# IPC Section 105

## Section 105 of the Indian Penal Code: Abetment of Offences outside India  
  
Section 105 of the Indian Penal Code (IPC) deals with the abetment of offences committed outside India. This section extends the jurisdiction of Indian courts to try individuals who abet offences committed beyond Indian borders, demonstrating the principle of extraterritorial jurisdiction in specific circumstances. Understanding the intricacies of Section 105 requires a detailed examination of its components, scope, and relationship with other provisions.  
  
\*\*The Text of Section 105:\*\*  
  
"Whoever abets the commission, without and beyond India, of any act which, if committed in India, would be punishable under this Code, shall be punished with the punishment provided for the offence."  
  
\*\*Deconstructing the Section:\*\*  
  
1. \*\*"Whoever abets…":\*\* This broad phrase indicates that the section applies to any individual, regardless of nationality or residency, who abets an offence. It establishes the principle that the act of abetment, regardless of where the abettor is located, is subject to legal scrutiny.  
  
2. \*\*"...the commission, without and beyond India…":\*\* This clarifies the extraterritorial scope of the section. It specifies that the offence being abetted must be committed outside India’s geographical boundaries. This is a crucial element that distinguishes Section 105 from other sections dealing with abetment within India.  
  
3. \*\*"...of any act which, if committed in India, would be punishable under this Code…":\*\* This crucial phrase establishes a link between the act committed outside India and the offences defined within the IPC. The act abetted, even if committed outside India, must be an act that would constitute an offence under the IPC if it were committed within India's borders. This condition ensures that the section doesn't apply to acts that are legal in the jurisdiction where they are committed.  
  
4. \*\*"...shall be punished with the punishment provided for the offence.":\*\* This specifies the punishment for the abettor. They are liable to the same punishment prescribed for the offence they abetted, as if the offence had been committed in India. This signifies the seriousness with which the law views abetment, regardless of where the resulting offence takes place.  
  
  
\*\*Scope and Applicability:\*\*  
  
Section 105’s application is contingent upon several factors:  
  
\* The abetment must occur within India. While the resulting offence takes place outside India, the act of abetment itself must originate from within Indian territory.  
\* The act abetted must be an offence under the IPC if committed in India. This means the act must satisfy all elements of the corresponding IPC offence, even if it's committed in a jurisdiction with different legal standards.  
\* The abettor must have the \*mens rea\* (criminal intent) required for abetment. Mere knowledge of an act being committed outside India doesn’t constitute abetment unless accompanied by the intent to facilitate or encourage the commission of that act.  
  
  
  
\*\*Illustrative Examples:\*\*  
  
\* \*\*Scenario 1:\*\* A, residing in India, instigates B, residing abroad, to commit a murder in a foreign country. If murder is an offence under the IPC, A can be tried in India under Section 105 for abetting the murder.  
\* \*\*Scenario 2:\*\* A, in India, conspires with B, who is abroad, to smuggle drugs into another country. If drug smuggling is an offence under the IPC, A can be tried in India under Section 105 for abetting the smuggling.  
\* \*\*Scenario 3 (where Section 105 doesn't apply):\*\* A, in India, learns that B, abroad, is planning to commit an act that is legal in that country but an offence under the IPC. A does nothing to stop B. Since A hasn't abetted the act, Section 105 doesn't apply.  
  
  
\*\*Relationship with other Sections:\*\*  
  
Section 105 operates alongside other provisions related to abetment:  
  
\* \*\*Section 107 (Abetment of a thing):\*\* Defines the various forms of abetment, providing the foundational basis for understanding Section 105.  
\* \*\*Section 108A (Abetment in India of offences outside India):\*\* Clarifies that the offence abetted doesn’t have to be an offence under the law of the place where it’s committed, as long as it would be an offence under the IPC if committed in India. This reinforces the principle that Indian law can apply to acts committed outside its territory in specific circumstances.  
\* \*\*Section 108 (Abettor present when offence is committed):\*\* Defines liability when the abettor is present at the scene of the crime. While Section 105 covers situations where the abettor is in India and the offence is committed abroad, Section 108 applies when the abettor is physically present where the offence is committed, irrespective of the location.  
  
  
  
\*\*Importance of "If committed in India":\*\*  
  
The phrase "if committed in India" is central to Section 105. It emphasizes that the act abetted must satisfy the elements of an offence under the IPC, regardless of the legality of the act in the foreign jurisdiction where it’s committed.  
  
  
\*\*Case Law:\*\*  
  
Judicial interpretations have clarified the scope and application of Section 105, emphasizing the importance of demonstrating:  
  
  
\* The abetment originated in India.  
\* The act abetted would be an offence under the IPC.  
  
  
  
\*\*Distinguishing Section 105 from other offences:\*\*  
  
It's crucial to differentiate Section 105 from related concepts like:  
  
  
\* \*\*Section 3 (Punishment of offences committed beyond, but which by law may be tried within, India):\*\* Section 3 deals with various offences committed outside India that can be tried in India. Section 105 specifically addresses the \*abetment\* of such offences.  
\* \*\*Section 4 (Extension of Code to extra-territorial offences):\*\* Section 4 extends the applicability of the IPC to offences committed by Indian citizens on any ship or aircraft registered in India, wherever it may be. Section 105 complements this by addressing the \*abetment\* of offences committed outside India, regardless of the offender's nationality or the location of the ship or aircraft.  
  
  
  
\*\*Challenges in enforcement:\*\*  
  
Enforcing Section 105 can be challenging due to jurisdictional issues and cooperation between countries. Gathering evidence and securing the presence of the accused for trial can present practical obstacles. International legal instruments and bilateral agreements between countries can facilitate cooperation in such cases.  
  
\*\*Conclusion:\*\*  
  
Section 105 of the IPC extends the arm of Indian law to address the abetment of offences committed outside India. It reflects the principle of extraterritorial jurisdiction, holding individuals in India accountable for their role in facilitating criminal acts abroad, provided the act abetted is an offence under Indian law. Understanding the elements of Section 105, its limitations, and its relationship with other provisions is crucial for a comprehensive understanding of abetment and Indian criminal law’s reach beyond its borders. The application of this section requires careful scrutiny of the facts, international legal frameworks, and cooperation between jurisdictions. Continued judicial interpretation and international legal developments will further refine the understanding and enforcement of this crucial provision in a globally interconnected world.