
RIGHT OF PRIVATE DEFENCE: AN ANALYSIS OF SECTION 96-106 OF THE INDIAN PENAL CODE

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ABSTRACT

The right of private defence under the Indian Penal Code is an essential part of criminal law that allows individuals to protect themselves and their property in situations of immediate danger. Since the state cannot always provide instant protection, the law recognises that a person may need to act independently to prevent harm. This paper examines the legal framework provided under Sections 96 to 106 of the Indian Penal Code, which define the scope, conditions, and limits of this right. It focuses on key ideas such as reasonable fear, necessity, and proportionate use of force in determining whether an act of self-defence is justified. The study also analyses how courts interpret these provisions and apply them in real situations. At the same time, it highlights certain issues, including lack of clarity and chances of misuse, which affect consistent application of the law. The research is based on doctrinal analysis of statutes and judicial decisions. It aims to understand whether the current legal framework effectively balances individual safety with legal control. Overall, the paper presents a clear view of the importance and limitations of the right of private defence in India today.

Keywords: Private Defence, Indian Penal Code, Self Protection, Reasonable Fear, Use of Force

1. INTRODUCTION

In every society, law serves a crucial function in protecting the life and property of individuals. Despite this, unlawful activities and crime continue to exist, making such protection necessary at all times. Although the state is responsible for ensuring the safety and security of its citizens, it is not possible for authorities to be present everywhere at every moment. Consequently, situations may arise where individuals face sudden and immediate threats without any instant help from the state. In such circumstances, a person is required to take independent action to safeguard themselves and their property. Thus, self-protection becomes an essential necessity in society. The principle of self-help is therefore recognized in criminal law, allowing individuals to defend themselves when state assistance is unavailable. This ensures that a person is not left defenseless and can act to protect their life, liberty, and property effectively in urgent situations.¹ The right of private defence is recognised under Sections 96 to 106 of the Indian Penal Code, allowing individuals to protect themselves, others, and their property from unlawful harm. It permits the use of reasonable force against an offender, particularly when immediate help from the police or other authorities is not available. This right is based on the principle of self-help and is regarded as a natural and essential right of every individual for the protection of life, personal liberty, and property. Actions carried out in the lawful exercise of this right are not treated as criminal offences, thereby providing legal protection to those acting in good faith. It includes the defence of both the person and property. However, this right is not unlimited, and any force used must be reasonable, necessary, and proportionate to the threat faced in a given situation, ensuring justice and preventing misuse.² The right of private defence in India is a legally recognised and enforceable right codified under the Indian Penal Code through Sections 96 to 106, which together establish its scope, extent, and limitations. The law makes it clear that any act done in the legitimate exercise of self-defence does not amount to an offence, thereby protecting individuals who act to safeguard themselves or others from harm. This right extends not only to the protection of the human body but also to property, whether movable or immovable, and includes the defence of another person as well. At the same time, the provisions ensure that this right is not misused by imposing important restrictions, particularly that the force used must be reasonable and proportionate to the threat faced. The law further distinguishes between situations of varying seriousness, allowing more

¹ Nandharagh P.H., *Study on Right to Private Defence*, 4 INT'L J. L. MGMT. & HUMAN. 2333 (2021).

² Raghav Agarwal, *Right of Private Defence under IPC*, LAW BHOOMI, <https://lawbhoomi.com/private-defence-in-ipc/>.

severe measures, including causing death, only in extreme circumstances, while limiting the use of force in less dangerous situations. It also clarifies that the right arises when there is a reasonable apprehension of danger and continues only as long as such threat exists, thereby maintaining a careful balance between individual protection and legal accountability.³ The right of private defence is a vital safeguard in criminal law, recognising that the State cannot offer immediate protection in every situation. Individuals may face sudden threats where assistance from public authorities is either delayed or unavailable, making self-protection necessary. To address such situations, the law permits individuals to defend their life and property against unlawful aggression. However, this right is not unrestricted and operates within clearly defined legal boundaries. In practice, it is sometimes misused as a pretext to justify wrongful acts, which raises concerns about its application. Therefore, judicial scrutiny becomes essential in determining whether the right has been exercised honestly and in response to a genuine and reasonable fear of harm. Courts ensure that the force used remains proportionate to the threat faced. This paper seeks to examine the statutory provisions, judicial interpretation, and limitations governing the right of private defence in India.⁴

