



OFFENCES AGAINST THE HUMAN BODY

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INTRODUCTION

- The term “Crime against the person” refers to a broad array of criminal offences which also particularly involves offences that are interrelated to bodily injury or harm. Under the Indian legal system, Indian Penal Code, 1860 is the criminal law of the nation that defines the variations and varieties of offences with their punishments as well. Specifically, under the Indian Penal Code, 1860, “Chapter XVI, Of Offences Affecting the Human Body” contains the offences including bodily injury or threat to life or harm.

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There are categorically many offences that are aggravated form the same offence under Chapter XVI, for instance, hurt and grievous hurt, etc. Some of the major primary offences are:

- Culpable Homicide
- Murder
- Death by Negligence
- Dowry death
- Hurt
- Grievous Hurt
- Wrongful restraint and confinement
- Assault
- Kidnapping and abduction
- Sexual offences

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OFFENCES AFFECTING LIFE

- Criminal acts that consist of serious injury and are of the tendency that if such injury is caused to a person, it might affect the life of that particular person and such offences are the most dreadful and inhumane in nature.

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CULPABLE HOMICIDE – 299

Culpable Homicide – Sec. 299 of IPC defines culpable homicide. In simple terms, it is an offence of causing death, with intention or knowledge of such act of his that it may positively cause death.

Ingredients of Culpable Homicide;

- a. Death of the person, whether by an act of the offender or any expression of his.
- b. Presence of Mens Rea, or the intention to commit the crime
- c. Knowledge of the fact that by causing such bodily injury, it will result in the cause of death.

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CASE LAW: *PALANI GOUNDAN V. EMPEROR*

In *Palani Goundan v. Emperor*, it was held that “Death caused without requisite intention or knowledge is not culpable homicide. In the absence of intention or knowledge, the offence committed may be hurt or grievous hurt”.



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EXAMPLE 1

A lays sticks and turf over a pit, with the intention of thereby causing death, or with the knowledge that death is likely to be thereby caused. Z, believing the ground to be firm, treads on it, falls in and is killed. A has committed the offence of culpable homicide.

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EXAMPLE 2

A knows Z to be behind a bush. B does not know it. A, intending to cause, or knowing it to be likely to cause Z's death, induces B to fire at the bush. B fires and kills Z. Here B may be guilty of no offence; but A has committed the offence of culpable homicide.

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EXAMPLE 3

A, by shooting at a fowl with intent to kill and steal it, kills B, who is behind a bush; A not knowing that he was there. Here, although A was doing an unlawful act, he was not guilty of culpable homicide, as he did not intend to kill B, or to cause death by doing an act that he knew was likely to cause death.

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MURDER - 300

Murder – Sec. 300 of IPC defines murder. In brief, it means, “All murders are culpable homicide but not vice-versa”. In simple terms, a man is said to commit murder when his act to cause death is aided with the intention to kill or with the knowledge that causing such bodily injury is likely sufficient in ordinary prudence to cause death.

Ingredients of Murder:

- a. Absolute presence of *Mens Rea*
- b. Intention to cause such bodily injury, which may turn out in causing death
- c. Committing such an act, with the knowledge (ordinary prudence) that such an act is of the nature that it must, in every possibility, likely to cause death.
- d. Most importantly, the absence of a lawful excuse.

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CULPABLE HOMICIDE AMOUNTING TO MURDER

Murder (When Culpable Homicide amounts to Murder) Murder is a type of Culpable Homicide where culpability of the accused is quite more than in a mere Culpable Homicide. Section 300, says that Culpable Homicide is Murder if the act by which the death is caused is done

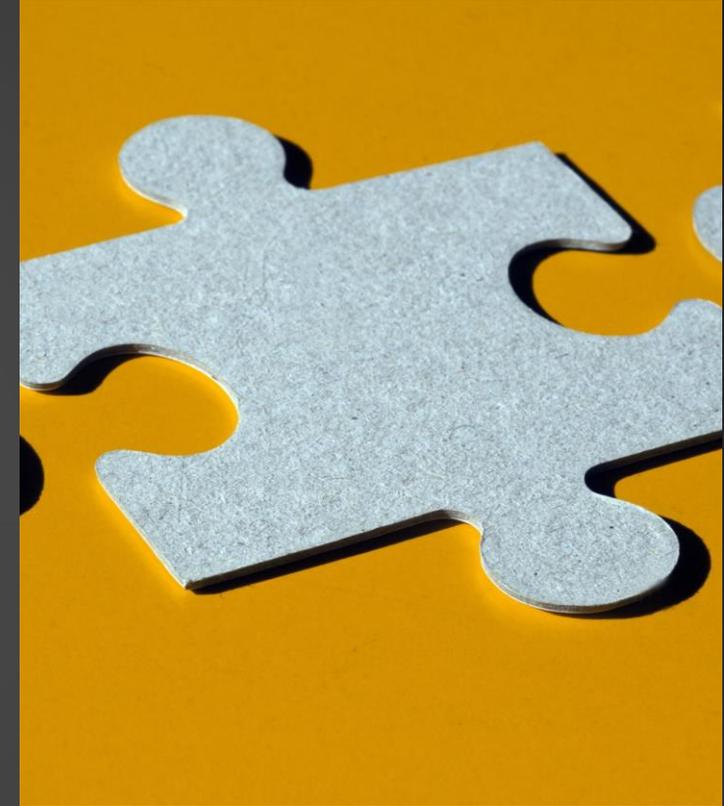
- 1. with the **intention** of causing death
- 2. or with an intention of causing such bodily injury as the **offender knows** to be likely to cause the death of the person,
- 3. or with an intention of causing such bodily injury as is **sufficient in ordinary course of nature** to cause death.
- 4. It is also Murder if the person committing the act knows that the **act is so dangerous** that it will cause death or such injury as is likely to cause death in all probability and he has no valid reason for doing that ACT.

