Impact of Textual (Dis)Arrangement on Textual Clarity:

A Case Study of *Criminal Trespass* in the Penal Codes of India, Bangladesh, and Pakistan

Rana Muhammad Munir

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Department of Literature, Area Studies and European Languages

Faculty of Humanities

University of Oslo

Supervisor: Nicholas Elwyn Allott

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Abstract

This study examines the impact of expressions that are not well arranged in a text on the clarity of the text. I focus on the text "Of Criminal Trespass", which is almost identical in the penal codes of Bangladesh, India, and Pakistan. My enquiry concentrates on linguistic clarity in legislative texts, a property conducive to accurate understanding and fast readability or rapid comprehension, where this is distinct from the legal clarity of the content of a legislative text.

The framework I employ is developed from Fitzgerald's (1990, 132-42) concept of clarity in legal codes, which proposes that, in order to maximize clarity of a text, among other things, sentences should follow a particular arrangement in different parts of the text, and these parts should be logically connected with each other. However, this study argues that arrangement or introduction of information below sentence level is also critical for the clarity of a text. A grammatically or semantically (etc.) finished text also needs such precise orientation in the parts of the text and in the pieces of information within each part that the text should appear to the reader maximally transparent. This study operates on the *information-units* carved out within each section of the text. Information units as discussed in this analysis are the independent building blocks of *information* in the text such as *committer* (of the offence), *crime-constituting element, crime-constituting act, crime-aggravating intent, object of commission* (real or non-real property), *time of commission, manner of commission, legal-behavioural frame of mind, options of punishment etc.*, which might but need not correspond to conventional linguistic units such as word, phrase, clause etc.

The analysis finds that in the selected statutory text information is set out in ways that have problematic arrangement, and this diminishes the clarity of the text. This examination reveals five main types of patterns of presentation that damage the clarity of the text: irrational pattern of arrangement or introduction of information, complete but scattered or disorderly information, arranged but oversupplied or undersupplied unique information, redundancy, and mixing information of two incompatible kinds.

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I dedicate this work to you if you work for equality and peace!

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CT	Criminal-trespass
DBNP	Dishonestly breaking open non-real property (i.e. trespass to goods)
HB	House-breaking
HBN	House-breaking by night
HT	House-trespass
IPC	Indian Penal Code
LHT	Lurking house-trespass
LHTN	Lurking house-trespass by night
PPC	Pakistan Penal Code

Chapter 1: Introduction

"What willing allegiance can a person owe to a canon of obligation that is not set forth in such a form as to be understood?" (Lord Radcliffe 1950, 368)

"Therefore, the code must be complete enough to contain all the criminal law, short enough to cater to lay memory, and clear enough for ready comprehension. Completeness relates to the whole code, brevity to the sentences within it, and clarity to their style, arrangement, and internal logic." (Fitzgerald 1990, 132)

"Clarity in a code is a function of linguistic simplicity, orderly arrangement, and perspicuous layout." (p. 134)

A penal statute "is subject to strict construction." (Martin 2002, 360-361)

1.1. Background

This thesis examines the impact of such expressions in the text that have irrational or no pattern of presentation (or introduction or arrangement) on the clarity of the text. Motivated from the typical high systematicity in and from a lot of debate on legislative clarity, this study tries its textual-linguistic analysis on a statutory text, "Of Criminal Trespass", which is almost identical in three penal does namely the Indian Penal Code or IPC (GOVERNMENT OF INDIA 1860, 98-101), The Penal Code of Bangladesh (Government of Bangladesh 1860, 158-164), and the Pakistan Penal Code or PPC (THE PAKISTAN CODE 1860, 149-153) (Appendices A-C, respectively). That is, the primary concern of this study are linguistic and pragmatic properties, particularly, organisation and clarity, of the selected text, while legal questions are peripheral.

This project is a case-study, as it investigates one single piece of data of one particular kind, and seeks results that can be generalized. A case-study refers to a group of particularly similar types of research, the central point of which is generalization of the results obtained from the study of a particularly single case, instance, phenomenon, example etc. through intensive study (Gorring 2004, 342).