2. MEANING AND NATURE OF RIGHT OF PRIVATE DEFENCE

The Right of Private Defence is a legally recognised right that enables a person to protect his own body and property, as well as that of another, against unlawful acts. It is codified under Sections 96 to 106 of the Indian Penal Code, which provide that actions undertaken in the lawful exercise of this right do not amount to an offence. The law permits the use of necessary force against an aggressor when immediate assistance from state authorities is not available. Additionally, Section 97 classifies this right into two categories: defence of the body and defence of property. Hence, the legal framework recognises and regulates the individual's right to ensure protection in situations of imminent danger.⁵

The Right of Private Defence is based on the basic idea that every person has the instinct and responsibility to protect himself. It is considered a natural right because it exists even without

³ *Id.*

⁴ *Right of Private Defence under IPC*, LEGAL SERVICE INDIA, <https://www.legalserviceindia.com/legal/article-9582-right-of-private-defence-under-ipc.html>.

⁵ *Private Defence: A Right Available to All People in India*, LEGAL SERVICE INDIA, <https://www.legalserviceindia.com/article/l470-Private-Defence.html>.

any law. This right also follows the concept of self-help, which means a person can take action on his own when immediate help from authorities is not available. Although the state is responsible for protecting people, it cannot be present everywhere at all times. Therefore, the law allows individuals to defend themselves in urgent situations. However, this right is not unlimited. It cannot be used if there is enough time to seek help from the police, and it must be based on a real and reasonable fear of harm. It is meant for protection, not for revenge.⁶

3. OBJECTIVES OF THE STUDY

The objectives of this research are to examine the concept and legal meaning of the right of private defence and to analyse its recognition under the Indian Penal Code. The study aims to evaluate the scope and limitations of this right as provided under Sections 96 to 106. It further seeks to determine the circumstances in which the right may be exercised and the extent of force that may be lawfully used. Another objective is to analyse judicial interpretation to understand how courts assess claims of private defence. The study also aims to identify issues relating to misuse and to evaluate the effectiveness of the existing legal framework in maintaining a balance between individual protection and legal accountability overall properly.

4. RESEARCH METHODOLOGY

This research paper adopts the doctrinal method of research, based on analysis of legal principles through secondary sources. The study primarily relies on statutory provisions contained in the Indian Penal Code, particularly Sections 96 to 106, along with relevant judicial decisions and case laws. In addition, various legal articles, journals, and online resources have been consulted to develop a comprehensive understanding of the subject. The research follows an analytical and descriptive approach, focusing on interpretation and evaluation of legal provisions and their practical application. No empirical or field based research has been undertaken, and the study remains confined to existing legal materials and authoritative sources

⁶ *Right of Private Defence*, LAWCTOPUS, <https://www.lawctopus.com/academike/right-private-defence/>.

to ensure accuracy and reliability of the analysis. The methodology ensures clarity, consistency, and systematic examination of legal principles relevant to the present study effectively.

5. NEED AND IMPORTANCE

In situations where individuals face immediate danger, the law recognises the necessity of allowing them to protect their life and property. The right of private defence ensures that a person is not left helpless when unlawful harm occurs and immediate assistance from the state is unavailable. In many cases, threats arise suddenly, leaving no time to seek help from public authorities. In such circumstances, it becomes essential for individuals to take reasonable steps to defend themselves. This right is based on the idea that a person should be able to protect themselves when faced with an urgent threat. However, it is not an unrestricted right, as it cannot be exercised when there is sufficient opportunity to seek protection from the authorities. If individuals were allowed to act without limits, it could lead to misuse and create disorder in society. Therefore, the law permits this right only in situations involving real and immediate danger. By limiting its use to necessary conditions, it ensures both personal safety and the maintenance of public order in society effectively. It reinforces confidence in the legal system by assuring individuals that they can act lawfully to prevent harm in urgent situations without fear of consequences.⁷