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EXAMPLE 4

A SHOTS Z WITH THE INTENTION OF
KILLING HIM. Z DIES IN CONSEQUENCE. A
COMMITTS MURDER.



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EXAMPLE 5

A, knowing that Z is labouring under such a disease that a blow is likely to cause his death, strikes him with the intention of causing bodily injury. Z dies in consequence of the blow. A is guilty of murder, although the blow might not have been sufficient in the ordinary course of nature to cause the death of a person in a sound state of health. But if A, not knowing that Z is labouring under any disease, gives him such a blow as would not in the ordinary course of nature kill a person in a sound state of health, here A, although he may intend to cause bodily injury, is not guilty of murder, if he did not intend to cause death, or such bodily injury as in the ordinary course of nature would cause death.

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EXAMPLE 6

A intentionally gives Z a sword-cut or club-wound sufficient to cause the death of a man in the ordinary course of nature. Z dies in consequence. Here A is guilty of murder, although he may not have intended to cause Z's death.

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EXAMPLE 7

A without any excuse fires a loaded cannon into a crowd of persons and kills one of them. A is guilty of murder, although he may not have had a premeditated design to kill any particular individual.

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CULPABLE HOMICIDE NOT AMOUNTING TO MURDER

1. Grave and Sudden Provocation

2. Right of private defense exceeds power

3. Public servant exceeds power

4. Sudden fight in heat of passion

5. Own Consent by someone above 18 yrs
of age

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Exception 1

Culpable homicide is not murder if the offender, whilst deprived of the power of self-control by **grave and sudden provocation**, causes the death of the person who gave the provocation or causes the death of any other person by mistake or accident.

Essentials:

- First.—That the provocation is not sought or voluntarily provoked by the offender as an excuse for killing or doing harm to any person.
- Secondly.—That the provocation is not given by anything done in obedience to the law, or by a public servant in the lawful exercise of the powers of such public servant.
- Thirdly.—That the provocation is not given by anything done in the lawful exercise of the right of private defence.

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EXAMPLE 8

A, under the influence of passion excited by a provocation given by Z, intentionally kills Y, Z's child. This is murder, inasmuch as the provocation was not given by the child, and the death of the child was not caused by accident or misfortune in doing an act caused by the provocation.

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EXAMPLE 9

Y gives grave and sudden provocation to A. A, on this provocation, fires a pistol at Y, neither intending nor knowing himself to be likely to kill Z, who is near him, but out of sight. A kills Z. Here A has not committed murder, but merely culpable homicide.

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EXAMPLE 10

Y gives grave and sudden provocation to A. A, on this provocation, fires a pistol at Y, neither intending nor knowing himself to be likely to kill Z, who is near him, but out of sight. A kills Z. Here A has not committed murder, but merely culpable homicide.

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EXAMPLE 11

A appears as a witness before Z, a Magistrate. Z says that he does not believe a word of A's deposition, and that A has perjured himself. A is moved to sudden passion by these words, and kills Z. This is murder.

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EXAMPLE 12

A attempts to pull Z's nose. Z, in the exercise of the right of private defence, lays hold of A to prevent him from doing so. A is moved to sudden and violent passion in consequence, and kills Z. This is murder, inasmuch as the provocation was giving by a thing done in the exercise of the right of private defence.

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EXAMPLE 13

Z strikes B. B is by this provocation excited to violent rage. A, a bystander, intending to take advantage of B's rage, and to cause him to kill Z, puts a knife into B's hand for that purpose. B kills Z with the knife. Here B may have committed only culpable homicide, but A is guilty of murder

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Exception 2

- Culpable homicide is not murder if the offender in the exercise in good faith of the **right of private defence of person or property, exceeds the power** given to him by law and causes the death of the person against whom he is exercising such right of defence without premeditation, and without any intention of doing more harm than is necessary for the purpose of such defence.

