

NOTES

General Exceptions Under Criminal Law: Part 2, The Justifiable Defences

Shruti chauhan · 31 Aug 2026

In [Part 1](#) of General exceptions under criminal law we covered the excusable defences under the Bharatiya Nyaya Sanhita, 2023, situations where a person is excused because they genuinely lacked criminal intent, such as infancy, insanity, and accident.

This part covers the justifiable defences. Here, the act is often intentional, but the surrounding circumstances make the law treat it as acceptable rather than criminal. This includes consent based defences, acts done for someone's benefit, compulsion, trivial harm, and the right of private defence.

Section 25: Consent Where Death or Grievous Hurt Is Not Intended

Section 25 protects a person who causes harm through an act that was not intended, and not known to be likely, to cause death or grievous hurt, where the person harmed had genuinely consented to face that risk.

Illustration: Two friends agree to a friendly wrestling match. If one is accidentally injured during ordinary play, without any foul intention, the other does not commit an offence, since both had accepted the ordinary risks involved.

This exact scenario arose in a well known wrestling injury case, where courts held that implied consent between participants in a lawful sport removes criminal liability for injuries occurring without malice.

Section 26: Act Done in Good Faith for a Person's Benefit, With Consent

Section 26 goes a step further and protects acts that could cause death, provided the act was done in good faith, for the benefit of the person, and with their consent.

Illustration: A surgeon performs a risky but necessary operation on a patient who has given informed consent, knowing there is some risk of death. If the surgeon acted in good faith and with due skill, this section protects them even if the patient unfortunately dies.

Section 27: Act for the Benefit of a Child or a Person of Unsound Mind

Since children and persons of unsound mind cannot give valid consent themselves, Section 27 allows a guardian or authorised person to give consent on their behalf, for acts done in good faith for that person's benefit.

Illustration: A parent authorises a doctor to perform a necessary surgery on their unconscious child. If done in good faith for the child's benefit, this falls within Section 27, even without the child's own consent.

Section 28: When Consent Is Not Real Consent

Section 28 clarifies that not everything that looks like consent counts as valid consent under law. Consent obtained under fear of injury, or under a misconception of fact known to the other party, is not real consent.

Consent given by a person who, due to unsoundness of mind or intoxication, cannot understand the nature of what they are consenting to, is also not valid. The same applies to consent given by a child under twelve years of age, unless the context suggests otherwise.

Illustration: If a person tricks someone into consenting to a medical procedure by falsely claiming it is harmless, when it is actually dangerous, this is not genuine consent under Section 28.

Section 29: Limits on the Consent Exceptions

Section 29 places an important boundary around Sections 25, 26, and 27. These consent based exceptions do not apply to acts that are offences independently of the harm caused to the consenting person.

This means consent cannot be used as a shield for acts that are inherently criminal regardless of who agrees to them.

Section 30: Act Done in Good Faith for a Person's Benefit, Without Consent

Sometimes a person cannot give consent at all, and there is no time to obtain it. Section 30 allows a person to act in good faith for another's benefit, even without their consent, typically in emergencies.

Illustration: A doctor performs emergency surgery on an unconscious accident victim to save their life, without being able to obtain consent in time. This act is protected under Section 30, since it was done in good faith and for the patient's benefit.

Section 31: Communication Made in Good Faith

Section 31 protects a person who makes a communication in good faith for the benefit of another, even if that communication causes harm, such as emotional distress.

Illustration: A doctor honestly informs a patient that they have a serious illness, causing the patient significant shock and distress. Since the communication was made in good faith and for the patient's benefit, it is protected under this section.

Section 32: Act Done Under Compulsion by Threats

Section 32 recognises that a person may commit certain acts because they were compelled by threats that placed them in reasonable fear of instant death. This defence, however, does not extend to serious offences such as murder or offences against the state punishable with death.

Illustration: A person is forced at gunpoint to unlock a door for robbers, genuinely fearing he will be killed if he refuses. This act may fall within Section 32, though the same protection would not apply if he were compelled to actually kill someone.

Section 33: Act Causing Slight Harm

Section 33 exists to keep criminal law practical. It protects acts that cause harm so slight that no person of ordinary sense and temper would complain of it.

Illustration: Someone accidentally brushes against another person in a crowded market, causing minor and momentary discomfort. This trivial contact is not treated as a criminal offence.

Sections 34 to 44: The Right of Private Defence

The final and most detailed set of provisions in this chapter deals with private defence, covered under Sections 34 to 44. This right allows a person to protect their own body or property, or that of another, against an ongoing unlawful attack.

The law draws a careful line here. Defence of the body can extend to causing death only in specific grave situations, such as assaults causing a reasonable apprehension of death or grievous hurt. Defence of property permits causing death only in limited situations like robbery or house breaking at night.

We have covered this right in complete detail, including all its sections, illustrations, and landmark cases like *Darshan Singh v State of Punjab*, in our dedicated article on private defence under criminal law. We recommend reading that alongside this series for a complete picture.

How These Justifiable Defences Differ From Part 1

The defences in this part share a common feature. Unlike the excusable defences we saw in Part 1, the person here often knows exactly what they are doing.

What changes the legal outcome is the reasonableness and good faith behind the act, whether it is a surgeon operating with consent, a person forced to act under threat, or someone defending their

own life.

A Simple Way to Remember Both Parts Together

When you face a criminal law problem involving these provisions, ask two questions in order.

First, did the person genuinely lack criminal intent due to age, unsoundness of mind, accident, or an honest mistake? If yes, look at the excusable defences from Part 1.

[Click here to read the part 1.](#)

Second, was the act intentional, but justified by consent, necessity, good faith benefit, compulsion, or the right of self-protection? If yes, look at the justifiable defences covered in this part.

Conclusion

Together, these two parts show that the Bharatiya Nyaya Sanhita, 2023 does not treat every harmful act the same way. It looks closely at intention, circumstances, and the presence of good faith before deciding whether an act deserves punishment at all.

Mastering Sections 14 to 44 as one connected framework, rather than isolated definitions, will help you handle even the trickiest fact based questions on general exceptions with real confidence.