Applicability of IPC

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• Territorial Operation: [Section 1 read with Section 8].
• Subject Matter applies on whom [Section 2, 3 & 4].
• Section 2: Intra-territorial operation of IPC:
  ➢ Declaration- liability to punishment.
  ➢ Every person- not every citizen means includes foreigner also.
  ➢ Act or omission.
  ➢ Contrary to IPC.
  ➢ Shall be guilty within India.
  ➢ E.g. A commits a conspiracy with B at Pakistan. C & D are also part of the conspiracy residing in India. Effect/ consequence at India. There are some offences wherein even though the offence has been committed from outside India but the effect of that will be upon the territory of India and hence for the purpose of section 2, such offence has been deemed to be committed in India.
Section 2: Intra-territorial application

• Some offences whose effect is at India, then such offence is punishable under IPC. Even if a person commits certain offence like criminal conspiracy, abetment, cheating through letters, etc. from outside India, incidental upon the territory of India. It will be considered that the offence was committed within the territory of India and hence the person (citizen/foreigner) shall be liable to be punished under the IPC.

• “Crimem Trahit Personam” means crime carries the person i.e. the person who commits the crime shall be punished under the law of the place where he committed the crime. E.g. Cruelty through Phone from England (Husband to wife).
Section 4

1. A is Indian citizen commits crime in Australia.
   • A’s act is crime in IPC- Punishable in IPC.
   • If not- then not punishable in IPC.
   • Also, if A’s act is crime in Australia also, then punishable in Australian law. But there shall not be double jeopardy so he will be punishable either in India or in Australia.

2. A is foreigner commits crime in Indian ship.
   • If that act is violation of IPC- Punishable under IPC. It may be high seas, in territory of other country or boarding in other country.

3. China hacking India.
Section 3

- Any person liable by any Indian Law.
- Offence committed beyond India.
- “as if” means legal fiction.
- E.g. A went to Switzerland and slapped B. Indian Government shall enforce IPC upon such person because there is international treaty between the nation. So he committed the offence in foreign but such person shall be punishable under IPC.
- As per section 3, if a person having committed an offence under the IPC beyond India is liable to be punished in India under the IPC then a legal fiction is to be created and it is deemed that the person had committed the offence within the territory of India. It is on the basis of this legal fiction that he can be tried and punished under the IPC in India even though the IPC is not applicable upon such foreign territory.
- Purpose: To prevent our own citizen from committing offence outside India also.
Offence

- Section 2(n) of CrPC has defined offence which is applicable to IPC and also other statutes.
- Under IPC it is defined in terms of IPC only.
- Offence denotes a thing made punishable by this code.
- E.g. A shoots to B and B died. Shoots- Act, Died- Consequence.
- So any consequence of an act or omission punishable under IPC that is called offence.
- If something is defined under IPC but not punishable under IPC, then that will be not an offence. For e.g. Abduction is one such act which is defined under Section 362 but a simple abduction is not punishable.
- But abduction with added consequence/purpose shall be punishable for e.g. Abduction for rape, abduction for ransom, etc.
- Simple abduction means one person compels either to go to any place by deceitful manner.
• Para II: Section 445 : House breaking
• Para II is saying if house breaking is punishable under some special or local laws that will also be considered as offence.
• The sections mentioned in the second para and third para of section 40 relates to certain topic and if such acts are declared to be punishable under some special or local laws will also be considered to be an offence under IPC subject to the condition of Para II and III. The effect in those offences under the special or local laws will fall under para 2 and 3 will be governed by principles of IPC and therefore the general exceptions, the punishment provisions and any other general provisions of the IPC will apply upon such offences.
• The Second and third para practically draw a link between the special and local law and the IPC with respect to the topics covered by II and III paras.