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EXAMPLE 14

Z attempts to horsewhip A, not in such a manner as to cause grievous hurt to A. A draws out a pistol. Z persists in the assault. A believing in good faith that he can by no other means prevent himself from being horsewhipped, shoots Z dead. A has not committed murder, but only culpable homicide.

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Exception 3

Culpable homicide is not murder if the offender, being a **public servant** or aiding a public servant acting for the advancement of public justice, **exceeds the powers** given to him by law, and causes death by doing an act which he, in good faith, believes to be lawful and necessary for the due discharge of his duty as such public servant and without ill-will towards the person whose death is caused.

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Exception 4

Culpable homicide is not murder if it is committed without premeditation in a **sudden fight in the heat of passion** upon a sudden quarrel and without the offender's having taken undue advantage or acted in a cruel or unusual manner.

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Exception 5

Culpable homicide is not murder when the person whose death is caused, being **above the age of eighteen years**, suffers death or takes the risk of death with his **own consent**.

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EXAMPLE 15

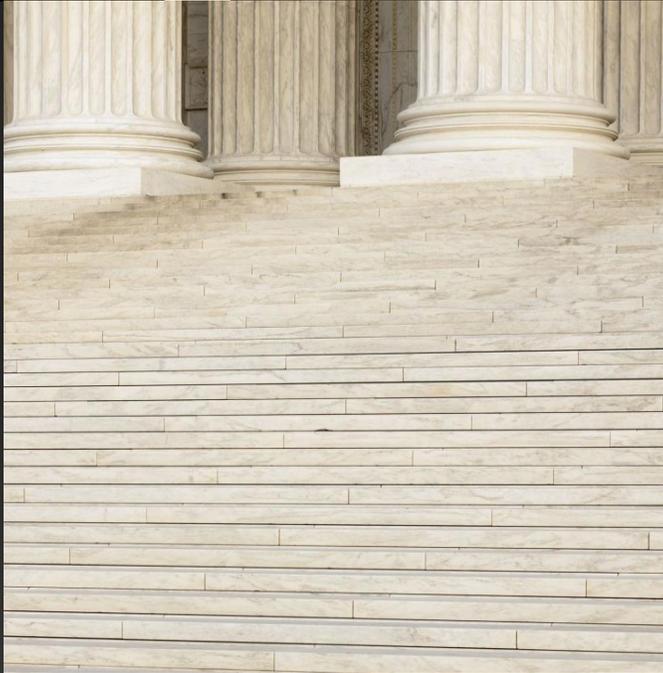
A, by instigation, voluntarily causes Z, a person under eighteen years of age to commit suicide. Here, on account of Z's youth, he was incapable of giving consent to his own death; A has therefore abetted murder.

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CASE LAW: *EMPEROR V. DHIRAJIA*

- In *Emperor v. Dhirajia*, it was concluded that “An act done with the knowledge of its consequences is not prima facie murder. It becomes murder only if it can be positively affirmed that there was no excuse”.



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- 301. **Culpable homicide by causing death of person other than person whose death was intended.**—If a person, by doing anything which he intends or knows to be likely to cause death, commits culpable homicide by causing the death of any person, whose death he neither intends nor knows himself to be likely to cause, the culpable homicide committed by the offender is of the description of which it would have been if he had caused the death of the person whose death he intended or knew himself to be likely to cause.
- 302. **Punishment for murder.**—Whoever commits murder shall be punished with death or imprisonment for life, and shall also be liable to fine.
- 303. **Punishment for murder by life-convict.**—Whoever, being under sentence of imprisonment for life, commits murder, shall be punished with death. **(unconstitutional – Mithu Sen vs State of Punjab)**
- 304. **Punishment for culpable homicide not amounting to murder.** – imprisonment for life or extend upto 10 years and fine

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DEATH BY NEGLIGENCE – 304A

- Death by Negligence – Sec. 304A of IPC, inserted by 27th Act of 1980 in the penal code, defines causing death by negligence as “Whoever causes the death of any person by doing any rash or negligent act not amounting to culpable homicide, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both”.

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CASE: *MUNILE SAO V. STATE OF BIHAR*



- In *Munile Sao v. State of Bihar*, it was held that in order to impose criminal liability on the offender under sec. 304A, it must be proved and found that the incident occurred mainly due to the rashness or negligence or else the act will be of culpable homicide, not amounting to murder.

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DOWRY DEATH – 304B

304B. - Where the death of a woman is caused by any burns or bodily injury or occurs otherwise than under normal circumstances within seven years of her marriage and it is shown that soon before her death she was subjected to cruelty or harassment by her husband or any relative of her husband for, or in connection with, any demand for dowry, such death shall be called "dowry death", and such husband or relative shall be deemed to have caused her death.

