# IPC Section 106: Right of private defence against deadly assault when there is risk of harm to innocent person.

## IPC Section 106: Right of Private Defence Against Deadly Assault When There is Risk of Harm to Innocent Person  
  
Section 106 of the Indian Penal Code (IPC) addresses a specific and critical scenario within the broader framework of the right of private defence. It deals with situations where an individual faces a deadly assault and exercising their right of private defence in the usual manner might inadvertently harm an innocent bystander. This section provides legal justification for using necessary force, even if it carries a risk of harm to an innocent person, when defending against a deadly assault. It essentially prioritizes the life of the person defending themselves from a life-threatening attack, even if there’s a chance someone uninvolved might get hurt in the process.  
  
\*\*Understanding the Context: The General Right of Private Defence\*\*  
  
Before delving into the specifics of Section 106, it's crucial to grasp the overarching principle of private defence enshrined within the IPC. Sections 96 to 106 delineate the various facets of this right, granting individuals the legal recourse to use reasonable force to protect themselves and their property from harm. This right stems from the natural instinct of self-preservation and the recognition that the state cannot be omnipresent to provide immediate protection in every situation.  
  
The fundamental principle governing private defence is that the force employed should be proportionate to the threat faced. One cannot, for example, use lethal force against a minor theft. However, the situation changes when facing a grave and imminent threat to life or limb.  
  
\*\*Section 106: Addressing the Dilemma of Innocent Bystanders\*\*  
  
Section 106 explicitly addresses the difficult situation where exercising the right of private defence against a deadly assault might endanger innocent bystanders. The section states:  
  
"If in the exercise of the right of private defence against an assault which reasonably causes the apprehension of death, the defender be so situated that he cannot effectually exercise that right without risk of harm to an innocent person, his right of private defence extends to the running of that risk."  
  
This section clarifies that when an individual faces a life-threatening assault and cannot effectively defend themselves without potentially harming an innocent person, they are legally entitled to take that risk. The law recognizes that in such precarious circumstances, prioritizing the defender’s life becomes paramount, even if it entails a risk to an innocent party.  
  
\*\*Key Elements of Section 106:\*\*  
  
1. \*\*Deadly Assault:\*\* The provision applies only when the assault reasonably causes apprehension of death. This means the attack must be of such a nature that a reasonable person would fear for their life. A simple assault or threat would not suffice. The threat must be imminent and real.  
  
2. \*\*Inability to Exercise Right Without Risk:\*\* The defender must be in a situation where they cannot effectively protect themselves without potentially harming an innocent person. This implies that all other avenues of escape or defence have been exhausted or are unavailable. The defender must be cornered, so to speak, with no other reasonable option.  
  
3. \*\*Proportionality Remains Relevant:\*\* While Section 106 allows for the risk of harm to an innocent person, the underlying principle of proportionality still holds significant weight. The force employed, even with the inherent risk, should be commensurate with the threat faced. The defender cannot use excessive force simply because there's a chance of harming a bystander. The focus remains on neutralizing the immediate threat, not inflicting unnecessary harm.  
  
4. \*\*Honest and Reasonable Belief:\*\* The defender’s actions must be based on an honest and reasonable belief that they are facing a deadly assault and have no other recourse but to act in a way that might endanger an innocent person. This subjective element is crucial, as the law acknowledges the split-second decisions individuals must make in such situations. However, this belief must be objectively justifiable.  
  
5. \*\*No Intention to Harm the Innocent:\*\* While the risk of harm is permitted, there should be no deliberate intention to harm the innocent person. The harm, if any, should be an unintended consequence of the defensive action.  
  
\*\*Illustrative Examples:\*\*  
  
\* An individual attacked with a deadly weapon in a crowded marketplace might be forced to use force that could potentially injure bystanders in order to defend themselves.  
  
\* A person facing a life-threatening assault in a confined space, like a bus, might need to use force that could risk harming other passengers to repel the attack.  
  
\*\*Distinction from Other Sections:\*\*  
  
Section 106 differs from other sections relating to private defence in its specific focus on the dilemma of potential harm to innocent bystanders. Other sections deal with different aspects of private defence, such as the right to defend property (Section 103), the right to defend against house-trespass or mischief (Section 104), and the right of private defence of the body extending to causing death (Section 100). Section 106 specifically addresses the unique and challenging situation where the exercise of private defence itself poses a risk to innocent individuals.  
  
  
\*\*Conclusion:\*\*  
  
Section 106 of the IPC recognizes the complexities of real-world scenarios where exercising the right of private defence can have unintended consequences. It provides a legal safeguard for individuals forced to act in self-defence against a deadly assault even if their actions carry a risk of harm to innocent bystanders. This provision underscores the delicate balance between protecting individual lives and safeguarding the well-being of others, emphasizing the paramount importance of preserving life in the face of imminent danger. The application of this section requires careful consideration of the specific circumstances, ensuring that the force used is proportionate to the threat and the risk to innocent persons is minimized as much as reasonably possible.