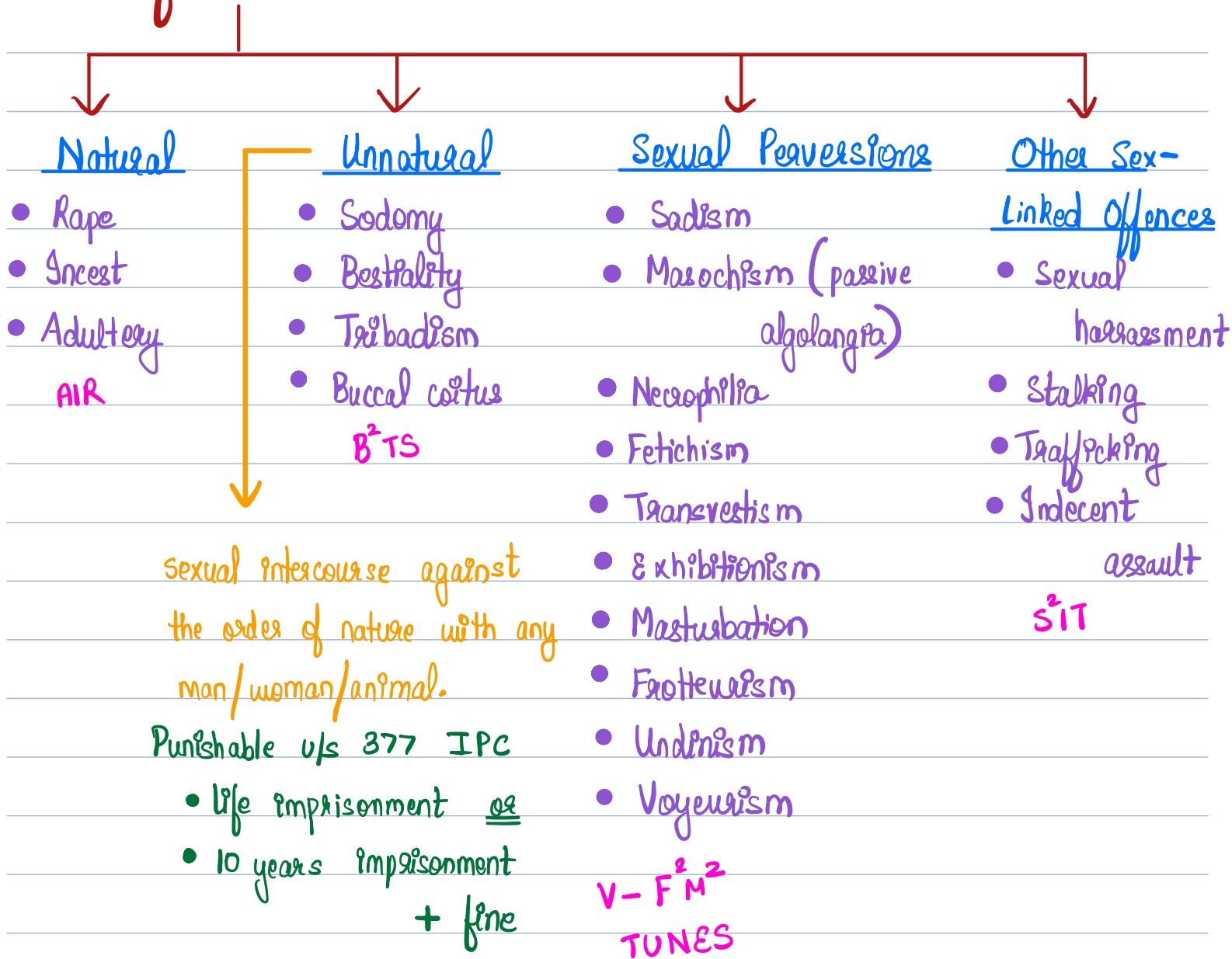


Sexual Offenses: criminal forms of human sexual behaviour

Classification:



Sexual Perversions/ Deviations: persistently indulged sexual acts or fantasies in which complete satisfaction is sought & obtained without sexual intercourse.