6. SCOPE OF STUDY

This research paper undertakes an analytical examination of the right of private defence within the framework of criminal law. The scope of the study is confined to defining the extent and boundaries of this right as recognised under Indian Penal Code Sections 96–106. It focuses on analysing the statutory provisions governing the protection of body and property and evaluates their practical application. The study includes an examination of the conceptual meaning and nature of the right, the circumstances under which it may be exercised, and the limitations imposed to regulate its use. It further considers judicial interpretation to assess how courts have applied these provisions in different situations. Additionally, the paper addresses issues relating

⁷ *Right of Private Defence in India*, Law Corner (July 12, 2021), <https://lawcorner.in/right-of-private-defence-in-india/>.

to misuse and associated challenges. The study remains limited to these aspects and aims to provide a clear and comprehensive understanding of this legal right.

7. HYPOTHESIS

The present study proceeds on the assumption that the right of private defence, as recognised under the Indian Penal Code, serves as an essential legal safeguard for the protection of life and property. It enables individuals to act in situations of immediate danger where state assistance is not readily available. However, its practical application raises concerns regarding its scope, limitations, and the possibility of misuse.

H₀ (Null Hypothesis):

The existing provisions governing the right of private defence under Sections 96 to 106 of the Indian Penal Code are adequate and effectively ensure protection without misuse.

H₁ (Alternative Hypothesis):

The existing provisions governing the right of private defence under Sections 96 to 106 of the Indian Penal Code contain ambiguities and are susceptible to misuse, thereby requiring clearer interpretation and improvement to ensure justice.

This study seeks to examine these assumptions through statutory analysis and judicial interpretation in order to determine the effectiveness of the law in practical application.

8. STATUTORY FRAMEWORK

The right of private defence under the Indian Penal Code, 1860 is a natural and legal safeguard that enables individuals to protect their body and property from imminent harm. Sections 96 to 106 provide the statutory framework explaining the scope, extent, and conditions of this right. It permits the use of necessary and reasonable force when assistance from public authorities is not available in time. However, the law imposes clear limits to prevent misuse. These provisions ensure that defensive actions remain justified, proportionate, and legally acceptable

in all circumstances while maintaining balance between individual safety and social responsibility within society.⁸

SECTION 96: The provision states that an act done in private defence is not an offence. However, this right is not absolute and must be exercised with reasonable care, as clarified under Section 99, which restricts causing unnecessary or excessive harm. In cases of mutual fights, neither party can claim this defence. The law accepts that a person under immediate threat cannot accurately measure the exact force required, yet it does not allow disproportionate retaliation. The burden of proving private defence lies on the accused, though courts may consider it even if not expressly pleaded, based on probabilities from evidence. This right is defensive and cannot justify aggression or threats without reasonable basis. Factors like distance, weapon used, and circumstances determine its applicability. In situations covered under Sections 100 and 103, even causing death may be justified when necessary to protect body or property.⁹

SECTION 97: Under this provision, every individual is legally entitled to protect their own body as well as the body of another person from any unlawful harm affecting human safety. It also allows protection of property, whether movable or immovable, against acts like theft, robbery, mischief, or criminal trespass. However, this right is not unlimited and must be exercised only when there is a reasonable fear of danger. The force used should be proportionate and necessary to prevent the harm. This right can be used not only for oneself but also for protecting others. Even a stranger may intervene without any prior relationship. Yet, once possession is completely taken by a trespasser, lawful remedies must be followed. The defence is preventive and not meant for punishment. The accused must support this plea, even relying on prosecution evidence where necessary to justify actions.¹⁰

SECTION 98: Section 98 of the Indian Penal Code provides that the right of private defence is available even when the person committing the act is not legally guilty because of factors like minority, unsoundness of mind, intoxication, or mistake. The focus is on the threat faced by the defender, not on the mental condition or intention of the attacker. Thus, if a person of unsound mind attempts to cause harm, the other person can lawfully defend themselves as if

⁸ *The Right of Private Defence under Indian Penal Code*, LawBhoomi (Oct. 15, 2020), <https://lawbhoomi.com/the-right-of-private-defence-under-indian-penal-code/>.

