Disclaimer: The questions provided herein are not reflective of the position of the Committee upon any issue/question of law in any form or manner. The questions have been formulated after research and examination of – judicial precedents; reports of Committees and Commissions; and, other authoritative treatises. While these Consultations seek to solicit your views, opinions, knowledge, experience and recommendations on these issues/questions of law, the Committee is alive to other issues and questions beyond the questionnaire, and the same maybe addressed through the Open Consultations.]

Part - A

I. Strict Liability Offences:

Q.1. Which principles regarding the object and nature of crime should guide the introduction of strict liability offences within the I.P.C.?

Q.2. Which strict liability offences should be included within the I.P.C.?

Q.3. Should the principles of sentencing in cases of strict liability offences differ from the general principles of sentencing?

II. Punishment:

Q.4. Should additional types of punishment - based on objectives of deterrence, rehabilitation, restoration etc.- be inserted in the I.P.C.?

Q.5. Are there any punishments under Chapter III that should be deleted?

Q.6. Are there any offences in the I.P.C. for which the quantum of punishment and fines imposed should be revised?

Q.7. What is the mode of calculation that should be adopted to rationalise fines under the I.P.C. if the amount of fine is to be re-adjusted for inflation across offences, either automatically or on a one-time basis?
Part B

General Exceptions

Q.1. Do you have any suggestions with regards to reclassification/combining/splitting of sections under Chapter IV of the I.P.C.?

Q.2. Do you have any suggestions with regards to addition or omission of general exceptions under Chapter IV of the I.P.C.?

Q.3. Are there any circumstances that warrant a modification of the doctrine of ‘ignorantia juris non excusat’?

Q.4. Does s. 81 fail to clearly describe how the nature of the threat is to be assessed and the type of response that is allowed to counter the threat?

Q.5. Should the defence of necessity under s. 81 extend to the offence of culpable homicide? If yes, please specify the circumstances with reasons.

Q.6. In reference to s. 82 and s. 83 of the I.P.C., is there a need to alter (increase or decrease) the minimum age of criminal responsibility to commit an offence? If so, please suggest an age.

Q.7. Is there a need to alter (expand or contract) the definition and scope of the defense of insanity provided for in s. 84 of the I.P.C.?

Q.8. Is there a need to alter s. 86 of the I.P.C. in reference to the potential ambiguity caused by the absence of the term ‘intent’ in the latter part of the provision?

Q.9. a) Should voluntary intoxication act as an aggravating factor at the time of sentencing; or,

b) Should a lack of intention in cases of voluntary intoxication be taken into account as a mitigating factor at the time of sentencing?

Q.10. In light of inconsistency in the age of the person with reference to s. 87 and s. 89, should the age of the beneficiary in s. 89 be raised to 18 years?

Q.11. Should acts, not intended, but known to be likely, to cause death or grievous hurt, done with consent, be included within the chapter?
[Illustration: A hires B, a licensed para-glider, to engage in the adventure sport. B informs A of the inherent danger of death or grievous hurt while engaging in the sport. A consents to the same. A dies in the course of the activity, despite B’s diligence and care.]

Q.12. Should the scope of s. 90 and s. 94 be expanded to include fear/threat of injury to persons other than one self?

Q.13. Should s.90 be revised to:
   a. Expand the scope of fear of injury;
   b. Resolve the ambiguity in the interpretation of the phrase ‘misconception of fact’;
   c. Include instances other than fear of injury or misconception of fact?

Q.14. Should compulsion by threats, as provided under s. 94, act as a mitigating factor during sentencing in the offences of murder and offences against the State?

Q.15. Is there a need to alter the circumstances in which the right to private defense of the body can extend to causing death?

Q.16. Is there a need to alter the circumstances in which the right to private defense of property can extend to causing death?

Q.17. Should the fact that there is time to have recourse to the protection of public authorities be an absolute ban against the exercise of the right to private defense?

Q.18. Should the scope of s. 101 and s. 104 be expanded to include the cases of involuntary causing of death?

Q.19. Should the scope of s. 106 be expanded to include cases where there is-
   a) Reasonable apprehension of harm other than death, and/or;
   b) Reasonable apprehension of death by causes other than assault?

Q.20. Which principles should govern the determination of permissible risk of harm to an innocent person in the instances raised in the preceding question?
Part C

I. Offences Against the State:

Q.1. Should the applicability of s. 124 be expanded to include other functionaries such as Judges of HC/SC, CECs, CICs, CAGs, Attorney General, Advocate Generals, Solicitor General etc.?

Q.2. Does the offence of sedition under s. 124A require omission or any amendment in terms of its definition, scope and cognizability?

Q.3. Should Insults to the National Flag, Emblems and Constitution of India, be introduced as substantive offences under the I.P.C.?