To invoke Section 304B of the Indian Penal Code the following ingredients are essential:

- The death of a woman should be caused by burns or bodily injury or otherwise than under normal circumstances.
- Such a death should have occurred within seven years of her marriage.
- She must have been subjected to cruelty or harassment by her husband or any relative of her husband.
- Such cruelty or harassment should be for or in connection with the demand of dowry.
- Such cruelty or harassment is shown to have been meted out to the woman soon before her death.

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DOWRY DEATH – 304B

- Section 304-B IPC read with 113-B of the Evidence Act indicates the rule of presumption of dowry death.
- If an unnatural death of a married woman occurs within 7 years of marriage in suspicious circumstances, like due to burns or any other bodily injury and there is cruelty or harassment by her husband or relatives for or in connection with any demand for dowry soon before her death then it shall be dowry death.
- In the case of **State of Punjab v. Iqbal Singh**, the Supreme Court clarified the position as to why the necessity to introduce Section 113-B in the Indian Evidence Act was felt

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- **305. Abetment of suicide of child or insane person.**—If any person under eighteen years of age, any insane person, any delirious person, any idiot, or any person in a state of intoxication, commits suicide, whoever abets the commission of such suicide, shall be punished with death or imprisonment for life, or imprisonment for a term not exceeding ten years, and shall also be liable to fine.
- **306. Abetment of suicide.**—If any person commits suicide, whoever abets the commission of such suicide, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine

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- 307 – Attempt to Murder
- 308 – Attempt to Culpable Homicide
- 309 – Attempt to Suicide – **Simple imprisonment upto 1 year or fine or both**
- 310 – Thug
- 311 – Punishment of Thug - **Life Imprisonment**

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307 – ATTEMPT TO MURDER



- (a) A shoots at Z with intention to kill him, under such circumstances that, if death ensued A would be guilty of murder. A is liable to punishment under this section.
- (b) A, with the intention of causing the death of a child of tender years, exposes it in a desert place A has committed the offence defined by this section, though the death of the child does not ensue.
- (c) A, intending to murder Z, buys a gun and loads it. A has not yet committed the offence. A fires the gun at Z. He has committed the offence defined in this section, and, if by such firing he wounds Z, he is liable to the punishment provided by the latter part of 3 [the first paragraph of] this section.
- (d) A, intending to murder Z by poison, purchases poison and mixes the same with food which remains in A's keeping; A has not yet committed the offence defined in this section. A places the food on Z's table or delivers it to Z's servants to place it on Z's table. A has committed the offence defined in this section.

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308 - ATTEMPT TO COMMIT CULPABLE HOMICIDE.

A, on grave and sudden provocation, fires a pistol at Z, under such circumstances that if he there by caused death he would be guilty of culpable homicide not amounting to murder. A has committed the offence defined in this section.

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ATTEMPT TO SUICIDE - 309

- Whoever attempts to commit suicide and does any act towards the commission of such offence shall be punished with simple imprisonment for a term which may extend to one year or with fine, or with both.
- Article 21 of the Constitution of India enjoins that no person shall be deprived of his life or personal liberty except according to procedure established by law.

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CASES

The Supreme Court in **P. Rathinam v. Union of India** held that the right to live of which Article 21 speaks of can be said to bring in its trail the right not to live a forced life, and therefore, section 309 violates Article 21.

The decision was, however, subsequently overruled in **Gian Kaur v. State of Punjab** by a Constitution Bench of the Supreme Court, holding that Article 21 cannot be construed to include within it the 'right to die' as a part of the fundamental right guaranteed therein, and therefore, it cannot be said that section 309 is violative of Article 21.

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OFFENCES CAUSING MISCARRIAGE

- 312. Causing miscarriage
- 313. Causing miscarriage without woman's consent.
- 314. Death caused by act done with intent to cause miscarriage.
 - if act done without woman's consent.
- 315. Act done with intent to prevent child being born alive or to cause it to die after birth.
- 316. Causing death of quick unborn child by act amounting to culpable homicide.
- 317. Exposure and abandonment of child under **twelve years**, by parent or person having care of it.
- 318. Concealment of birth by secret disposal of dead body. – 2year

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OFFENCES RELATED TO VARIOUS KINDS OF HURT

- The third part, “Of Hurt” in chapter XVI deals with the physical harm or hurt against an individual and also the aggravated forms of hurt.

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HURT

- 319. Hurt.
- 320. Grievous hurt.
- 321. Voluntarily causing hurt.
- 322. Voluntarily causing grievous hurt.
- 323. Punishment for voluntarily causing hurt.
- 324. Voluntarily causing hurt by dangerous weapons or means.
- 325. Punishment for voluntarily causing grievous hurt.
- 326. Voluntarily causing grievous hurt by dangerous weapons or means.
- 326A. Voluntarily causing grievous hurt by use of acid, etc.
- 326B. Voluntarily throwing or attempting to throw acid.
- 327. Voluntarily causing hurt to extort property, or to constrain to an illegal act.

