

ACT NO. IV OF 1909.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor General on the 22nd
March 1909.)

An Act to consolidate and amend the law relating to the punishment of whipping.

WHEREAS it is expedient to consolidate and amend the law relating to the punishment of whipping; It is hereby enacted as follows:—

Short title and extent.

1. (1) This Act may be called the Whipping Act, 1909; and

(2) It extends to the whole of British India, inclusive of British Baluchistan and the Santhal Parganas.

Whipping added to punishments described in Act XLV of 1860. Offences punishable with whipping in lieu of other punishment.

2. In addition to the punishments described in section 53 of the Indian Penal Code, offenders are also liable to the punishment of whipping.

XLV of 1860.

3. Whoever commits any of the following offences, namely:—

- (a) theft, as defined in section 378 of the Indian Penal Code other than theft by a clerk or servant of property in possession of his master;
- (b) theft in a building, tent or vessel, as defined in section 380 of the said Code;
- (c) theft after preparation for causing death or hurt, as defined in section 382 of the said Code;
- (d) lurking house-trespass or house-breaking, as defined in sections 443 and 445 of the said Code, in order to the committing of any offence punishable with whipping under this section;
- (e) lurking house-trespass by night, or house-breaking by night, as defined in sections 444

444 and 446 of the said Code, in order to the committing of any offence punishable with whipping under this section ;

may be punished with whipping in lieu of any punishment to which he may for such offence be liable under the said Code.

4. Whoever—

(a) abets, commits or attempts to commit, rape, as defined in section 375 of the Indian Penal Code ;

(b) compels, or induces any person by fear of bodily injury, to submit to an unnatural offence as defined in section 377 of the said Code ;

(c) voluntarily causes hurt in committing or attempting to commit robbery, as defined in section 390 of the said Code ;

(d) commits dacoity as defined in section 391 of the said Code ;

may be punished with whipping in lieu of or in addition to any other punishment to which he may for such offence, abetment or attempt be liable under the said Code.

5. Any juvenile offender who abets, commits or attempts to commit,—

(a) any offence punishable under the Indian Penal Code, except offences specified in Chapter VI and in sections 153A and 505 of that Code and offences punishable with death, or

(b) any offence punishable under any other law with imprisonment, which the Governor General in Council may, by notification in the Gazette of India, specify in this behalf,

may be punished with whipping in lieu of any other punishment to which he may for such offence, abetment or attempt be liable.

Offences punishable with whipping in lieu of or in addition to other punishment.

Juvenile offenders when punishable with whipping.

Explanation.—In this section the expression “juvenile offender” means an offender whom the Court, after making such enquiry (if any) as may be deemed necessary, shall find to be under sixteen years of age, the finding of the Court in all cases being final and conclusive.

Special provision as to punishment with whipping in frontier districts.

6. Whenever any Local Government has, by notification in the official Gazette, declared the provisions of this section to be in force in any frontier district or any wild tract of country within the jurisdiction of such Local Government, any person who in such district or tract of country after such notification as aforesaid commits any offence punishable under the Indian Penal Code with imprisonment for three years or upwards, may be punished with whipping in lieu of any other punishment to which he may be liable under the said Code.

Amendment of section 392, Act V, 1898.

7. To section 392, sub-section (2), of the Code of Criminal Procedure, 1898, the words “and in the case of a person under sixteen years of age, it shall not exceed fifteen stripes” shall be added. V of 1898

Repeals.

8. The enactments mentioned in the schedule are hereby repealed to the extent specified in the fourth column thereof.

THE SCHEDULE.

THE SCHEDULE.

(See section 8.)

ENACTMENTS REPEALED.

1	2	3	4
Year	No.	Subject or short title.	Extent of repeal.
<i>Acts of the Governor General in Council.</i>			
1864	VI	The Whipping Act, 1864 .	So much as is unrepealed.
1895	III	The Indian Criminal Law Amendment Act, 1895.	Section 5.
1898	V	The Code of Criminal Procedure, 1898.	The words "whipping (if specially empowered)" in sub-section (1) and sub-section (3) of section 32. The words and figures " (1) Power to pass sentences of whipping, section 32" under the heading "Powers with which a Magistrate of the second class may be invested" in Schedule IV.
1898	XIII	The Burma Laws Act, 1898.	Section 4, sub-section (3), clause (b), and the second Schedule.
1900	V	The Whipping Act, 1900.	The whole Act.