II. Offences Affecting Human Body:

Q.4. Should an act, colloquially referred to as “Mob Lynching”, be penalised as an offence under the I.P.C.? If yes, what should be the elements and quantum of punishment for the offence?

Q.5. Should an act, colloquially referred to as “Honour Killing”, be penalised as an offence under the I.P.C.? If yes, what should be the elements and quantum of punishment for the offence?

Q.6. Should “Corporate Homicide” be penalised as an offence under the I.P.C.? If yes, what should be the elements and quantum of punishment for the offence?

Q.7. Should s. 306 of the I.P.C. be amended to create an exception for active euthanasia?

Q.8. In the light of contemporary discourse on sexual and reproductive rights of women, should the offence under s. 312 be decriminalised?

Q.9. Should the definitions of force (s. 349), criminal force (s. 350) and assault (s. 351) be omitted/revised/modified?

Q.10. Do you have any suggestions with regards to addition/omission/modification of provisions dealing with kidnapping and abduction?

Q.11. In view of the divergence of judicial opinion with regards to the validity of minor’s consent in s. 366, do you recommend any amendment to the Section to address this issue?

III. Sexual Offences:

Q.12. Should sexual offences be classified as:
   a. A subset of offences against the human body; or,
   b. A subset of gender-discrimination offences; or,
   c. An independent category of offences?

Q.13. Other than rape, the sexual offences listed in the IPC are-
   ● Obscene Acts and Songs (s. 294)
• Assault or Criminal Force to Woman with Intent to Outrage her Modesty (s. 354)
• Sexual Harassment (s. 354A)
• Assault or Criminal Force to Woman with intent to disrobe (s. 354B)
• Voyeurism (s. 354C)
• Stalking (s. 354D)
• Unnatural Offences (s. 377)
• Word, Gesture or Act Intended to Insult the Modesty of a Woman (s. 509)

Is there a need to reform this classification of sexual offences by adding/ deleting/ modifying any offences?

Q.14. What should be the standard of consent under s. 375 of the I.P.C.?

Q.15. Should the grounds of vitiation of such consent be expanded to include cases where-
   a. The victim has been put in fear of injury other than physical hurt or death; and,
   b. The perpetrator is impersonating any other person (and not just the husband as currently provided in s. 375) that the victim would otherwise knowingly have consented to?

Q.16. Should the marital rape exception (Exception 2) under s. 375 of the I.P.C. be deleted?

Q.17. Should sexual offences be defined by employing gender-neutral terms for the offender and the victim?

Q.18. Should sexual violence during armed conflict be expressly penalised as a sexual offence?

Q.19. Barring generally applicable aggravating and mitigating factors (gravity of offence, recidivism, age, socio-economic background, etc.), which other factors should be taken into account during sentencing in sexual offences?
COMMITTEE FOR REFORMS IN CRIMINAL LAWS

SECOND CONSULTATION ON SUBSTANTIVE CRIMINAL LAW

QUESTIONNAIRE

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Part - A

I. Abetment

Q.1. Should the abetting, of offences committed by the classes of individuals specified in ss. 82, 83, 84, and 85 of the Code as well as Juveniles under the Juvenile Justice (Care and Protection of Children) Act, 2015, be criminalised as an aggravated form of Abetment?

[Illustration- A, an adult, instigates B, a child under 7 years of age, to poison C.]

II. Criminal Conspiracy

Q.2. Should conspiracy to commit offences carrying the punishment of imprisonment for less than two years be decriminalised?

III. Attempts

Q.3. Should Attempt be expressly defined under the I.P.C.? If yes, what should be the test(s) for determination of Attempt?

IV. Preparation
Q.4. Should Preparation be defined explicitly under the I.P.C? If yes, what should be the test(s) for determination of Preparation?

Part B

I. Offences By or Relating to Public Servants

Q.1. Should any offence under Chapter IX, such as ss. 168 and 169, be the sole prerogative of disciplinary proceedings, and therefore be decriminalised?

Q.2. In light of the recommendations of the 277th Law Commission Report, what should be the definition, scope and liability for ‘Wrongful Prosecution’?

Q.3. Notwithstanding general exceptions under ss. 76, 78, 79, 80 and Exception 3 to s. 300 should offences committed by public servants, in the course of their official duties, be penalised as aggravated forms of those offences? Which offences should be considered for this purpose?

Q.4. Should ‘corruption’/bribery/illega
g gratification in the private sector be criminalised?

II. Contempts of the Lawful Authority of Public Servants

Q.5. a) Should s. 188 I.P.C. be removed from the ambit of s. 195 CrPC?, or,

b) Should cognizability of s. 188 be modified?

Q.6. Should the punishment for offences under ss. 182, 186 and 188 be modified?

III. False Evidence and Offences Against Public Justice

Q.7. Should the removal of, or interference with, any property lawfully attached by a Court of Justice, be criminalised?