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HURT



- 328. Causing hurt by means of poison, etc., with intent to commit an offence.
- 329. Voluntarily causing grievous hurt to extort property, or to constrain to an illegal act.
- 330. Voluntarily causing hurt to extort confession, or to compel restoration of property.
- 331. Voluntarily causing grievous hurt to extort confession, or to compel restoration of property.
- 332. Voluntarily causing hurt to deter public servant from his duty.
- 333. Voluntarily causing grievous hurt to deter public servant from his duty.
- 334. Voluntarily causing hurt on provocation.
- 335. Voluntarily causing grievous hurt on provocation.
- 336. Act endangering life or personal safety of others.
- 337. Causing hurt by act endangering life or personal safety of others.
- 338. Causing grievous hurt by act endangering life or personal safety of others.

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HURT - 319

Hurt – Sec. 319 of IPC defines ‘Hurt’ as “Whoever caused bodily pain, disease or infirmity to any person is said to cause hurt”. Which means the hurt should be of such nature which if inflicted, is likely to cause pain in the body, some sort of disease or infirmity of any organ of the body as it means non-functioning of a body organ.

The offence of causing hurt is non-cognizable, bailable. The punishment is imprisonment for one year or a fine of thousand rupees or both.

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GRIEVOUS HURT - 320

- **Grievous Hurt – Sec. 320 of IPC defines grievous hurt and has categorized several kinds of hurts that may be designated as ‘grievous’.**
- **An injury may be called grievous only if it endangers life.**
- **A simple injury cannot be called grievous because it happens to be caused on a vital part of the body unless the nature and dimensions of the injury or its effect are such that in the opinion of a medical expert, it actually endangers the life of the victim.**
- **Hurt or grievous hurt to be punishable must be caused voluntarily, as defined in Sec. 321 and 322 of IPC.**

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GRIEVOUS HURT - 320

First.—Emasculation.

Secondly.—Permanent privation of the sight of either eye.

Thirdly.—Permanent privation of the hearing of either ear.

Fourthly.—Privation of any member or joint.

Fifthly.—Destruction or permanent impairing of the powers of any member or joint.

Sixthly.—Permanent disfiguration of the head or face.

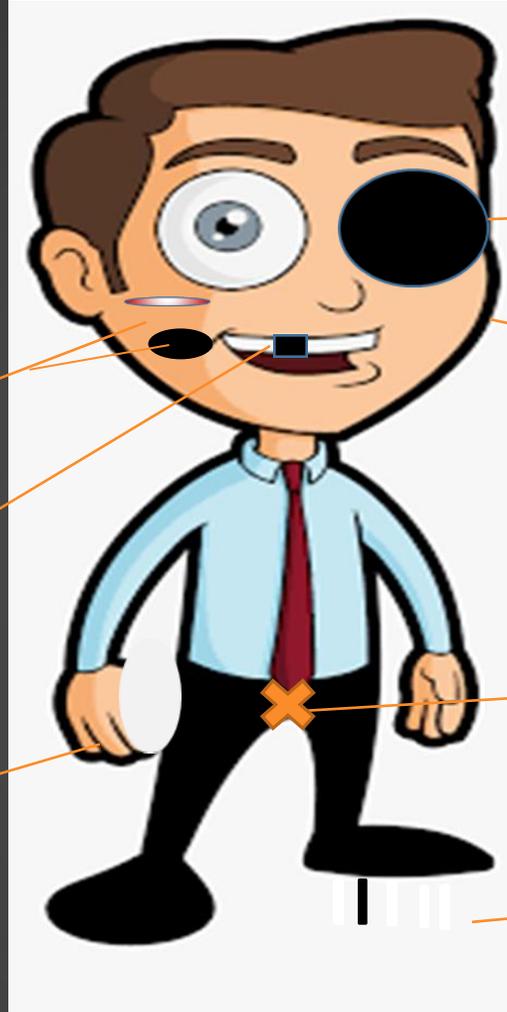
Seventhly.—Fracture or dislocation of a bone or tooth.

Eighthly.—Any hurt which endangers life or which causes the sufferer to be during the space of twenty days in severe bodily pain, or unable to follow his ordinary pursuits

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320 – Grievous Hurt



Sight

Hearing

Emasculation

**Destruction or permanent
impairing of the powers of
any member or joint of the
body**

**8th – Severe bodily pain for 20
days**

**Permanent
disfigurement of
Head/Face**

Fracture/Dislocation of bone/teeth

**Privation of any
joint**

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**CASE:
RAMBARAN
MAHTON V
THE STATE
OF BIHAR**

- In ***Rambaran Mahton v The State of Bihar***, the high court held some ingredients of 'Grievous hurt' as;
 - a. The hurt caused must not be simple but malicious in nature and of ill-will.
 - b. The offender intended, or knew himself, to be likely to cause grievous hurt. In other words, intention to cause such injury or hurt must be present, i.e. *Mens Rea*.