The purpose of this case study is to find out if/how any information, which does not show any practical pattern of presentation or any pattern at all in a text, impacts the clarity of the text. To be clear for this study, "presentation" refers to expressions of a mechanical nature such as arrangement, introduction, placement, position, scheme, formula, organization, construction etc. of a particular linguistic expression in one part of the text, with reference to a similar expression in another, essentially related, comparable part of the text. Further, in this analysis, "linguistic expressions" refer to the specified independent information-units such as *committer* (of the offence), *time of commission*, *manner of commission*, *object of commission*, *crime-constituting act*, *crime-aggravating intent*, *legal-behavioural frame of mind* etc. within each law-section in the text, as enlisted in the analysis chapter (section 4.3). Information units refer to the individual building blocks of information in the text. An information unit is difficult to be translated in terms of the conventional linguistic units such as word, phrase, word-cluster, clause, sentence, etc. A detailed description of the idea of information units is given in the theory chapter (section 2.5.2) and the methodology chapter (section 3.3). So, this analysis has a, mainly, mechanical nature, as its focus is the mechanical concept of arrangement or introduction of expressions, and not, directly, interpretation of expressions.

Clarity and comprehension of a text are linked with, among other things, consistent presentation of information-units through the related parts of the text. In a textual pattern, in which selective pieces of information are assigned to selective related parts of the text, the utility and purpose of such a pattern should be easily discernible at the level of the text itself. If multiple related parts of a text show such a pattern of presentation which does not demonstrate any particular utility, adoption of such impractical pattern is not rational. For example, in five related sections, *X*, *Y1-Y2*, and *Z1-Z2*, under one topic, if section *X* is provided with elements *a*, *b*, *c*, and *d*, sections *Y1-Z1* are provided with elements *c*, *d*, and *e*, and sections *Y2-Z2* are provided with elements *c*, *d*, and *f*, the majority of the readers would be curious why each of these sections includes some elements while leaving the others. Such a pattern needs to be examined for the possible rationale in it, which might be turn out to be practical, impractical, or a mix. In order to reach the decision about the utility of this presences-and-absences pattern, a comparative

examination of the ingredients of the elements in the sections appears to be the primary step. This is much similar to examining the logic, development, and proportion in the parts of an argumentative essay.

Similarly, if one particular information-unit is presented differently in two or more essentially related comparable parts of one well-knit text, this difference of presentation changes the scope of the two parts, and sticking to the scope of one particular part becomes difficult. This random introduction confuses the concept of the scope of the text. This is illustrated through the difference of the expressions *voluntarily* and *grievous* in examples (1a-1c)-(2a-2b).

(1a) A trespasser's act of causing hurt to the occupier of the property amounts to aggravated house-trespass.

(1b) A trespasser's act of *voluntarily* causing hurt to the occupier of the property amounts to aggravated house-trespass.

(1c) A trespasser's act of *voluntarily* causing *grievous* hurt to the occupier of the property amounts to aggravated house-trespass.

(2a) A house-trespasser's act of *causing grievous hurt,* or *attempting to cause death or grievous hurt* to the occupier of the house will be punished with imprisonment for life or for a term of up to ten years.

(2b) In the case of one house-trespasser's act of *causing or attempting to cause death or grievous hurt* to the occupier of the house, where multiple persons are jointly concerned in the offence, each of the committers will be punished with imprisonment for life or for a term of up to ten years.

Through (1a)-(1c), the introduction of the units *voluntarily* and *grievous* blurs the concept of house-trespass, because clarity about the scope of house-trespass is taken away. Similarly, *causing* and *attempting to cause* have different patterns of the introduction of *grievous hurt* and *death* in examples (2a)-(2b), due to which the scope of "cause" and "attempt" is not mutually consistent in the two instances, which immediately share one

root. Notably, the illustration in (1a-1c)-(2a-2b) does not show any pattern of information-presentation compared to the preceding example of the *X*, *Y*, and *Z* sections, which shows some pattern but the utility and rationale of the pattern is not clear. So, the goal of this study is to show that such inexplicable or unsystematic presentation of particular expressions in the selected text of the Indian Penal Code (or the IPC) can diminish the clarity of the statute.

