# IPC Section 87

## Section 87 of the Indian Penal Code: Act not intended and not known to be likely to cause death or grievous hurt, done by consent  
  
Section 87 of the Indian Penal Code (IPC) addresses the legality of acts that may cause harm but are performed with the informed consent of the individual subjected to the act. It provides a defense against criminal liability for acts that are not intended to cause death or grievous hurt and are not known to be likely to cause such harm, provided they are done with the consent of the person. This section recognizes that individuals have autonomy over their bodies and can consent to certain harms, within defined limits. This principle is central to various activities, including medical procedures, sports, and certain religious practices.  
  
\*\*The precise wording of Section 87 is as follows:\*\*  
  
"Nothing which is not intended to cause death, or grievous hurt, and which is not known by the doer to be likely to cause death or grievous hurt, is an offence by reason of any harm which it may cause, or be intended by the doer to cause, to any person, above eighteen years of age, who has given consent, whether express or implied, to suffer that harm; or by reason of any harm which it may cause, or be intended by the doer to cause, to any person who has given consent to suffer that harm, provided that the doer is acting in good faith for the benefit of that person and that the person is under eighteen years of age."  
  
  
\*\*Breaking Down the Elements of Section 87:\*\*  
  
1. \*\*"Nothing which is not intended to cause death, or grievous hurt..."\*\*: This sets a fundamental limit on the scope of the defense. Acts intended to cause death or grievous hurt are excluded, regardless of consent. The section recognizes that consent cannot legitimize acts intended to inflict such serious harm.  
  
2. \*\*"...and which is not known by the doer to be likely to cause death or grievous hurt..."\*\*: This further restricts the defense to acts that the doer does not know are likely to cause death or grievous hurt. This introduces an element of foreseeability. Even if the act is not intended to cause such harm, the doer must not have reason to believe it is likely to do so. This emphasizes the importance of due care and reasonable foresight.  
  
3. \*\*"...is an offence by reason of any harm which it may cause, or be intended by the doer to cause..."\*\*: This clarifies that the defense applies even if the act actually causes harm, as long as it falls within the specified limits (not intended to cause death or grievous hurt, and not known to be likely to cause such harm). The section also acknowledges that the act may be intended to cause some harm, but that harm must not be death or grievous hurt. For example, a surgical procedure may be intended to cause some pain and discomfort, but it is not intended to cause death or grievous hurt.  
  
4. \*\*"...to any person, above eighteen years of age, who has given consent, whether express or implied, to suffer that harm..."\*\*: This specifies that the person subjected to the act must be above eighteen years of age and must have consented to suffer the harm. The consent can be express (clearly stated) or implied (inferred from the circumstances). This emphasizes the importance of informed consent, meaning the person must understand the nature and potential consequences of the act before consenting.  
  
5. \*\*"...or by reason of any harm which it may cause, or be intended by the doer to cause, to any person who has given consent to suffer that harm, provided that the doer is acting in good faith for the benefit of that person and that the person is under eighteen years of age."\*\*: This clause addresses situations involving minors (under eighteen years of age). In these cases, consent alone is insufficient. The doer must also be acting in good faith for the benefit of the minor. This typically applies to medical procedures where parents or guardians can consent on behalf of the minor. The "good faith" requirement ensures that the act is genuinely intended to benefit the minor and not for any malicious or exploitative purpose.  
  
\*\*Key Concepts and Interpretations:\*\*  
  
\* \*\*Informed Consent:\*\* The concept of informed consent is crucial to Section 87. The individual must have a clear understanding of the nature and potential consequences of the act before they can validly consent. This includes understanding the risks involved and any alternative options.  
  
\* \*\*Voluntariness of Consent:\*\* The consent must be freely and voluntarily given, without coercion, undue influence, or fraud. A consent obtained through threats or deception is not valid.  
  
\* \*\*Capacity to Consent:\*\* The individual must have the mental capacity to understand the nature and implications of the act and make an informed decision. Individuals with mental illnesses or intellectual disabilities may lack the capacity to consent. In the case of minors, their parents or guardians can provide consent, subject to the "good faith" requirement.  
  
\* \*\*Scope of Consent:\*\* The consent must cover the specific act performed. Consent to one type of harm does not automatically extend to other types of harm. For example, consent to a surgical procedure does not imply consent to any act of negligence during the procedure.  
  
\* \*\*Good Faith:\*\* In cases involving minors, the "good faith" requirement means that the act must be performed with a genuine intention to benefit the minor. This is typically assessed based on the circumstances and the nature of the act.  
  
\* \*\*Grievous Hurt:\*\* The term "grievous hurt" is defined in Section 320 of the IPC and includes various forms of serious bodily harm, such as emasculation, permanent privation of the sight of either eye, permanent privation of the hearing of either ear, privation of any member or joint, destruction or permanent impairing of the powers of any member or joint, permanent disfiguration of the head or face, fracture or dislocation of a bone or tooth, and any hurt which endangers life or which causes the sufferer to be during the space of twenty days in severe bodily pain, or unable to follow his ordinary pursuits.  
  
\*\*Examples and Scenarios:\*\*  
  
\* \*\*Medical Procedures:\*\* Surgical operations, injections, and other medical procedures involve causing some degree of harm. However, they are generally lawful under Section 87 because they are performed with the informed consent of the patient (or their guardian in the case of minors) and are intended for the patient's benefit.  
  
\* \*\*Sports:\*\* Many sports involve physical contact that can cause injuries. Participants implicitly consent to a certain level of harm inherent in the sport. However, acts that go beyond the accepted rules and practices of the sport, such as intentional fouls with the intent to cause serious injury, are not protected by Section 87.  
  
\* \*\*Religious Practices:\*\* Certain religious practices may involve causing harm, such as piercing or scarring. If these practices are performed with the informed consent of adult participants and do not intend to cause death or grievous hurt, they may be protected under Section 87. However, the practice must not violate other laws, such as those relating to child abuse or public order.  
  
\* \*\*Tattoos and Piercings:\*\* These practices involve causing some harm but are generally lawful if performed with informed consent and do not intend to cause death or grievous hurt. However, issues may arise regarding the capacity to consent in the case of minors.  
  
  
\*\*Limitations of Section 87:\*\*  
  
\* \*\*Acts Intended to Cause Death or Grievous Hurt:\*\* As explicitly stated in the section, consent does not justify acts intended to cause death or grievous hurt.  
  
\* \*\*Knowledge of Likelihood of Death or Grievous Hurt:\*\* The defense is unavailable if the doer knew their act was likely to cause death or grievous hurt, even if they did not intend to cause such harm.  
  
\* \*\*Acts on Minors without Good Faith:\*\* In cases involving minors, consent is insufficient. The act must be performed in good faith for the benefit of the minor.  
  
\* \*\*Acts Violating Other Laws:\*\* Section 87 does not protect acts that violate other laws, such as laws relating to assault, battery, or child abuse.  
  
\*\*Conclusion:\*\*  
  
Section 87 of the IPC provides a carefully circumscribed defense against criminal liability for acts that cause harm but are performed with informed consent. It recognizes individual autonomy over one's body and allows for consent to certain harms within defined limits. The section strikes a balance between protecting individuals from harm and respecting their right to make informed decisions about their bodies. Understanding the key concepts of informed consent, voluntariness, capacity, and good faith is crucial for the proper application of this section. The courts must carefully consider the specific facts of each case, the nature of the act, the scope of consent, and the presence of any other relevant factors to determine whether the defense under Section 87 is applicable.