⁹ *Private Defence in IPC*, LawBhoomi (June 24, 2023), <https://lawbhoomi.com/private-defence-in-ipc/>.

¹⁰ *Id.*

the act were an offence. Similarly, when a person acts under a genuine misunderstanding and causes danger, the victim still retains the right of defence. This provision ensures protection against real and immediate harm, regardless of legal exemptions available to the wrongdoer, thereby making the right of private defence practical and effective.¹¹

SECTION 99: The right of private defence under the Indian Penal Code is subject to clear limitations and cannot be exercised in every situation. It is not available against acts of a public servant who is acting in good faith under the colour of official duty, even if such act may later appear legally defective. Similarly, this right cannot be used against persons acting under the direction of such public servants when they act honestly within apparent authority. The law also denies this right where there is sufficient time to seek protection from public authorities. Further, the force used must remain strictly proportionate to the harm threatened, and excessive injury is not justified. However, protection of public servants applies only when actions are done with due care and lawful intent. A person retains defence if they do not know or reasonably believe the actor is a public servant or acting under such authority. This ensures balance between authority and individual safety rights.¹²

SECTION 100: The right of private defence of the body extends, in exceptional situations, to causing death of the aggressor when the threat faced is extremely serious and immediate. This right arises where an assault creates a reasonable fear of death or grievous injury, or where the attack is intended to commit rape, unnatural offences, kidnapping, abduction, or wrongful confinement that prevents access to public help. The law recognises that in such grave circumstances, a person may use necessary force even if it results in the assailant's death. However, this right is strictly conditional. The defender must not have provoked or initiated the incident and must face an imminent and real danger. There should be no safe opportunity to escape or seek protection, making defensive action unavoidable. The force used must also be necessary in the situation. Thus, the provision balances the need for self preservation with legal control, ensuring that taking life is justified only in cases of compelling necessity and immediate danger.¹³

SECTION 101: The right of private defence of the body does not always justify causing death of the aggressor. When the circumstances of an assault do not create a serious threat such as

¹¹ *Id.*

¹² *Id.*

¹³ *Id.*

death or grievous injury, the law restricts the extent of force that may be used. In such cases, a person may inflict reasonable harm short of death to protect oneself or another individual. This right must be exercised within the limits laid down under Section 99, ensuring that the response remains necessary and proportionate to the danger faced. Excessive or unnecessary force is not permitted. Thus, the provision maintains a balance by allowing protection against harm while preventing unjustified loss of life in situations where lesser force would be sufficient and ensures fairness in application of defensive rights.¹⁴

SECTION 102: The right of private defence of the body arises when a person faces a reasonable and immediate fear of harm from an attempted or threatened offence. It is not necessary that the offence must have already been committed; the existence of a genuine apprehension is sufficient to activate this right. However, such fear must be based on real and sensible grounds, not on imagination or suspicion. The right begins at the moment the threat becomes imminent and continues as long as the danger persists. Once the threat ends or no longer exists, the right also comes to an end. Therefore, the law ensures that defensive action is allowed only during the period of actual and continuing danger.¹⁵

SECTION 103: The right of private defence of property extends, in certain serious situations, to causing death of the wrongdoer. This right arises when the offence committed or attempted is of such a grave nature that it creates a reasonable fear of severe harm. These situations include robbery, house breaking during the night, mischief by fire involving a place used for living or storing property, and acts of theft, mischief, or trespass that reasonably create an apprehension of death or grievous injury if not prevented. The law permits the use of necessary force, even to the extent of causing death, when such threats exist and immediate protection is required. However, this right must always be exercised within the limits of necessity and proportionality as provided under Section 99. It is generally available to a person who has lawful possession or ownership of the property. Thus, the provision seeks to protect property rights while ensuring that the use of extreme force is justified only in cases of serious and imminent danger.¹⁶