1.2. Research Question and Hypothesis

This study seeks answer to the following research questions:

1. Does the text "Of Criminal Trespass" in the penal codes of India (GOVERNMENT OF INDIA 1860, 98-101), Bangladesh (Government of Bangladesh 1860, 158-164), and Pakistan (THE PAKISTAN CODE 1860, 149-153) have any information-units that do not follow any particular or rational pattern of arrangement or introduction in the text?
2. If yes, do the information-units inexplicably or unsystematically arranged or introduced in the text have any impact on the clarity of the text?

This investigation hypothesizes that the text "Of Criminal Trespass" in the three penal codes has some information-units that have problematic or no pattern of arrangement or introduction in the text. These information units seem to have negative impact on the clarity of the text.

Here, a mention of the delimitation of the hypothesis seems necessary, i.e. the question of how the textual-linguistic issues are handled (or mishandled) in the practice of the law, or, alternatively, how certain a linguistically problematic text is, when the text is used by the courts, lawyers etc., is a legal question, and not, directly, linguistic or textual. This is a question about the distinction between *linguistic* and *legal* clarity of legislative texts. Though legal clarity of law, partly, derives from linguistic clarity of the law, they are distinct concepts, as explained in the section (2.3) about the meaning of clarity, in the theory chapter.

1.3. Theoretical Framework

The theoretical framework, under which the primary data is analysed in this study has been developed from Fitzgerald's (1990, 132-42) concept of clarity in a code, as occurred in his account of interpretation, structure, and arrangement of codes. Within the concept of clarity, the framework for the present analysis arises, particularly, from Fitzgerald's (p. 134, 137-39) proposal of orderly arrangement and internal logic in a code. He (p. 134) describes the characteristic of clarity in a code as an outcome of the interaction of linguistic simplicity, systematic arrangement, and perspicuous presentation of the text. A detailed discussion of this framework follows in the theory chapter (section 2.4) of this study.

1.4. Aim and Scope

The primary aim of this study is to show how *presentation* of particular information-units in the essentially related comparable parts of a text can take away the clarity and comprehension of the text.

With reference to, comparatively, less technical and less specialized varieties of text such as academic, journalistic etc., this study might address the advanced level readers. However, in the case of legislative texts, this study is more from the point of view of a layperson, who is going to start comprehending the law from the statutory text, than the point of view of legal experts in the field. Here, layperson means someone with the knowledge of language but who is a novice in law.

This analysis is delimited to the structural aspect of the text, without entering any interpretive debate on the text under any canon of legal interpretation.
Within the textual-linguistic aspect, this examination solely focuses on any possible correlation between the way the information is *arranged* or *introduced* in the text and the clarity of the text. Any other aspect of the text such as semantic, grammatical, syntactic etc. or raising implicature is not part of this analysis.

The description of the incongruities in the information-units throughout this study is delimited to highlight the incongruous expressions. This analysis, mainly, does not point out if one particular expression, in a set of expressions, is normal.

Besides, the use of some common words such as “kind”, “type” or “subtopic”, “definition”, “description” etc. has been reserved for particular references throughout this study. The term “kind” of trespass has been specified to refer to trespass to real or non-real property, or the so-called trespass to land or goods respectively. The terms “subtopic” or “type” refer to the categories of criminal trespass in the text such house-trespass, house-breaking, dishonestly breaking open (non-real) property etc. Each of these types has a particular number of aggravated forms of its own. The variously serious forms of one particular type are referred to as “aggravated levels” of that type, for example house-trespass, in addition to its non-aggravated form, has four aggravated levels. “Definition” of an offence is the statement of the minimum criteria of that offence, which means it specifies the threshold of that offence, i.e., the non-aggravated form of that offence. “Description” slightly differs from “definition” in that “description” includes ingredients additional to the basic set of ingredients. So, “definition” and “description” state non-aggravated and aggravated forms of offences respectively.

