

# **THE INDIAN PENAL CODE**

## **CHAPTER II GENERAL EXPLANATIONS**

THIS Chapter is for the most part an elaborate interpretation clause. It is a key to the interpretation of the whole Code. The leading terms used are here defined and explained and the meanings thus, announced are steadily adhered to throughout the subsequent chapters.

**[s 13] *[Repealed]***

**[Definition of "Queen".] [Rep. by the A.O. 1950.]**

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### **20. [[s 14] "Servant of Government".**

The words "servant of Government" denote any officer or servant continued, appointed or employed in India by or under the authority of Government.]

20. Subs. by the A.O. 1950, for section 14.

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**[s 15] *[Repealed]***

**[Definition of "British India".] [Rep. by the A.O. 1937.]**

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**[s 16] *[Repealed]***

**[Definition of "Government of India".] [Rep. by the A.O. 1937.]**

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**21.** [s 17] "Government"

The word "Government" denotes the Central Government or the Government of a **22.** [\*\*\*] State.]

### COMMENT—

Legislature of a State cannot be comprehended in the expression 'State Government'. **23.**

**21.** Subs. by A.O. 1950, for section 17.

**22.** The word and letter "Part A" omitted by Act 3 of 1951, section 3 and Sch (w.e.f. 1-4-1951).

**23.** *RS Nayak v AR Antulay*, (1984) 2 SCC 183 [LNIND 1984 SC 43] : AIR 1984 SC 684 [LNIND 1984 SC 43] .

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#### **24. [[s 18] "India."**

"India" means the territory of India excluding the State of Jammu and Kashmir.]

#### **COMMENT—**

This exclusion of the State of Jammu and Kashmir in this section is not violative of [Article 1](#) and the First Schedule of the [Constitution of India](#).<sup>25</sup> In fact, *Fazal Ali*, CJ, as he then was, held that exclusion of a territory postulates the existence of a territory itself; State of Jammu and Kashmir cannot be taken as a foreign territory.<sup>26</sup> Since the First Schedule to the [Constitution of India](#) specifically includes Jammu and Kashmir as a part of the territories of India, the exclusion of the State of Jammu and Kashmir from [section 18 of the Penal Code](#) only means that for the purposes of application of the provisions of the [Indian Penal Code](#), that State shall not be considered as a part of India. In fact, section 1 of the Code itself makes this position abundantly clear. The State of Jammu and Kashmir has a separate [Penal Code](#) of its own. It is known as the Ranbir [Penal Code](#), which is almost same as the [Indian Penal Code](#).

<sup>24</sup> Subs. by Act 3 of 1951, section 3 and Sch, for section 18 (w.e.f. 1-4-1951). Earlier section 18 was repealed by the A.O. 1937 and was again inserted by the A.O. 1950.

<sup>25</sup> *KRK Vara Prasad v UOI*, [AIR 1980 AP 243](#) [[LNIND 1980 AP 27](#)].

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### **[[s 19] "Judge."**

**[s 19] The word "Judge" denotes not only every person who is officially designated as a Judge, but also every person,—**

**who is empowered by law to give, in any legal proceeding, civil or criminal, a definitive judgment, or a judgment which, if not appealed against, would be definitive, or a judgment which, if confirmed by some other authority, would be definitive, or**

**who is one of a body of persons, which body of persons is empowered by law to give such a judgment.**

### ILLUSTRATIONS

- (a) A Collector exercising jurisdiction in a suit under Act 10 of 1859, is a Judge.
- (b) A Magistrate exercising jurisdiction in respect of a charge on which he has power to sentence to fine or imprisonment, with or without appeal, is a Judge.
- (c) A member of a panchayat which has power, under <sup>27</sup> Regulation VII, 1816, of the Madras Code, to try and determine suits, is a Judge.
- (d) A Magistrate exercising jurisdiction in respect of a charge on which he has power only to commit for trial to another Court, is not a Judge.

### COMMENT—

[Section 19 IPC, 1860](#) defines a 'Judge' as denoting not only every person who is officially designated as a Judge, but also every person who is empowered by law to give in any legal proceedings, civil or criminal, a definitive judgment, or a judgment which, if not appealed against, would be definitive, or a judgment which, if confirmed by some other authority, would be definitive, or who is one of a body of persons empowered by law to give such a judgment. The Collector is neither a Judge as defined under section 19 nor does he act judicially, when discharging any of the functions under the [Land Acquisition Act](#).<sup>28</sup> Regional Provident Fund Commissioner while passing an order under section 7-A of Employees' Provident Funds and Miscellaneous Provisions Act 1952 was 'Judge' within definition under [section 19 of IPC, 1860](#).<sup>29</sup> The right to pronounce a definitive judgment is considered the *sine qua non* of a Court.<sup>30</sup>