SECTION 104: Section 104 of the Indian Penal Code explains that when a person exercises the right of private defence against offences like theft, mischief, or criminal trespass, and such

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ *Id.*

offences do not fall under the serious categories mentioned in Section 103, the defender is not permitted to cause death. Instead, the law allows only reasonable harm short of death, and this must always comply with the limitations given in Section 99. The provision makes it clear that the right is preventive, not punitive, and must be used with restraint. If a person exceeds this right and causes death, liability may arise under Section 304 Part II. Thus, Section 104 works alongside Section 103 by defining situations where lesser force is justified. It emphasizes proportionality and necessity in every defensive action taken.¹⁷

SECTION 105: Section 105 of the Indian Penal Code defines when the right of private defence of property begins and how long it continues. This right arises when a person reasonably fears danger to their property and exists only when immediate protection is necessary without time to seek public authority help. Its duration depends on the offence involved. In theft, it continues until the property is recovered, the offender escapes, or authorities intervene. In robbery, it lasts while violence, threat, or restraint continues. In criminal trespass or mischief, it exists during the ongoing act. In house breaking by night, it continues as long as the unlawful entry persists. Once possession is lost to a trespasser, the original owner cannot claim this right over that property.¹⁸

SECTION 106: Section 106 of the Indian Penal Code deals with situations where a person faces a deadly attack and cannot effectively defend themselves without risking harm to an innocent person. When there is a reasonable fear of death and no safe alternative is available, the law permits the defender to exercise the right of private defence even if such action may unintentionally harm someone not involved in the assault. This provision recognizes the practical difficulty of making precise defensive choices in extreme danger. It removes hesitation and allows necessary action for self protection in urgent circumstances. However, the right applies only when the threat is immediate and unavoidable, ensuring that the defender's conduct remains justified within the limits of necessity and good faith.¹⁹

CONCLUSION

The statutory framework of the right of private defence under the Indian Penal Code establishes

¹⁷ *Id.*

¹⁸ *Id.*

¹⁹ *Id.*

a careful balance between individual protection and legal restraint. Sections 96 to 106 collectively define when and how this right may be exercised, ensuring that defensive actions remain necessary, proportionate, and justified. While the law empowers individuals to safeguard their body and property in urgent situations, it also imposes clear limitations to prevent misuse or excessive force. These provisions reflect the principle that self-defence is a protective right, not a tool for retaliation. Overall, the framework ensures both personal security and maintenance of public order in society.

9. JUDICIAL INTERPRETATION

The judicial understanding of the right of private defence has been instrumental in determining how this protection operates in real situations. While statutory provisions outline the basic structure, it is through court decisions that the practical meaning and boundaries of this right have been clarified. Courts have consistently viewed this right as a necessary safeguard intended to prevent harm, rather than as a means to justify retaliation. A key concept emphasized in judicial reasoning is “reasonable apprehension,” which denotes a genuine and immediate perception of danger arising from surrounding circumstances. The law does not require actual injury before invoking this right; it is sufficient if a person reasonably believes that harm is imminent and unavoidable.²⁰ Courts assess reasonable apprehension by considering whether a prudent person, placed in similar circumstances, would have perceived a real threat. This evaluation is made from the perspective of the individual at the time of the incident, rather than through retrospective analysis. Judicial reasoning recognizes that individuals confronted with sudden threats cannot be expected to respond with precise calculation. Therefore, if defensive action slightly exceeds what is strictly necessary, it may still be justified provided it was taken in good faith and under urgent conditions.²¹

At the same time, the judiciary has firmly maintained that the right of private defence is preventive in nature and cannot be used as a tool for revenge or aggression. It is available only when a person is faced with an immediate and unlawful threat and acts to protect themselves

²⁰ Tushar sharma, *Private defense under IPC* - iPleaders, IPleaders (Dec. 31, 2018), <https://blog.ipleaders.in/privatthe-defence-under-ipc/>.