Since the selected statutory text is almost identical in the penal codes of Bangladesh (Government of Bangladesh 1860, 158-164), India (GOVERNMENT OF INDIA 1860, 98-101), and Pakistan (THE PAKISTAN CODE 1860, 149-153), this study will, mainly, refer to one of these codes namely the Indian Penal Code.

1.5. The Segment “Of Criminal Trespass” in the Indian Penal Code

The terms “penal code”, “penal statute”, and “penal law” are used alternatively (Black’s Law Dictionary online). A penal code lays out all or the majority of the offences against the public as well as another individual, specifying the penalty of these offences, (Stewart and Burgess 2001, 295; Ellis Wild 2006, 197), which is extremely construction-sensitive (Martin 2002, 360-361) (PICK). The Indian Penal Code consists of twenty-three chapters and five hundred and eleven sections in total. The IPC’s segment “Of Criminal Trespass”

is covered by the sections 441-462, in chapter XVII, "OF OFFENCES AGAINST PROPERTY" (GOVERNMENT OF INDIA 1860, 98-101). The segment presents two kinds of criminal trespass, namely trespass to real and non-real properties. Trespass to real property is divided into six types or subtopics, namely criminal trespass (also, CT henceforth), house-trespass (also, HT henceforth), lurking house-trespass (also, LHT henceforth), lurking house-trespass by night (also, LHTN henceforth), house-breaking (also, HB henceforth), house-breaking by night (also, HBN henceforth). Notably, however, the enlistment of HT as one type or subtopic of "criminal trespass" is problematic, and this examination does not treat HT as one type of criminal trespass, reducing the number of the types to five. This is explained in the analysis chapter (section 4.4.2). Trespass to non-real property has one subtopic, i.e., dishonestly breaking open another person's property (also, DBNP henceforth (dishonestly breaking open non-real property). The structure of the text of "criminal trespass" in the IPC is described in detail in the analysis chapter (section 4.2). Further discussion on the statue of the IPC as a statute is presented in the theory chapter (section 2.1).

1.6. The Concept of Criminal Trespass

The Oxford Dictionary of Law (Martin 2002, 507) describes trespass as an act of wrongful, direct, and immediate interference with another person or the goods or land in their possession, for example striking a person, damaging or taking control of their goods, and entering their land without their consent. Trespass has three types, namely trespass to person, goods, and land. However, the IPC (GOVERNMENT OF INDIA 1860, 98-101) does not use the terms "trespass to land", "trespass to goods" and "trespass to person". Instead, it covers these three types under one generic term, "criminal trespass" in a complex way, which is explained in the theory chapter (section 2.2) of this study.

1.7. Structure of Thesis

This dissertation is divided into five chapters. Chapter one, *introduction*, presents an outline of this study. Chapter two, *theoretical background*, covers the theoretical aspects of this study, with a focus on the selected theoretical framework for this study. Chapter three, *methodology*, describes the primary data, and the process of obtaining these data;

this chapter also rationalizes the competitive selection of the theoretical framework and the procedure of the data analysis. Chapter four, *data analysis*, presents the analysis of the data following the selected theoretical framework and the procedure of analysis. Chapter five, *conclusion, and perspectives for further research*, presents the findings induced from the results of the data analysis, the status of the hypotheses under the findings, implications of this study, and recommendations for further research.