→ these are acts which are socially prohibited or unacceptable or biologically undesirable.

Rape:

changes after Nirbhaya ??

definition
consent age
accused
(juvenile ≤ 16)

Legal Definition: A man is said to commit 'rape' if he: **PIMA**

- i) Penetrates his penis, to any extent, into the vagina/mouth/urethra/anus of a woman or makes her to do so with him or any other person or
- ii) Inserts, to any extent, any object or part of the body (not being the penis), into the vagina/mouth/urethra/anus of a woman or makes her to do so with him or any other person or
- iii) Manipulates any part of the body of a woman so as to cause penetration into the vagina/urethra/anus or any part of the body of such woman or makes her to do so with him or any other person or
- iv) Applies his mouth to the vagina/anus/urethra of a woman or makes her to do so with him or any other person

Under the Circumstances falling under any of the following 7 descriptions:

- (1) Against her will
- (2) Without her consent
- (3) Without her consent, when her consent has been obtained by putting her or any other person in whom she is interested, in fear of death or in hurt.
- (4) With her consent, when the man knows that he is not her husband, & that her consent is given because she believes that he is another man to whom she is or believes herself to be lawfully married.
- (5) With her consent, when at the time of giving such consent:
 - by reason of unsoundness of mind or

- intoxication or
- administration by him personally or through another of any stupefying or unwholesome substance,
she is unable to understand the nature & consequences of that to which she gives consent.

(6) With or without consent, when she is under 18 years of age (statutory rape)

(7) When she is unable to communicate consent.

[age of consent = 18 y]

→ even touching of penis to vulva amounts to rape. Ejaculation is not necessary

Will: psychological desire

Consent: unequivocal voluntary agreement when the woman by words/gestures/any form of verbal or non-verbal communication, communicates willingness to participate in the specific sexual act (a woman who does not physically resist to the act of penetration is not regarded as consenting to the sexual activity)

Exceptions:

- (1) A medical procedure/intervention shall not constitute rape
- (2) Sexual intercourse by a man with his own wife with/without consent, if she is > 15 years of age

Sexual Intercourse WITH Consent is an Offence:

- (1) With girl < 18 years ⇒ Statutory rape
- (2) With wife < 15 years ⇒ Marital rape

Sexual Intercourse with WIFE is an offence (Marital Rape):

- (1) wife < 15 years
- (2) wife living separately from husband under a decree of judicial separation or otherwise

→ In India, woman is deemed to have given unconditional consent for sexual intercourse to her husband at the time of marriage.
(this is not so in western countries)

IPC (1860)		BNS (2023)	
Section	Heading	Section	Heading
375	Rape	63	Rape
376 (1)(2)	Punishment for rape	64	Punishment for rape
376 (3)	Punishment for rape	65 (1)	Punishment for rape
376 A	Punishment for causing death or resulting in persistent vegetative state of victim	66	Punishment for causing death or resulting in persistent vegetative state of victim
376 AB	Punishment for rape on woman under 12 years of age	65 (2)	Punishment for rape in certain cases
376 B	Sexual intercourse by husband upon his wife during separation	67	Sexual intercourse by husband upon his wife during separation
376 C	Sexual intercourse by a person in authority	68	Sexual intercourse by a person in authority
376 D	Gang rape	70 (1)	Gang rape
376 DA	Punishment for gang rape on woman under 16 years of age	70 (2)	Gang rape
376 DB	Punishment for gang rape on a woman under 12 years of age	70 (2)	Gang rape
376 E	Punishment for repeat offenders	71	Punishment for repeat offenders

376(1): Imprisonment for term not less than 7 years, but it may extend upto life imprisonment + Fine.