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WRONGFUL RESTRAINT AND CONFINEMENT

- 339. Wrongful restraint.
- 340. Wrongful confinement.
- 341. Punishment for wrongful restraint.
- 342. Punishment for wrongful confinement.
- 343. Wrongful confinement for three or more days.
- 344. Wrongful confinement for ten or more days.
- 345. Wrongful confinement of person for whose liberation **writ** has been issued.
- 346. Wrongful confinement in secret.
- 347. Wrongful confinement to extort property, or constrain to illegal act.
- 348. Wrongful confinement to extort confession, or compel restoration of property.

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	Hurt	Grievous Hurt
Definition	319	320
Voluntarily causing	321	322
Punishment for voluntarily causing	323	325
Voluntarily causing + to use dangerous weapon/means	324	326
Voluntarily causing + to extort property, or to constrain to an illegal act	327	329
Voluntarily causing + to extort confession, or to compel restoration of property	330	331
Voluntarily causing + to deter public servant from his duty	332	333
Voluntarily causing + on provocation	334	335
Causing + by act endangering life or personal safety of others	337	338



	Hurt	Grievous Hurt
Definition	319	320
Voluntarily causing	321	322
Punishment for voluntarily causing	323 (1y/1000/Ы)	325 (7y + fine)
VC + to use dangerous weapon/means	324 (3y/fine/Ы)	326 (10y/LI + fine)
VC + to extort property, or to constrain to an illegal act	327 (10y + fine)	329 (10y/LI + fine)
VC + to extort confession, or to compel restoration of property	330 (7y + fine)	331 (10y + fine)
VC + to deter public servant from his duty	332 (3y/fine/Ы)	333 (10y + fine)
VC + on provocation	334 (1M/500/Ы)	335 (4y/2000/Ы)
C + by act endangering life or personal safety of others	337 (6M/500/Ы)	338 (2y/1000/Ы)

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- **326A. Voluntarily causing grievous hurt by use of acid, etc.** - (10y/LI + fine)
- **326B. Voluntarily throwing or attempting to throw acid.** (5y-7y + fine)
- **Case: Laxmi vs UOI** (guidelines, compensation, reservations, etc.)

- **328. Causing hurt by means of poison, etc., with intent to commit an offence.** (10y + fine)

- **336. Act endangering life or personal safety of others.** (3M/200/₹)

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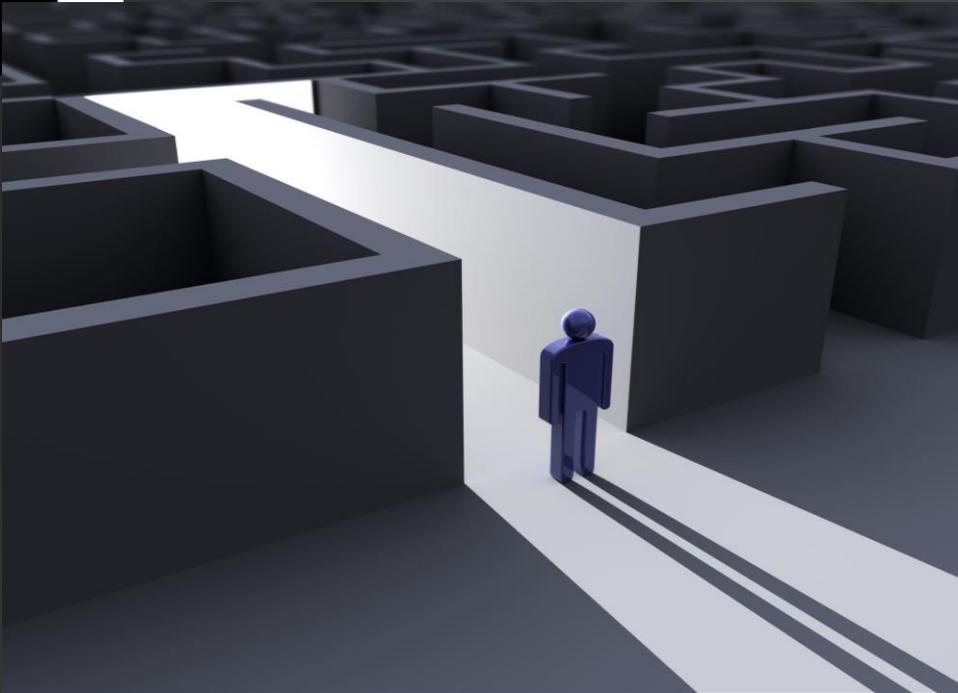
OFFENCES AGAINST WRONGFUL RESTRAINT AND CONFINEMENT

- The part deals with the offences related to the infringement of persons' privacy, rights as restrained illegally without any lawful justification. Such offences usually occur in instances of custodial arrest, illegal detention, etc.