Chapter 2: Theoretical Background

2.1. Introduction

This study examines the information units, which show imperfection of arrangement or intoruduction, in the text "Of Criminal Trespass" in THE INDIAN PENAL CODE (GOVERNMENT OF INDIA 1860, 98-101), and their impact on the clarity of the text. This chapter covers the theoretical background of this study by describing these theoretical aspects: meaning of clarity in legal texts (section 2.3), the theoretical framework followed in this study namely Fitzgerald's (1990, 132-42) concept of clarity in codes (section 2.4), and this study's contribution (section 2.5). The contribution is presented with three foci, i.e., development in the selected theoretical framework (section 2.5.1), adoption of "information-unit" as the basic unit of analysis (section 2.5.2), and contribution to the study of clarity in codes (section 2.5.3). However, before settling on these aspects, an overview of the development and the quality of the Indian Penal Code (GOVERNMENT OF INDIA 1860, 98-101) (section 2.1) and of the scope and nature of criminal trespass (section 2.2) is desirable.

2.2. Background and Quality of the Indian Penal Code

Regarding the development of the IPC, Thomas Babington Macaulay was the principal framer of the IPC, who arrived in India in 1834 as a legal representative of the Legislative Council and President of the Committee of Public Instruction (Wright 2016, 34). Macaulay presented a finished version of the code to the Governor General's council on 14 October 1837 (p. 34). But, for various reasons, this document fell into oblivion until 1851, when it was again taken up and was subjected to detailed revision through the next six years owing to various criticisms on its content and language (p. 37). In 1857, the Indians fought the War of Independence (the so called Indian Mutiny) against the British colonial rule, which made the adoption of the code a matter of urgency. In 1858, the Legislative Council approved the revised version. Finally, the Indian Penal Code was promulgated on 6 October 1860, which was later enforced on 1 January 1862.

This code has been widely adopted. Many states such as Bangladesh, India, Malaysia, Nigeria, Pakistan, Singapore, Sri Lanka, and Sudan have adopted this penal code (Yeo and Wright 2016, 3). This code has also been, directly or indirectly, followed in several other states and statutes such as Canada (1892), New Zealand (1893), and Queensland (1899), and the draft Jamaica and English codes (Chan, Wright, and Yeo 2016, [vii]).

In respect of quality, though the IPC is highly valued for its broad-mindedness and humanity (Skuy 1998, 539), it has shown a number of gaps and inconsistencies since its enactment (Yeo and Wright 2016, 4, 10, 16). The IPC has been called a perfect code (though this seems clear exaggeration), and it is distinguished for its broad-mindedness and humanity (Skuy 1998, 539). Macaulay describes the underlying principle of this code, "[. . .] uniformity when you can have it; diversity when you must have it; but, in all cases certainty" (p. 517). However, for some reasons, this code does not seem to satisfy even its creator's expectations pinned with this code. The apparent primary reason is that the code has been never revised. Macaulay along with the other (aide) framers of the IPC intended this code to be regularly revised by the legislature, whenever gaps and ambiguities are found in it (Chan, Wright, and Yeo 2016, [vii]). Macaulay, in fact, anticipated a revision mechanism for this statute, which has never happened in any of the jurisdictions where the code has been in effect (Yeo and Wright 2016, 6-7; Wright 2016, 36). This caused two evils: *one*, the code is going on with without necessary upgradation; *two*, according to Chan, Wright, and Yeo (2016, [vii]), the treatment of the code fell entirely into the hands of the courts, with sometimes unsatisfactory outcomes. Chan, Wright, and Yeo (p. [viii]) argue that the framers of the IPC would have crafted new provisions if they had examined this code today. For Macaulay, a good code manifests precision, comprehensibility, consistency, accessibility for laypersons, contemporary relevance, and the quality of determining truth at the minimum possible cost of time and money (Yeo and Wright 2016, 4-6; Wright 2016, 23). Macaulay conceived the terminology and language of the IPC to be lucid, definitive, and concise, which should define all criminal acts separately, covering all contingencies, and all possible actions of the accused (Wright 2016, 35) (of course, as far as possible). However, certain parts of the IPC lack precision and comprehensibility, and they are ambiguous and very complex

(Yeo and Wright 2016, 4-5). The code has shown a number of gaps and inconsistencies since its enactment (p. 5). Macaulay's contemporaries could grasp the particular word and expressions in the code, but modern courts have frequently struggled to understand particular parts of the code due to incomprehensibility. Yeo and Wright (p. 6) find that the IPC does not satisfy any of the characteristics Macaulay has attributed to a good code, which creates space for moral judgments and values and policies that are no longer relevant. Unfortunately, legislatures have paid little attention to addressing the flaws in the code that have been informed by the courts and law experts (p. 7). So, despite its merits, the IPC have become obsolete and limited in many respects (Yeo and Wright 2016, 1).