376(2): • Rape committed by a police officer/public servant/Armed forces/Management or staff of hospital

• Rape on a pregnant woman

• Sexual assault on a person — under 18 years

— mentally/physically disabled

— who is incapable of giving consent

⇒ 10 years imprisonment which may extend to life imprisonment + Fine

376(3): Rape on a girl under 16 years of age

⇒ 20 years imprisonment which may extend to life imprisonment + Fine

376 A: Punishment for causing death or resulting in persistent vegetative state of victim

⇒ 20 years imprisonment which may extend to life imprisonment + Fine

376 AB: Rape on a girl under 16 years of age

⇒ 20 years imprisonment which may extend to life imprisonment + Fine
or Death sentence

376 B: Sexual assault by husband upon his wife who is living separately under a decree of separation, without her consent.

⇒ Punishment for not less than 2 years, but may extend upto 7 years
+ Fine

376 C: Sexual intercourse by a person in authority

⇒ Imprisonment for 5 years, but may extend upto 10 years + Fine

376 D: Gang rape ⇒ when a woman is raped by ≥ 1 persons constituting a group or acting in furtherance of a common intention, each of those persons shall be deemed to have committed the offence of rape

⇒ Imprisonment for 20 years, but may extend to life imprisonment + Fine

376 DA: When a girl under 16 years is gang-raped

376 DB: When a girl under 12 years is gang-raped

376 E: Punishment for repeat offenders

⇒ Life imprisonment or Death sentence.

Statutory Rape: Sexual intercourse with female with/without consent whose age is under 18 years

Custodial Rape: Rape by a public servant/police/others who uses his power or authority to force or seduce a woman in his custody to have sexual intercourse

Drugs Rape: Woman is given a drink containing drug like Rohypnol/GHB/ketamine & she is violated in a drugged state.

Consent:

→ Age of consent for allowing physical examination: 12 years

→ Age at which girl can give valid consent for sexual intercourse: 18 years

Examination of Rape Victim:

Step 1: General procedure (Preliminaries)

Step 2: Statement by victim (History)

Step 3: Examination proper

Step 4: Special local examination

Step 5: Psychiatric examination

Step 1: Preliminaries:

(1) Requisition: • from police or Magistrate

• victim can go directly to the doctor & inform the police later

(2) Written witnessed Consent:

- for GPE (general physical examination)
- to take photographs
- to collect trace evidences
- to release information to the Police

(3) Identification by Police

(4) Examination of victim — should be done without delay

- preferably by a female RMP (registered medical practitioner)
- male RMP can examine (only if female RMP is not available) & in presence of a female witness

(5) Name of victim, age, marital status & address

(6) Identification marks

(7) Date, time, place of examination

Step 2 — History (Statement by victim): in the presence of a third party (especially female)

- (1) Date, time, place of incident
- (2) Location — indoor/outdoor
- (3) Number of assailants
- (4) Alcohol/drugs
- (5) Use of weapons
- (6) Struggle / Resistance
- (7) Injuries by assailant
- (8) Relative position
- (9) Type of act / Number of act
- (10) Use of condoms / lubricants
- (11) Use of sanitary pad

{ Aruna Shanbaug:
longest rape survivor
in semi-comatose state

- (12) Ejaculation occurred, during the act or externally
- (13) Bleeding occurred
- (14) Call for help
- (15) Loss of consciousness?
- (16) Bath / Defecation / Urination after incident?
- (17) Changing or washing clothes after incident?
- (18) Height, weight of victim
- (19) General development of victim
- (20) Gait

Step 3 - Examination Proper: Each item of clothing has to be removed by the victim in presence of a RMP

(1) Clothes: look for -

- Hairs, fibres
- Blood stains
- Semen
- Tears, loss of buttons
- Grass / mud

(2) General Examination:

→ Undress & examine under UV lamp

→ Violence / struggle marks over:

- | | |
|-----------------------|-----------------------------------|
| • mouth / throat | • shoulder & buttocks |
| • wrist / arm | • Breast - love bites, bite marks |
| • inner side of thigh | • Lips |
| • Knee | |

→ fingernail scraping

- photographic record of external injuries, vaginal vault & cervix with a photocolposcope or video colposcope.
- examination for drunkenness
- pulse, respiratory rate, gait
- Marks of violence \Rightarrow defense wounds, bite marks/love bites

Step 4 — Local Examination:

- (1) Position: examination in lithotomy position in a well-lit room
- Application of local anaesthetics may be necessary if too much pain is there

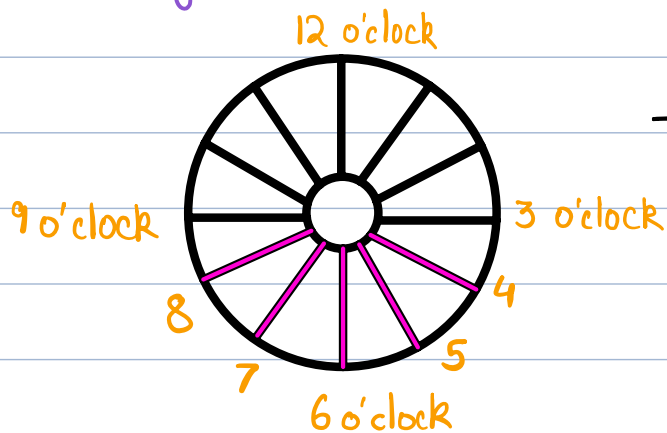
(2) Methods of Examination:

- Direct visual inspection
- Colposcopy
- Toluidine - blue [Tb] contrast application (best)

(3) Clitoris: red, swollen, edematous

(4) Labia: abrasions/bruises/lacerations/soiling

(5) Hymen:



— = most common hymenal tears in a virgin

- tears occur more commonly in posterior structures since anatomic fixation to the perineal body lies posteriorly & \therefore tissues are under greatest tension at this location

- in case of an already ruptured hymen (married woman), there may be only abrasions & bruising of hymen.

→ Methods of hymenal examination:

- i) Glaister-Keene rods
- ii) Foley's catheter or inflatable balloon
- iii) Conical measures (similar to ones used for measuring circumference of heart valves)
- iv) Hymenoscope
- v) Through rectum \Rightarrow pass a finger \rightarrow push posterior vaginal wall forwards & downwards \rightarrow hymen can now be seen easily lying against posterior vaginal wall.

→ Age of hymenal tears:

- **Immediate:** margins of torn hymen \Rightarrow red, sharp & bleed on touch
- **3-4 days:** edges of tears are congested & swollen
- **7 days:** complete healing but torn parts do not unite \Rightarrow V-shaped defects
- **Several months:** V-shaped

(6) Vaginal introitus: slightly edematous; shows abrasions, bruises

(7) Vaginal canal: (examined using vaginal speculum)

→ abrasions, bruises, lacerations, tears

- bruising \Rightarrow most common site — lower $\frac{1}{3}$ of anterior vaginal wall
— upper $\frac{1}{3}$ of posterior vaginal wall.

→ assess — number of fingers that can be passed through hymenal orifice
— laxity of vaginal orifice (indicates previous penetration)

(8) Cervix: (examined best by a colposcope)

→ penetration causes cervical abrasion (not cervical erosion)

	Cervical Abrasions	Cervical Erosions
Location	Away from external os	Around external os
Margin	Not clearly defined	Well-defined margins
Colour	Dull colour	Bright-red

(9) 2nd Examination: of the victim must be done a day after the first
(for delayed bruising)

(10) Hair:

- Pubic hair combed out ⇒ look for non-matching & foreign hair
- Living victim: 15-20 hair strands are cut
Dead victim: hair pulled off
- Hair samples from 6 different parts of head & pubic region

(11) Seminal Stains:

- Matted pubic hair to be collected as close to the skin → moisten with NS for half an hour → examine under microscope
- Swabs: (use normal throat swabs moistened with NS)
 - i) Vaginal area
 - ii) Perineum
 - iii) Pubic area
 - iv) Inner side of thighs
 - v) Any other suspected area
- [when examined under UV light → seminal stains fluoresce bluish white]
- If seminal stains have dried out ⇒ scrape with a blunt knife
→ seal → document → send for examination
- remove tampons & send for examination, if present.
- Vaginal aspirates (VA): collected by a blunt end pipette after instilling 5ml of NS in the posterior fornix → examined for motile spermatozoa under a phase contrast microscope.
- Vaginal swabs from inside:
 - low vaginal swab
 - high vaginal swab

→ Cervical swabs: from within cervical canal

- taken in all cases, especially if offence was committed > 48 h previously

→ detection of at least one motile spermatozoa denotes sexual assault within last 24 hours

→ description of material taken for DNA profiling is a legal necessity.