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WRONGFUL RESTRAINT - 339



- **Wrongful Restraint – Sec. 339 of Indian Penal Code defines the offence as “Whoever voluntarily obstructs any person so as to prevent that person from proceeding in any direction in which that person has a right to proceed, is said wrongfully to restrain that person”. The only exception is obstruction from entering a private territory which is imposed in good faith, will not amount to restraint or confinement.**

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CASE: *MADALA PERAYYA VS. VARUGUNTI CHENDRAYYA*



- In *Madala Perayya vs. Varugunti Chendrayya*, the complainant and defendant owned a well from which they both extracted water for agricultural purposes in their own fields. After some time, the accused restrained the complainant from extracting the water and claimed the ownership of the well. The Madras High Court held that “since the well is owned by both the parties and the accused had made a false claim of ownership on it, he has committed the offence of wrongful restraint under sec. 339 of IPC

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WRONGFUL CONFINEMENT – SEC. 340

- **Wrongful Confinement – Sec. 340 of IPC defines the crime of wrongful confinement as “Whoever wrongfully restrains any person in such a manner as to prevent that person from proceeding beyond certain circumscribing limits, is said “wrongfully to confine” that person”.**

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CASE: STATE VS. BALAKRISHNAN

- In *State vs. Balakrishnan*, the victim was detained in the police station. The accused claimed that complainant was free and at liberty to leave the premises. The court held that authority of a police officer prevails in the police station and if he acts in a rude and tyrant manner, he just committed the offence under sec. 340 of IPC.

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PUNISHMENT – WRONGFUL RESTRAINT AND WRONGFUL CONFINEMENT

- The punishments pertaining to wrongful restraint and confinement are prescribed in Sections 341 and 342 of the Indian Penal Code, 1860. Both the offences are bailable and non-cognizable offences.

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Wrongful restraint	Wrongful confinement
1. The obstruction is, to prevent a person from proceeding in the direction he desires	The person is confined and is prevented from moving in all directions beyond a defined limit.
2. The obstruction is in one direction (e.g. as above)	The obstruction is all around
3. Genus	Species
4. Partial Suspension of One's Liberty	Total or Absolute restraint
5. Not very serious offence	Very Serious Offence
Punishment is one month or Rs. 500 or both.	Punishment depends on how many days of confinement etc. as .Sns. 342 to 348. Mostly (1y extend upto 3 y/1000/Ы)

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CRIMINAL FORCE AND ASSAULT



- **349. Force.**
- **350. Criminal force.**
- **351. Assault.**
- 352. Punishment for assault or criminal force otherwise than on grave provocation.
- 353. Assault or criminal force to deter public servant from discharge of his duty.
- **354. Assault of criminal force to woman with intent to outrage her modesty.**
 - **354A. Sexual harassment and punishment for sexual harassment.**
 - **354B. Assault or use of criminal force to woman with intent to **disrobe**.**
 - **354C. Voyeurism.**
 - **354D. Stalking.**
- 355. Assault or criminal force with intent to **dishonour person**, otherwise than on grave provocation.
- 356. Assault or criminal force in attempt to **commit theft** of property carried by a person.
- 357. Assault or criminal force in **attempt wrongfully to confine a person.**
- **358. Assault or criminal force on grave provocation**

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OFFENCES OF CRIMINAL FORCE

- In most states, an assault is committed when one person, at first tries to or does physically strike another, or secondly, acts in a threatening manner to put another in fear of immediate harm.
- Many states have a separate category for “aggravated” assault/battery when severe injury or the use of a deadly weapon are involved.
- Assaults and batteries can also be pursued via civil lawsuits which mainly focuses upon the compensation for the damage or injury suffered rather than imprisonment.

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ASSAULT - 351

- Section 351 of Indian Penal Code, 1860 defines Assault as “Whoever makes any gesture, or any preparation intending or knowing it to be likely that such gesture or preparation will cause any person present to apprehend that he who makes that gesture or preparation is about to use criminal force to that person, is said to commit as assault”. T
- he act of assault in every sense requires an overt act that may put any person with due diligence in fear for his safety. Mere words or verbal conversation shall not amount to assault unless aided with such acts or expression that would create fear in the mind of another person.

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CASE: *STEPHENS V. MYERS*

- In ***Stephens v. Myers***, both plaintiff and defendant were sitting in a meeting at the same table and a discussion was going on, however, after some time it took a serious turn and the defendant held the chairman's (plaintiff) hand and clamped his fist saying he will pull the chairman and throw him out. The matter was heard before the court, and the court held the defendant guilty of committing assault.

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KIDNAPPING AND ABDUCTION



- 359. Kidnapping.
- 360. Kidnapping from India.
- 361. Kidnapping from lawful guardianship.
- 362. Abduction.
- 363. Punishment for kidnapping.
 - **363A. Kidnapping or maiming a minor for purposes of begging.**
- 364. Kidnapping or abducting in order to murder.
 - **364A. Kidnapping for ransom**, etc.
- 365. Kidnapping or abducting with intent secretly and wrongfully to confine person.
- 366. Kidnapping, abducting or inducing woman to compel her marriage, etc.
 - 366A. Procuration of minor girl.
 - 366B. Importation of girl from foreign country.

