# IPC Section 43: “Illegal”. “Legally bound to do”.

## Section 43 of the Indian Penal Code: "Illegal," "Legally Bound to Do"  
  
Section 43 of the Indian Penal Code (IPC) defines two crucial terms: "illegal" and "legally bound to do." These definitions are essential for interpreting various provisions within the IPC, particularly those related to omissions and breaches of legal duty. They clarify when the absence of an action constitutes a punishable offence.  
  
\*\*The precise wording of Section 43 is:\*\*  
  
“The word “illegal” is applicable to everything which is an offence or which is prohibited by law, or which furnishes ground for a civil action; and a person is said to be “legally bound to do” whatever it is illegal in him to omit.”  
  
\*\*Deconstructing the Definition:\*\*  
  
1. \*\*"Illegal"\*\*: This term encompasses a broader scope than simply "offence." It includes three categories:  
  
 \* \*\*"Everything which is an offence":\*\* This refers to any act or omission explicitly defined as punishable under the IPC or any other criminal statute. This is the most straightforward aspect of illegality.  
  
 \* \*\*"Which is prohibited by law":\*\* This extends the definition beyond explicit offences to include actions prohibited by any law, even if they don't directly attract criminal penalties. This could include violations of administrative regulations, statutory prohibitions, or other legal restrictions.  
  
 \* \*\*"Which furnishes ground for a civil action":\*\* This further broadens the definition to include acts or omissions that give rise to civil liability, even if they are not criminal offences or explicitly prohibited. This emphasizes that "illegal" encompasses actions that violate legal rights and obligations, regardless of whether they attract criminal sanctions.  
  
  
2. \*\*"Legally bound to do"\*\*: This phrase defines a legal duty to act. It states that a person is "legally bound to do" something if omitting that action is considered "illegal" as defined above. This links the concept of legal obligation to the concept of illegality. A person is legally obligated to perform an act if failing to do so falls under any of the three categories of "illegal" explained earlier.  
  
\*\*Implications and Scope:\*\*  
  
\* \*\*Omissions as Offences:\*\* Section 43 is crucial for understanding when omissions can be considered offences. The IPC generally focuses on positive acts (commissions). However, Section 43 provides the framework for criminalizing omissions by establishing the concept of a legal duty to act. If a person is "legally bound to do" something and omits to do it, that omission can be considered an offence if the omission itself is criminalized under the IPC.   
  
\* \*\*Sources of Legal Duty:\*\* The definition of "legally bound to do" doesn't specify the sources of legal duty. These sources can vary and may arise from:  
  
 \* \*\*Statutory Obligations:\*\* Laws may explicitly impose duties on individuals (e.g., paying taxes, registering births and deaths).  
 \* \*\*Contractual Obligations:\*\* Contracts can create legal duties to perform specific actions.  
 \* \*\*Special Relationships:\*\* Certain relationships, like parent-child or guardian-ward, impose legal duties of care.  
 \* \*\*Creation of Peril:\*\* If a person creates a dangerous situation, they may be legally bound to take steps to mitigate the danger.  
 \* \*\*Voluntary Assumption of Responsibility:\*\* If someone voluntarily takes on responsibility for another's well-being, they may have a legal duty to fulfil that responsibility.  
 \* \*\*Official Duty:\*\* Public servants have legal duties associated with their roles.  
  
  
\* \*\*Relationship between Civil and Criminal Liability:\*\* Section 43 highlights the interconnectedness of civil and criminal law. An act can be both illegal in the civil sense (giving rise to a civil action) and illegal in the criminal sense (constituting an offence). This emphasizes that legal obligations exist in both spheres, and violations can have different legal consequences.  
  
\* \*\*Interpretational Challenges:\*\* The broad definition of "illegal" can create interpretational challenges. Determining whether something "furnishes ground for a civil action" can be complex and depends on the specific facts and circumstances. Courts play a crucial role in interpreting and applying this aspect of the definition.  
  
  
\* \*\*Illustrative Examples:\*\*  
  
 \* \*\*Offence:\*\* A person is "legally bound to do" what is defined as an offence if omitting to do so constitutes a separate offence. For instance, not reporting a cognizable offence which one has witnessed is an offence. The omission to report is itself criminalized.  
 \* \*\*Prohibited by law:\*\* A driver is "legally bound to do" things like stopping at a red light. While not stopping isn’t necessarily a criminal offence (it might be a traffic violation), it is prohibited by traffic laws.  
 \* \*\*Grounds for civil action:\*\* A parent is "legally bound to do" things like providing for their child's basic needs. Failing to do so could give rise to a civil action for neglect, even if it's not a criminal offence in every instance. Similarly, a doctor who fails to exercise reasonable care in treating a patient may face civil liability for medical negligence, even if their actions don't constitute a criminal offence under the IPC.  
  
  
  
\* \*\*Importance for Accountability:\*\* Section 43 expands the scope of accountability beyond positive actions. It establishes that individuals can be held responsible for omissions when they have a legal duty to act. This promotes responsible behaviour and reinforces the rule of law.  
  
  
\*\*Conclusion:\*\*  
  
Section 43 of the IPC defines "illegal" and "legally bound to do," providing a framework for understanding when omissions can attract legal consequences, including criminal liability. By encompassing acts that are offences, prohibited by law, or give rise to civil actions, the definition of "illegal" covers a broad range of actions. The concept of "legally bound to do" links this definition to omissions, clarifying when a failure to act constitutes a breach of legal duty. This section plays a crucial role in interpreting various provisions within the IPC and establishing the scope of individual responsibility under criminal law. It underscores that legal accountability extends beyond commissions to include omissions where a legal duty to act exists.