(12) Finger nails:

→ Fingernail scrapings: taken from beneath all 10 nails (for DNA profiling)

→ Fingernail clippings: taken from all 10 nails with a nail cutter.

(13) Blood Stains: presence/absence around genitals & on legs

→ determine if these could be due to menstruation

(14) Venereal disease:

→ Bacterial: • Chancroid [*Haemophilus ducreyi*] • Chlamydia [*Chlamydia trachomatis*]
• Granuloma inguinale [*Klebsiella granulomatis*] • Gonorrhoea [*Neisseria gonorrhoeae*]
• Syphilis [*T. pallidum*]

→ Fungal: Candidiasis

→ Viral: • HSV • HIV • HPV • MCV • HBV

→ Parasites: • Crab louse / pubic lice • Scabies

→ Protozoal: Trichomoniasis [*Trichomonas vaginalis*]

Examination of Victim in Special Cases:

(1) Children & Virgins:

→ hymen is deeply situated in children & injuries are more severe

→ perineal body may be torn

→ posterior commissure rupture is more common

→ fourchette is fragile & tears during 1st intercourse \Rightarrow very important sign in virgins.

(2) Rape on Deflowered women:

- hymen: completely destroyed
- vaginal orifice: dilated

Examination of Accused: same as in case of victim (better done after examination of victim)

Step 1: Preliminaries:

- (1) Requisition: • from police or Magistrate
• if brought by general public ⇒ inform police & label case

(2) Consent:

as MLC

- written consent required if accused is not arrested
- no consent needed if arrested

(3) Identification by Police

(4) Examination of victim — should be done without delay

(5) Name of victim, age, marital status & address

(6) Identification marks

(7) Date, time, place of examination

(8) General past medical history

(9) H/O last sexual activity, bath, changing of clothes

Step 2 — General Examination:

(1) General behaviour & mental state

(2) Clothes: look for — (preserve all clothes & send for examination)

- Hairs, fibres
- Blood stains
- Semen
- Tears, loss of buttons
- Grass / mud

- (3) Female hair: presence/absence on clothes, body, penis, prepuce, pubic hair
→ preserve for cross-matching with victim
- (4) Shoes: presence/absence of any foreign material
- (5) Examination of drunkenness or other intoxicating drugs
- (6) Injuries: — present/absent
— age of injuries
- (7) Nail scraping examination
- (8) Pubic hair: — present/shaved
— any matted hair (due to semen)
— cut about 10-15 strands at the base for matching with those found on victim.
- (9) Veneral Diseases: — note any signs if present
— prophylactic treatment may be started.

Step 3 — Examination of Genitals:

- (1) Development of genitals
- (2) Examination for erectile dysfunction (impotence)
- (3) Local injuries
- (4) Dried blood & seminal stains
- (5) Smegma: cheesy secretion which collects under the foreskin of glans
→ Requires about 24 hours to collect
→ Usually rubbed off during complete penetration
→ retract foreskin & look for smegma.
- (6) Examination of penis & glans for vaginal cells:
 - i) Papancolaou's stain ⇒ stains vaginal & cervical cells
 - ii) Lugol's iodine ⇒ detects vaginal cells due to presence of glycogen in them

Child Sexual Abuse: using a child as an object for sexual satisfaction

Indecent Assault: any unwanted sexual behaviour or touching which is forced upon people against their will

Sexual harassment: intimidation of a sexual nature, or inappropriate promise of [s. 354 IPC] rewards in exchange for sexual favours

→ A man doing any of the following 4 acts commits the offence of sexual harassment:

- physical contact & advances involving unwelcome & explicit sexual overtures or
- a demand or request for sexual favours or
- showing pornography against the will of a woman or
- making sexually coloured remarks

Sec. 354(A) IPC: imprisonment of 1-5 years with/without fine

Sec. 354(B) IPC: assault or use of criminal force on a woman or compelling her to be naked with the intent to disrobe.