2.3. Extent and Nature of "Criminal Trespass"

As mentioned in the introduction chapter (section 1.6), the Oxford Dictionary of Law (Martin 2002, 507) describes three kinds of criminal trespass, namely trespass to person, goods, and land, but, the IPC (GOVERNMENT OF INDIA 1860, 98-101) does not precisely follow these three terms. Instead, the IPC describes these three kinds under one generic term, "criminal trespass" in a complex way. However, the terms such as "house-trespass", and "receptacle" and "property" in the IPC are close to "trespass to land" and "trespass to goods" respectively. Sections 441, 442 and 461 of the IPC define criminal trespass, house-trespass, and trespass as to "receptacle containing property" (i.e., non-real property) respectively, as under:

> **Criminal trespass**.—Whoever enters into or upon property in the possession of another with intent to commit an offence or to intimidate, insult or annoy any person in possession of such property, or, having lawfully entered into or upon such property, unlawfully remains therewith intent thereby to intimidate, insult or annoy any such person, or with intent to commit an offence, is said to commit "criminal trespass".
>
> (GOVERNMENT OF INDIA 1860, 98)

> **House-trespass**.—Whoever commits criminal trespass by entering into or remaining in any building, tent or vessel used as a human dwelling or any building used as a place for worship, or as a place for the custody of property, is said to commit "house-trespass".

> Explanation.-The introduction of any part of the criminal trespasser's body is entering sufficient to constitute house-trespass.
>
> (GOVERNMENT OF INDIA 1860, 98)

> **Dishonestly breaking open receptacle containing property**.—Whoever dishonestly or with intent to commit mischief, breaks open or unfastens any closed receptacle which contains or which he believes to contain property, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.
>
> (GOVERNMENT OF INDIA 1860, 101)

Looking at the modern explanation of criminal trespass, the Oxford Dictionary of Law (Martin 2002, 507) explains that indirect or consequential injury or damage does not fall under criminal trespass, for example receiving injury by falling into an unlit hole or loss of goods or property due to seepage from the neighbours. Trespass is an offence *per se*, that is, trespass is a criminal offence by its inherent nature whether or not any damage to the aggrieved party is incurred. Trespass to person involves intentional, and not negligent, wrongdoing to another person such as assault, false imprisonment etc. Trespass to goods includes the intentional or negligent act of touching, moving, or carrying away another person's goods. Trespass to land is the act of entering someone's land without their permission. The trespasser's claim that they believed that the land, actually, belonged to them does not provide a defence (p. 508), because trespass to goods and land are offences against the right of possession, and not the right of ownership. For example, if a person enters a land that is in possession of their tenants, the person commits trespass, regardless of the fact that they are tenants and not the owner of the land.

Among other descriptions of criminal trespass, the Black's Law Dictionary (Black and Garner 2014, 1733-34) describes trespass as a forcible and violent misfeasance or injury to another person, or their property or right, which may be actual or implied, whereby the person is injuriously treated or damnified. Strictly, trespass refers to the act of unlawful entering another person's ground, damaging their real property, where damage is of direct and immediate nature. Law takes the very act of trespassing as violence, whether any actual violence accompanies the trespass or not. An example of actual violence is assault and battery, and an instance of implied violence is a nonviolent wrongful act of entering

another's land. In the practice of common law, trespass is any such unlawful injury done to the plaintiff's person, property, or rights by the defendant, using immediate force and violence, as can be redressed in the form of money damages.

