- Performing the act of rape
- Unnatural passion
- kidnapping or robbery
- Intentionally and illegally holding a person in such a way that they have a reasonable fear of being assaulted but are unable to call public authority.
- The act of throwing or attempting to throw acid, which causes the victim to worry they will sustain severe injury as a result of the assault .

Case Law : In *Yogendra Morarji v. State*¹⁷, “the Supreme Court elaborated in great detail on the extent and limits of the right to private defence of the body. A person who faces an urgent threat to their life or body must have no other safe or reasonable methods of escape or retreat than the option to commit suicide. This rule is unbreakable”.

Section 101: When those rights cover any type of harm, besides death.

The right of private defence of the body does not extend to voluntarily causing the assailant's death if the offence does not satisfy the characteristics stated in the preceding section. However,

¹⁷*Yogendra Morarji v. State, (1980) 2 SCC 218*

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the right extends, subject to the constraints mentioned in section 99, to the intentional infliction of any harm other than death on the attacker .

Case Law :In *Dharmindar v. State of Himachal Pradesh*¹⁸, “it was determined that the standard of proof required to demonstrate the right to private defence was less onerous than the one imposed on the prosecution to establish its case. If the facts and circumstances lead to a majority of probabilities in favour of the defence case, it would be sufficient to meet the burden of proving self-defence. In instances where the defence case is being defended, this would be the circumstance”.

Section 102 : Commencement and continuance the right of private defence of the body.

The right to the private defence of the body arises as soon as there is a reasonable apprehension of danger to the body as a result of an attempt or threat to commit the offence, even if the offence has not yet been committed; this right remains in effect for as long as there is a reasonable apprehension of danger to the body .

Example : A, B, and C were on the hunt for D in order to kill him for revenge when they suddenly noticed a police officer approaching from the opposite direction. Fearful, they turned around and continued fleeing. Nevertheless, D shoots B in the leg, despite their being no immediate danger to B. D will be held accountable for this despite the fact that no one was in danger or in danger of being injured .

Section 103 : When the right of private property defence includes the right to cause death.

1. Robbery;
2. House-breaking by night;
3. Mischief by fire committed on any building, tent or vessel, building, tent or vessel used as a human dwelling, or a place for the custody of property;

¹⁸*Dharmindar v. State of Himachal Pradesh, Appeal (crl.) 445 of 2001*

4. Theft, mischief, or house-trespass under such circumstances as to cause reasonable apprehension that death or grievous bodily harm will result if the right of private defence is not exercised .

Example :C attempts to stab D when he is breaking into D's residence and conducting burglary. D had a reasonable concern that C may inflict severe injury on him; therefore, in order for C to defend himself and his property, D was smothered with a knife while the knife was inserted into his chest, resulting in Death. C will not be held responsible for anything.

Case Law :In the case of *Mohinder Pal Jolly v. State*¹⁹, “the deceased worker and some of his coworkers were chanting slogans outside the company while demanding demands. In addition, they flung brickbats, causing damage to the owner's property. In retaliation, the owner fired two shots from outside his office, one of which struck and killed the already deceased employee. As a result of the court's determination that it was a case of mischief, the accused will be unable to invoke this portion of the law as a defence”.

Section 104: When such a right includes the ability to do injury other than death.

If the offence, the commission of which or the attempt to commit which gives rise to the right of private defence, is theft, mischief, or criminal trespass that is not listed in the section immediately preceding this one, then this right does not extend to the intentional inflicting of death. This power does extend, subject to the limitations outlined in section 99, to the willful infliction of any harm other than death on the perpetrator .

Example: If A has committed criminal trespass with the intent of aggravating B or causing him harm, B has the right to damage A in a like manner, so long as they do not cause death .

Case Law: In the case of *V.C. Cheriyan v. State*²⁰, “the three individuals who were killed constructed an unauthorized road through the private property of the church. At the time, they were under investigation for criminal behavior. These barricades were erected by the three accused church members who are also accused of blocking this road. The accused stabbed the

¹⁹*Mohinder Pal Jolly v. State, 1979 SCR (2) 805*

²⁰*V.C. Cheriyan v. State, 1982 CriLJ 2071*

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victim to death, and the Kerala High Court found that a person's right to a private defence does not extend to causing the death of another person”.

Section 105 : Establishment and continuation of right to private property defence.

- The right to defend one's own private property can be used if there is a valid fear that the property is being threatened.
- The right to protect one's private property against theft continues until the thief has escaped with the stolen property.
- As a third option, public authorities can be contacted for aid.
- There is also the potential that the lost property has been recovered.
- The right to defend one's private property against robbery exists so long as,
 - The criminal causes another person's death or bodily harm, or attempts to do so.
 - Alternatively, unjustifiable confinement
 - As long as the prospect of an unanticipated loss of life or property exists,
 - Pain that develops abruptly or
 - Personal restriction remains immediate.
- The right to a private property defence against criminal trespass or offence endures so long as the perpetrator is committing criminal trespass or harm.

The right to private property defence against midnight housebreaking remains in effect so long as the house-trespass that was initiated by midnight housebreaking continues .

Example: If a burglar immediately attempts to injure the homeowner with a knife, the homeowner has the legal right to act in self-defense and harm the intruder in order to preserve their life and property from the threat posed by the intruder.

Case Law: In the case of *Nga Pu Ke v. Emp*²¹, “it was stated that an unauthorised individual stole paddy sheaves from the defendant's property. As a result of a battle that broke out between the accused and the cartmen, the cartmen abandoned their sheaves and fled. The accused continued to pursue and assault the victim, resulting in his death. The judge judged him guilty of the offence for which he was accused”.

²¹*Emp.v. Noor Mohmed,A.I.R- 1928*

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Section 106: Private defence against homicidal violence when an innocent person is in danger.

“If someone generates the fear of death while exercising their right to private defence against an assault, and the defender has no other choice except to cause harm to an innocent person, the defender's right will be extended to encompass the risk he generated”.

Example: “A mob attacks C with the intent of putting an end to his existence. He cannot exercise his right to self-defense without starting fire on the throng. C did not breach any laws when he used his right to keep and bear arms since he was compelled to imperil innocent children in order to protect himself”.

Excusable Acts	Justifiable Acts
A mistake of Fact under section 76 and 79.	A Judge and Act executed in accordance with an order issued under Sections 77 and 78.
Accident under Section 80.	The necessity under Section 81.
Infancy – Section 82 and 83.	Consent under Section 87 – 89 and Section 90 and 92.
Insanity – Section 84	Communication under Section 93.
Intoxication –Section 85 and 86	Duress under Section 94.
	Trifles under Section 95.
	Private Defence under Section 96 – 106.

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CONCLUSION

Consequently, these are the general exceptions that the accused may invoke in order to avoid responsibility or escape the consequences of the offence he committed. It is conceivable, depending on the particulars of the case, to cause the death of a person or even hurt an innocent person. Given the democratic structure of our nation, it is only fair that the accused be allowed to offer their side of the story. Due to this, specific exceptions have been granted so that individuals may represent themselves in court.

When one studies the big picture and how things actually operate, it is evident that these potential defences will not have a significant impact on the criminal law judge's decision. Understanding criminal law requires knowledge of the concept of guilty mind. When determining whether an accused person has recourse to a particular defence or not, the court must consider the particular facts and circumstances of each individual case. Fundamental to determining whether or not a person is guilty is determining whether or not they possess the requisite elements of mens rea. These general IPC defences are heavily dependent on the particulars of the case at hand.

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