Q.8. Should punishment for offences under ss. 193, and 211 be modified?
Part C

I. Offences Relating to Public Tranquillity

Q.1. Should the “preparation to commit rioting” be penalised as a separate offence?

Q.2. Should the punishments prescribed under ss. 153 and 153A of the I.P.C. be modified?

Q.3. Should s. 153A be amended to expressly include additional categories (e.g., sex, gender identity, sexual orientation, disability, ethnicity etc.) to the grounds mentioned under the provision?

Q.4. Should ss. 153 and 153A be amended to explicitly address the commission of these offences through electronic means (e.g., social media and other internet based intermediaries)?

Q.5. Should the act colloquially referred to as “hate speech” be criminalised as a separate offence under the IPC?
   a) If yes, what should be the defining elements/ingredients of the offence?
   b) If not, should the scope of other offences (such as ss. 153A, 153B, 295A etc.) be modified to include aspects of “hate speech” missing therein?

II. Offences Affecting the Public Health, Safety, Convenience, Decency and Morals

Q.6. Should s. 269 and 270 be combined to provide for graded punishment for “negligent” and “intentional” acts?

Q.7. Are there any offences under Chapter XIV that should be deleted or modified (e.g., ss. 272 and 273 in light of the provisions under the Food Safety and Standards Act)?

Q.8. Should the punishments for any of the offences under Chapter XIV be modified?

Q.9. Do you have any suggestions with regards to addition/omission/modification of provisions dealing with obscenity (ss. 292, 293 and 294)?

III. Offences Relating to Religion

Q.10. In light of the international discourse as well the repeal/ restriction of Blasphemy laws in other jurisdictions should s. 295A be repealed or modified?
Part D

I. Offences Against Property

Q.1. Should aggravated forms of theft & criminal breach of trust include acts committed by those other than clerks and servants (s. 380, 409) and in places and situations other than dwelling house, tent etc. (s. 380)? If yes, which types of persons, places and situations could be covered?

Q.2. Should the ‘harm’ under s. 415 be extended to person(s) other than the person(s) who has been deceived?

Q.3. Should the cognizability, bailability and punishment for any of the following offences against property be modified:

(a) s. 380; (b) S. 382; (c) s. 394; (d) s. 397; (e) s. 409; (f) ss. 411 - 414; (g) ss. 426 - 432; (h) s. 440; (i) ss. 447 - 448; (j) s. 453

Q.4. In light of contemporary animal rights jurisprudence, should the offence of mischief under ss. 428 and 429 be conceptualised independent of the valuation of the animal(s) in question? If not, how should the valuation of animals contained therein be modified?

Q.5. Should aggravated forms of mischief given in ss. 427 - 440 be modified? If yes, what should be the basis of such modification?

Q.6. Should the aggravated forms of offences given in ss. 442 and s. 445 be repealed or modified?
Part E

I. Criminal Breach of Contracts of Service

Q.1. Should breach of contract in Chapter XIX be modified or decriminalised?

II. Offences Relating to Marriage

Q.2. In the light of contemporary discourse on constitutional morality, individual autonomy and gender neutrality in laws, should ss. 493 and 498 be repealed or modified?

Q.3. Should live-in relationships be deemed to be a relationship in the nature of marriage for the purpose of s. 494?

III. Cruelty by Husband and Relatives of Husband

Q.4. In light of the Law Commission's 243rd Report, should s. 498A be amended with respect to its scope, punishment, cognizability, bailability and compoundability?

Q.5. In light of the Law Commission’s 243rd Report, should any pre-arrest or other procedural safeguards be added specifically with reference to s. 498A?

IV. Defamation

Q.6. Should defamation under s. 499 be decriminalised? If not, how should it be amended to balance the need to protect the privacy and reputation of people with the right to free speech and expression?

Q.7. Should defamation against public servants be expressly included in s. 499, having due regard to the Second Exception?

Q.8. Should defamation by public servants in the course of their public functions be treated as an aggravated offence?

Q.9. Should provisions enabling the ‘right to reply’ and ‘take-down notices’ against defamation be added to ss. 499 and 500?
V. Criminal Intimidation, Insult and Annoyance

Q.10. Should s. 505 be amended to explicitly address the commission of these offences through electronic means (e.g., social media and other internet based intermediaries)?

Q.11. Should the scope of s. 505 be amended to include creating and/or disseminating ‘fake news'/false news/ mis-information etc.?  

VI. Misc.

Q.12. In the determination of liability and other aspects of adjudication (such as sentencing, bail, compensation etc.), should a gradation be created on the basis of an explicit consideration of the type of injury (as defined in s. 44) caused by the offence?

Q.13. Should the classification of offences as cognisable and non-cognisable be modified? If so, on what basis?