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KIDNAPPING AND ABDUCTION



- 367. Kidnapping or abducting in order to subject person to grievous hurt, slavery, etc.
- 368. Wrongfully concealing or keeping in confinement, kidnapped or abducted person.
- 369. Kidnapping or abducting child under ten years with intent to steal from its person.
- 370. Trafficking of person.
 - 370A. Exploitation of a trafficked person.
- 371. Habitual dealing in slaves.
- 372. Selling minor for purposes of prostitution, etc.
- 373. Buying minor for purposes of prostitution, etc.
- 374. Unlawful compulsory labour.

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KIDNAPPING

- **359. Kidnapping.**—Kidnapping is of two kinds: kidnapping from 1 [India], and kidnapping from lawful guardianship.
- **360. Kidnapping from India.**—Whoever conveys any person beyond the limits of India without the consent of that person, or of some person legally authorised to consent on behalf of that person, is said to kidnap that person from India.
- **361. Kidnapping from lawful guardianship.**—Whoever takes or entices any minor under sixteen years of age if a male, or under eighteen years of age if a female, or any person of unsound mind, out of the keeping of the lawful guardian of such minor or person of unsound mind, without the consent of such guardian, is said to kidnap such minor or person from lawful guardianship.

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ABDUCTION

- **362. Abduction.**—Whoever by force compels, or by any deceitful means induces, any person to go from any place, is said to abduct that person.
- **363. Punishment for kidnapping.**—Whoever kidnaps any person from India or from lawful guardianship, shall be punished with imprisonment of either description for a term which may extend to **seven years**, and shall also be liable to fine.

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CASE: VARADRAJAN V/S STATE OF MADRAS

- Held: Taking or enticing a minor is entirely different from permitting a minor to accompany a person. The two expressions are not synonymous. In taking or enticing external influence or inducement is necessary

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SEXUAL OFFENCES – 375, 376

- In this part, the major offence is rape which, in simple terms, may be defined as ‘non-consensual intercourse with a person either by threatening or force or manipulation’. One of such crimes is the crime of rape.
- The crime of rape is considered a serious offence against the human body, especially against females. The victims of rape suffer through a lot of psychological torture or illness and may result in suicidal tendencies. Rape has been defined under section 375 of Indian Penal Code, 1860.

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**CASE: STATE
OF
MAHARASHTRA
V. MADHUKAR
NARAIN**

- *In State of Maharashtra v. Madhukar Narain, Hon'ble Mr Justice Krishna Iyer said that "A murderer kills the body but a rapist kills the soul."*

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- 375. Rape.
- 376. Punishment for rape.
 - 376A. Punishment for causing death or resulting in persistent vegetative state of victim.
 - 376AB. Punishment for rape on woman under twelve years of age.
 - 376B. Sexual intercourse by husband upon his wife during separation.
 - 376C. Sexual intercourse by a person in authority.
 - 376D. Gang rape.
 - 376DA. Punishment for gang rape on woman under sixteen years of age.
 - 376DB. Punishment for gang rape on woman under twelve years of age.
 - 376E. Punishment for repeat offenders.

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375. RAPE



- A man is said to commit “rape” if he—
 - (a) penetrates his **penis**, to any extent, into the vagina, mouth, urethra or anus of a woman or makes her to do so with him or any other person; or
 - (b) inserts, to any extent, any **object or a part of the body**, not being the penis, into the vagina, the urethra or anus of a woman or makes her to do so with him or any other person; or
 - (c) **manipulates any part of the body** of a woman so as to cause penetration into the vagina, urethra, anus or any part of body of such woman or makes her to do so with him or any other person; or
 - (d) **applies his mouth** to the vagina, anus, urethra of a woman or makes her to do so with him or any other person,

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SEVEN CIRCUMSTANCES

- First.—**Against her will.**
- Secondly.—**Without her consent.**
- Thirdly.—With her consent, when her consent has been obtained by putting her or any person in whom she is interested, in **fear** of death or of hurt.
- Fourthly.—With her consent, when the man knows that he is not her husband and that her consent is given because she believes that he is another man to whom she is or believes herself to be lawfully married. (**deceive**)
- Fifthly.—With her consent when, at the time of giving such consent, by reason of **unsoundness of mind or intoxication** or the administration by him personally or through another of any stupefying or unwholesome substance, she is unable to understand the nature and consequences of that to which she gives consent.
- Sixthly.—With or without her consent, when she is under **eighteen years of age.**
- Seventhly.—When she is **unable to communicate consent.**

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UNNATURAL OFFENCES - 377

- 377. Unnatural offences.—Whoever voluntarily has carnal intercourse against the order of nature with any man, woman or animal, shall be punished with 2 [imprisonment for life], or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

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