- Imprisonment of not less than 3 years, extending upto 7 years + Fine

Sec. 354(C) IPC: Voyeurism - imprisonment of not less than 1 year, may extend upto 3 years + Fine

- subsequent offences ⇒ 3-7 years imprisonment.

Sec. 354(D) IPC: Stalking

→ Whoever follows a woman & contacts or attempts to contact such a woman to foster personal interaction repeatedly, despite a clear indication of disinterest by such woman, or monitors the use by a woman of the internet, e-mail or any other form of electronic communication.

- imprisonment upto 3 years + Fine.

Incest: Sexual intercourse between people who are legally prohibited from marrying because of close blood relationship.

→ It is a personality disorder

- Between Mother & Son: Oedipus complex
- Between Father & Daughter: Electra complex
- Between Brother & Sister: Pharaoh complex.

→ It is not a cognizable offence, but when a complaint is lodged, the case is charged under sec. 376 IPC.

→ Reasons for incest:

- mentally defective persons who are unable to understand the prohibitions
- Alcoholism
- Cerebral diseases
- Between brothers & sisters who separated at birth
- Intimacy.

Adultery: (Sec. 497 IPC) ⇒ decriminalized by S.C. in September 2018.

→ though decriminalized, adultery if proven, is still valid in Civil Cases as grounds for divorce & nullification of marriage.

Definition: whoever has sexual intercourse with a person who is & whom he knows or has reason to believe to be the wife of another man, without the consent of that man.

(Wife is not punishable as an abettor)

Sodomy/Buggery/Sin of Sodom:

ISHITA
KANODIA

→ anal intercourse between two males (homosexuality) or between a male & a female (heterosexuality)

→ S.C. decriminalized consensual anal sex between two adults of the same sex.

→ Act of Sodomy cannot be accomplished without the consent of the victim unless the victim is a child/unconscious/intoxicated/physically incapable of resisting.

(it is legal with consent)

Gayotophilia: Adult is passive agent

Paederasty: Child is passive agent

Pedophile: Adult repeatedly engages in sexual activity with a child below the age of puberty

Eunuchs: Sodomy is the passive agent.

Examination of Passive Agent:

i) Requisition

ii) Consent

iii) History

iv) Date, time, place of incident

v) Position, struggle

vi) Use of lubricants

vii) Degree of penetration

viii) Ejaculation — Yes/No

ix) Pain — Yes/No

x) Bleeding — Yes/No

xi) Defecation — Yes/No

xii) Taking bath after incident — Yes/No

xiii) Change of clothes after incident — Yes/No

Local Examination:

- i) Anal muscle — dilated, irritable, tender to touch
- ii) Digital examination shows loss of elasticity & tone
- iii) Haematoma of anal margins
- iv) Triangular bruised tear — posterior part
- v) Lesions more marked in children
- vi) Swabs recovered from anus — Lubricant/Blood/Hairs/Semen/Venereal disease
- vii) Signs of struggle (strong evidence of crime)
- viii) Finger nail scrapings.

Diagnostic of Sodomy:

- i) Semen
 - ii) Faeces
 - iii) Lubricant
 - iv) Pubic hair
- } Combination of all 4
are diagnostic of sodomy.

Examination of Active Agent:

- i) Peculiar smell of anal glands, faecal matter & lubricant on penis.
- ii) Abrasion of prepuce/glans penis
- iii) Tear of frenulum
- iv) Faecal soiling, blood & foreign hairs found around coronal sulcus
- v) Blood/seminal stains
- vi) Presence of venereal disease
- vii) Marks of violence
- viii) Clothes — seminal stains/mixture of semen & faeces
- ix) Twisted urethra & elongated & constricted penis at a distance from glans in habitual sodomists

Bestiality: sexual intercourse by a human being with a lower animal (sheep, dogs, etc.)

