# IPC Section 459: Grievous hurt caused whilst committing lurking house-trespass or house-breaking.

## IPC Section 459: Grievous Hurt Caused Whilst Committing Lurking House-Trespass or House-Breaking – A Detailed Analysis  
  
Section 459 of the Indian Penal Code (IPC) addresses the specific scenario where grievous hurt is caused during the commission of lurking house-trespass or house-breaking. This provision recognizes the enhanced danger posed by clandestine intrusions when they escalate into actual physical violence resulting in grievous hurt. It combines the elements of lurking trespass or house-breaking with the infliction of serious bodily harm, warranting a stringent punishment.  
  
\*\*Dissecting the Elements of Section 459:\*\*  
  
To secure a conviction under Section 459, the prosecution must prove the following elements beyond reasonable doubt:  
  
1. \*\*Lurking House-Trespass or House-Breaking:\*\* The foundation of this offense rests on the commission of either lurking house-trespass or lurking house-breaking. This involves secretly entering into or remaining in any building, tent, or vessel used as a human dwelling, or any enclosed space used as a place for worship, or as a place for the custody of property, without consent, and with the intent to commit an offense. The "lurking" element, signifying concealment and clandestine intent, is crucial in distinguishing this from simple trespass or house-breaking.  
  
2. \*\*Causing Grievous Hurt:\*\* The second essential element is causing grievous hurt during the commission of lurking house-trespass or house-breaking. "Grievous hurt" is defined under Section 320 of the IPC and includes specifically:  
  
 \* 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  
 \* 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.  
  
 The prosecution must establish that the grievous hurt was directly caused by the accused during the commission of lurking house-trespass or house-breaking.  
  
\*\*Illustrative Examples:\*\*  
  
\* An individual secretly enters a house at night, intending to steal valuables. When confronted by a resident, the intruder attacks them with a weapon, causing a fracture. This constitutes lurking house-trespass by night and causing grievous hurt, falling under Section 459.  
\* A person hides in a warehouse after dark, intending to steal goods. A security guard discovers them, and the intruder assaults the guard, causing permanent disfiguration of the face. This would be lurking house-trespass by night and causing grievous hurt, attracting Section 459.  
\* Someone breaks into a house at night and, while searching for valuables, is confronted by the homeowner. A struggle ensues, and the intruder inflicts injuries that endanger the homeowner's life. This qualifies as lurking house-breaking by night and causing grievous hurt under Section 459.  
  
\*\*Punishment:\*\*  
  
Section 459 prescribes a punishment of imprisonment for life, or imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine. This stringent punishment, including the possibility of life imprisonment, highlights the seriousness with which the law views this offense. The court has the discretion to choose between life imprisonment and a term up to ten years, based on the specific facts and circumstances of the case.  
  
\*\*Distinction from Related Sections:\*\*  
  
It's crucial to differentiate Section 459 from other related offenses:  
  
\* \*\*Section 458 (Lurking house-trespass or house-breaking by night after preparation for hurt, assault or wrongful restraint):\*\* While both sections address aggravated forms of lurking trespass or house-breaking, Section 458 focuses on the \*preparation\* for hurt, assault, or wrongful restraint, while Section 459 deals with the actual \*infliction\* of grievous hurt.   
\* \*\*Section 325 (Punishment for voluntarily causing grievous hurt):\*\* Section 459 specifically deals with grievous hurt caused \*during\* the commission of lurking house-trespass or house-breaking. If grievous hurt is caused outside the context of lurking trespass or house-breaking, Section 325 would apply.  
\* \*\*Sections 441 & 445 (House-trespass & House-breaking):\*\* The key distinction lies in "lurking" and the infliction of "grievous hurt." Simple house-trespass or house-breaking doesn't encompass these aggravated elements.  
  
  
\*\*Evidentiary Considerations:\*\*  
  
Proving "lurking" and "grievous hurt" requires robust evidence. The prosecution must establish the clandestine nature of the intrusion and demonstrate, beyond reasonable doubt, that the accused inflicted grievous hurt as defined under Section 320 during the commission of the lurking trespass or house-breaking. Medical evidence, witness testimonies, forensic evidence, and the accused's statements play a vital role in proving these elements.  
  
\*\*Conclusion:\*\*  
  
Section 459 of the IPC serves as a crucial legal deterrent against clandestine intrusions that escalate into violence resulting in grievous hurt. By combining the elements of lurking trespass or house-breaking with the infliction of grievous bodily harm, it addresses a severe threat to personal safety. The stringent punishment, including the possibility of life imprisonment, reflects the gravity of this offense. The clear definition of the constituent elements and the stipulated penalty ensure clarity and fairness in the application of this vital provision, effectively safeguarding individuals and their dwellings from potentially dangerous intrusions.