²¹ *Id.*

or others. Where it is found that the accused initiated the confrontation or acted with prior intention to cause harm, courts have refused to extend this protection. This approach ensures that the right is not misused as a defence for unlawful conduct.²² Another important principle developed through judicial interpretation is proportionality. The force used in self defence must be proportionate to the seriousness of the threat faced. If the response is excessive in comparison to the anticipated harm, the defence is not available. Courts evaluate several factors while determining proportionality, including the nature of the attack, the behaviour of the parties involved, the means used, and whether alternative options such as seeking assistance from authorities were available. This careful examination helps maintain a balance between individual protection and legal restraint.²³

Judicial interpretation has also clarified the temporal scope of this right. It arises as soon as a credible threat becomes imminent and continues only for the duration of that threat. Once the danger has passed, the justification for using force no longer exists. Any action taken beyond that point cannot be defended as private defence. However, courts have acknowledged that in many real-life situations, individuals may not have the opportunity to seek help from public authorities, making immediate self-protective action necessary.²⁴ Courts have adopted a balanced and flexible approach while interpreting this right. On one hand, they have recognized its importance in protecting individuals and maintaining social order by discouraging unlawful acts. On the other hand, they have imposed necessary limitations to prevent its misuse. The burden on the accused is not to prove the existence of this right beyond reasonable doubt, but to establish it on the basis of probabilities arising from the available evidence.²⁵ Through continuous judicial interpretation, the right of private defence has developed into a practical and adaptable legal principle. By focusing on elements such as reasonable apprehension, necessity, and proportionality, courts have ensured that the law remains fair and responsive to different factual situations while preserving the balance between individual safety and societal interests.²⁶

²² *Id.*

²³ *Private Defence in IPC*, LawBhoomi (June 24, 2023), <https://lawbhoomi.com/private-defence-in-ipc/>.

²⁴ *Id.*

²⁵ *Id.*

²⁶ Sharma, *supra* note 20.

10. LANDMARK CASE

*Darshan Singh v. State of Punjab, (2010) 2 SCC 333*²⁷

1. BACKGROUND AND FACTS

This case is a landmark authority explaining the scope of the right of private defence under the Indian Penal Code. It arose from a violent incident between two groups in a village setting where prior enmity and disputes over land created tension. On the day of the occurrence, both groups confronted each other, leading to a sudden clash. The prosecution alleged that the accused, including Darshan Singh, attacked the complainant party and caused fatal injuries. In contrast, the defence claimed that the complainant side initiated the assault, and the accused acted only to protect themselves from immediate danger. The evidence showed that injuries were present on both sides, which became an important factor in assessing the truth of the competing versions. The presence of injuries on the accused supported their plea that they were also victims of the occurrence. Section:96 the Court clarified that an act done in the exercise of private defence is not an offence and must be examined in light of the surrounding circumstances. Section:97 it further stated that the right extends to the protection of body and property of oneself and others when there is a reasonable apprehension of harm.

2. ISSUES BEFORE THE COURT

The Supreme Court examined the following issues:

- Whether the accused exercised the right of private defence.
- Whether they exceeded the limits of such right.
- Whether the prosecution proved beyond reasonable doubt that the accused were the aggressors.
- Whether the injuries on the accused supported their plea of self defence.
- Whether the force used was proportionate to the threat faced.

These issues required a detailed evaluation of both facts and legal provisions.

²⁷ Darshan Singh v. State of Punjab, (2010) 2 SCC 333.