- Result of sex starvation / mental aberration
- Done by persons employed to take care of animals.
- A male accused may have his penis stained with his semen along with animal dung.
- Animal hair sticking to penis
- Human semen may be found in vagina / anus of animal
- Punishable under 377 IPC.

Buccal Coitus (Sin of Gomorrah):

- if a victim is a female, it is punished under 375 IPC.

Fellatio: Sucking of a male organ by a male / female

Cunnilingus: oral stimulation of female genitalia

→ **Injuries:**

- erythema, petechiae, bite marks, abrasions on penis
- death could be due to aspiration of semen or impaction of penis in hypopharynx
- diagnosis is by finding semen in respiratory tract / stomach of victim.

Tribadism / Lesbianism:

- female homosexuality
- sexual gratification of a woman obtained by another woman by simple lip kissing, deep kissing, generalized body contact, manual manipulation of breast & genitalia, etc.
- lesbianism is an offence if practised without consent, if the act involves the act involves a child or if practiced in a way that becomes a public nuisance.

Sadism:

ISHITA
KANODIA

- sexual gratification obtained/increased from acts of physical cruelty or infliction of pain upon one's partner.
- commonly seen in men
- Biting, beating, whip, producing cuts, cigarette burns, etc. or ill-treating / torturing his sexual partner.

Lust Murder: seen in extreme sadists.

- homicide killing in which offender gets erotic satisfaction → followed by erection & ejaculation.
- Manifested by:
 - Murder: during sexual intercourse, followed by gratification
 - Mutilation: cutting / stabbing of breasts & genitals.

Voyeurism/Scotophilia/Peeping Tom:

- watching private parts of opposite sex / Capturing sexual intercourse without their knowledge
- mostly seen in males
- punishable under sec. 354 IPC
 - simple/rigorous imprisonment extending from 1 to 3 years + Fine
 - on subsequent conviction: minimum 3 years; maximum upto 7 years + Fine

Masochism (Passive Algolagnia): opposite of sadism

- sexual gratification is obtained/increased by the suffering of pain
- gets pleasure from being eaten, abused, tortured, humiliated, enslaved, degraded or dominated by their sexual partner.
- seen in males & females who may willingly expose themselves to the risks of severe bodily injury or get murdered at the hands of their partner.

→ Bondage = sadism & masochism found in combination.

Fetichism: sexual disorder in which sexual urges & fantasies persistently involve the use of non-living objects by themselves or with a sexual partner

→ seen in males

→ Common fetish objects:

- Feet
- Brassiere
- Articles of female apparel
- Shoes
- Undergarments

→ these individuals may masturbate on these articles.

Necrophagia: extreme degree of sadism in which the person, after mutilating the body, sucks or licks the wounds, bites the skin, drinks the blood & eats the flesh of his victim to derive sexual pleasure

Transvestism/Eonism: a deviant practice of wearing the clothing of opposite sex for emotional/sexual expression.

→ found in both sexes; more common in males.

Exhibitionism: deviant behaviour of getting sexual pleasure by a male by watching his wife (or another female) engaged in sexual intercourse with another man.

→ he may engage in masturbation while observing the act.

Bobbitt Syndrome:

→ type of perversion in which the female partner amputates the penis of her male partner with a sharp-cutting weapon.

Udinism: sexual pleasure obtained by witnessing the act of urination by someone of the same or opposite sex.

Sexual Oralism: sexual pleasure obtained from the application of the mouth to the sexual organs.

→ seen in both heterosexuals & homosexuals.

Anilingus / Rimming: kissing, licking & sucking of the anus by a sexual partner.

Cunnilingus (mouth job): kissing, licking & sucking of a female's genitals by her partner.

Fellatio (blow job): stimulation of the penis by the partner's mouth.

Frotteurism: practice of rubbing his private parts against another person.

→ punished under sec. 290 IPC.

Uranism: general term for sexual perversion which includes sexual gratification by fingering, fondling, licking & sucking of the genitalia of opposite sex.