3. JUDICIAL REASONING

The Court observed that minor discrepancies in witness statements should not affect the overall credibility of the case if the evidence is otherwise reliable. It emphasized that the presence of injuries on the accused is a significant circumstance that cannot be ignored, as it may indicate that they acted in response to an attack. The Court further noted that in sudden confrontations, a person cannot be expected to calculate with precision the exact amount of force necessary for self defence. Section:99 the Court explained that the right of private defence is subject to limitations, including that the harm caused should not be excessive and that the right cannot be exercised when there is sufficient opportunity to seek help from public authorities. The Court also stated that once a plea of private defence is raised, the burden lies on the prosecution to disprove it beyond reasonable doubt. Section:100 it was held that the right may extend to causing death if there is a reasonable apprehension of death or grievous hurt, and such apprehension must be judged from the perspective of the accused at the time of the incident.

4. JUDGMENT OF THE COURT

After analyzing the entire evidence, the Court held that the prosecution failed to establish conclusively that the accused were the initial aggressors. The circumstances indicated that the accused faced a real and immediate threat, thereby justifying the exercise of private defence. The force used by the accused was not found to be disproportionate in the given situation. Accordingly, the accused were given the benefit of doubt, and their actions were held to fall within the lawful limits of private defence.

5. PRINCIPLES LAID DOWN

- The right of private defence must be interpreted liberally when there is a genuine apprehension of danger.
- Injuries on the accused support the plea of self defence.
- Exact proportionality of force is not required in sudden emergencies.
- The prosecution must disprove the plea of private defence once it is reasonably raised.

- Courts must consider the totality of circumstances, including urgency and mental condition of the accused.

11. CRITICAL ANALYSIS

The right of private defence under the Indian Penal Code, although essential for protecting individuals, requires critical evaluation because its application is not always clear or consistent. It allows a person to protect life and property when immediate help from authorities is unavailable, reflecting the practical need for self-protection in urgent situations.²⁸ The law recognises that individuals cannot always depend on the state and must sometimes act independently to prevent harm and safeguard their interests.

Despite this strong foundation, the law contains certain weaknesses that affect its effectiveness. A major concern is the absence of a clear definition of what constitutes reasonable and proportionate force. While the law provides the principle, it leaves its application to judicial interpretation.²⁹ As a result, courts assess each case based on its specific facts, which often leads to inconsistent outcomes. What may be considered justified in one situation might be viewed as excessive in another, creating uncertainty and reducing predictability in the legal system.

Another issue is the concept of reasonable apprehension, which depends on the perception of the person claiming self-defence. Since individuals react differently to threats, this introduces a subjective element into legal analysis. It becomes difficult to clearly distinguish between genuine self-defence and actions that exceed what is necessary. This subjectivity weakens the certainty of the law and increases reliance on judicial discretion.³⁰

²⁸ Lawcorner, *supra* note 7.

²⁹ *Id.*

³⁰ *Id.*

The burden placed on the accused to establish the existence of private defence also creates practical difficulties. Although strict proof is not required, the absence of clear evidence may work against the accused, especially in sudden or violent situations where proof is limited.³¹ This can make it harder to successfully rely on the defence even when it is justified.

At the same time, the broad scope of the right raises concerns about misuse. The flexibility in interpretation may allow individuals to justify excessive force under the guise of self-defence. However, the law attempts to maintain a balance by emphasising that the right is preventive and not meant for punishment.³² Courts generally examine such claims carefully to ensure fairness. The need for clearer guidelines and more consistent application remains essential to strengthen the reliability and effectiveness of this right in practice.

12. CHALLENGES AND MISUSE

CHALLENGES

The application of the right of private defence often becomes complex because it depends largely on the facts of each situation rather than clear and fixed standards. Although the law allows individuals to protect themselves from immediate harm, determining what amounts to a reasonable apprehension of danger is not always easy. Since the assessment of threat is based on the individual's perception, courts frequently face difficulty in deciding whether such belief was justified in the given circumstances. This challenge becomes more serious in cases involving confusion, mistaken identity, or heightened emotional conditions where the perception of danger may not be entirely accurate. Another significant challenge lies in the principle of proportionality. The force used in defence must be limited to what is necessary to prevent harm, but in real-life situations, individuals often act under panic or stress. As a result, it becomes difficult to measure the exact degree of force required at that moment. This creates

³¹ Sharma, *supra* note 20.

³² *Id.*

uncertainty in distinguishing between lawful defence and excessive response, making judicial evaluation more complicated.³³ Additionally, the right of private defence cannot be exercised when there is sufficient opportunity to seek help from public authorities. However, determining whether such an opportunity actually existed is not always straightforward and may lead to conflicting interpretations. Similarly, the right continues only as long as the threat exists, but identifying the precise moment when the danger ends is highly subjective and difficult to establish with certainty.³⁴

MISUSE

The challenges associated with the application of private defence create scope for its misuse in certain situations. Although the law clearly establishes that this right is defensive and not retaliatory, it may sometimes be invoked to justify acts that are, in reality, aggressive or excessive. In such cases, individuals attempt to portray unlawful conduct as a response to a perceived threat in order to escape legal liability.³⁵ The subjective nature of assessing danger further contributes to misuse, as it allows room for exaggerated or false claims of threat. Courts are therefore required to carefully distinguish between genuine defensive action and conduct that is merely presented as self-defence. In addition, the difficulty in determining proportionality and timing may be exploited to extend the defence beyond its lawful limits. At times, the defence is used strategically to create doubt in criminal proceedings, making it harder for courts to reach clear conclusions. Such use weakens the purpose of the law and increases the burden on judicial interpretation. Therefore, careful scrutiny of facts and evidence becomes necessary to ensure that the right is not abused while still protecting genuine cases of self-defence.

³³ Kumar, Prince. “Stand Your Ground: The Right to Private Defence in India • Law Notes by TheLaw.Institute” 29 Oct. 2025, thelaw.institute/indian-penal-code/right-to-private-defence-india/. Accessed 5 Apr. 2026.

³⁴ Id.

³⁵ *Misuse of Private Defence As An Exception To Criminal Liability*, (Mar. 31, 2024), <https://www.ijllr.com/post/misuse-of-private-defence-as-an-exception-to-criminal-liability>

SUGGESTIONS

The right of private defence under the Indian Penal Code can be strengthened by improving clarity and consistency in its application. One important suggestion is to provide clearer guidelines on what amounts to reasonable and proportionate force. At present, this is decided by courts based on facts of each case, which often leads to different interpretations. Clearer standards would help reduce confusion and ensure fair decisions. Another suggestion is to increase awareness among people about the limits of this right. Many individuals are not fully aware that this right is only for protection and not for revenge. Legal awareness programs and academic teaching can help people understand when and how this right can be used properly. It is also important that courts continue to consider the practical difficulties faced by individuals during sudden situations of danger. In many cases, people do not have time to think calmly, and their actions should be judged accordingly. The burden on the accused to prove private defence should be applied carefully, especially where evidence is limited due to the nature of the incident. Further, consistency in judicial decisions should be encouraged by following established principles such as necessity and good faith. Regular review of these laws may also help in updating them according to present needs. These improvements can make the law more effective and fair in protecting individuals.

CONCLUSION

The right of private defence under the Indian Penal Code plays an important role in protecting individuals in situations where immediate help from authorities is not available. It allows a person to take necessary action to defend life and property against unlawful harm. Sections 96 to 106 provide a clear legal structure that explains when and how this right can be used. The law ensures that such actions are not treated as offences if they are done within legal limits. At the same time, it places restrictions to prevent misuse and to maintain balance in society. Principles like reasonable fear, necessity, and proportionate force guide the use of this right. Judicial interpretation has helped in explaining these principles and applying them to real-life

situations. However, certain challenges such as lack of clear standards and chances of misuse still exist. Despite these issues, the right remains a necessary legal protection for individuals. It reflects the idea that people should not remain helpless in the face of danger. With proper application and careful judicial scrutiny, this right can continue to serve its purpose effectively. Overall, the law aims to balance individual safety with legal responsibility, ensuring that protection is allowed but not abused in any situation.