Collins DICTIONARY OF THE LAW (Stewart and Burgess 2001, 385-86) describes trespass in relation to property, goods, and person. The dictionary informs that the earliest use of the term "trespass" was in relation to goods.

The definition of trespass in the Webster's New World Law Dictionary (Ellis Wild 2006, 260) mentions person and property, with an emphasis on real estate.

As apparent from these definitions, criminal trespass, in its strict and conventional sense, relates, first of all, to real property, followed by non-real physical property, and, then, by person. However, the aggravated forms of criminal trespass may involve a complex of two or all three kinds, as described in the IPC in the beginning of this section. Broadly, criminal trespass is an umbrella term which refers to one person's criminal interference with any type of legitimate possession of another person in a particular jurisdiction. Narrowly, criminal trespass refers to one person's or group of persons' wrongful act of entering real property or wrongful interference with non-real property of another person or group of persons, who are in lawful possession of that property.

The organization and layout of the topic of criminal trespass in the IPC is presented in the introduction chapter (section 1.5) and analysis chapter (section 4.2) of this thesis.

2.4. Meaning of "Clarity" in Legislative Texts

The concept of "clarity" in law has been a topic of much debate, in particular by the so called plain language school (Hunt 2002). Experts differ on the precise nature of legislative clarity; some are even sceptical of following the idea of "clarity" in legislative writing at all. However, generally, clarity in the law is approached from two related but distinct perspectives, namely legal and linguistic clarity in statutes. Stark (1994, 208-209) notes that one meaning of "clarity" is the lack of ambiguity in statutory drafts, which

makes the statutes much unequivocal for the administrators as well as the consumers of the law. Welkowitz (2013, 149-50) also shares Stark's view of this. Stark points out that a particular law or provision that has less or no ambiguity is particularly helpful for adjudicating authorities such as judges, when the clarity in statutory construction helps to decide cases instead of showing systematicity towards the relevant statute alone. Another meaning of clarity in a text is the text's property of being rapidly grasped. Stark further points out that the advocates of plain language usually use the term "clarity" to refer to fast readability or rapid comprehension, which Stark appears to endorse. To achieve rapid comprehension, the plain language approach recommends a number of writing techniques such as using short and common words and phrases, writing brief sentences and paragraphs, etc. Such a language use has many advantages, in which rapid comprehension of a statute is at the top.

Flückiger (2008, 9) presents a similar view: the concept of clarity has linguistic and legal aspects. Linguistic clarity refers to such attributes as readability, simplicity, and conciseness; a text has legal clarity if it has (comparatively) concrete application in concrete cases, emphasizing precision of wording in it. Precisely, linguistic and legal clarity refers to readability and applicability respectively. Readability or intelligibility in a text can be described in terms of unimpeded and easy understandability of the text (p. 15). A text has readability if it is simple and concise, and is without overspecialized and archaic expressions. Though typographic transparency is also considered as clarity in a text, "understandability" is the main reference associated with clarity. On the other hand, concrete applicability of a text refers to easy application of the text in a particular legal case (p. 19). A concretely applicable text is the one that is comparatively much more precise, elaborated, and more conveniently applicable to a particular legal case. Concrete applicability of a text, as an expression of *legal* clarity, implies certain and predictable application of the text (Flückiger 2008, 19; Welkowitz 2013, 149-50).

These linguistic and legal uses of "clarity" appear to be related, at least in one sense, as linguistic imperfection can cause difficulty in the application of the statute in the legal setting. However, the two are essentially distinct in that the former is functional

orientation of clarity whereas the latter is operational orientation. The linguistic or functional dimension of clarity has been explored much less compared to the legal or operational side, which is presented in the section (2.5.3) about the previous studies.

Apparently, the experts do not seem to agree on one particular concept of legislative clarity, this study follows the linguistic view of clarity in legal texts, i.e., rapid comprehension (Stark 1994, 208) or readability (Flückiger 2008, 9) in texts. Fitzgerald's (1990) concept of clarity in codes, which serves as theoretical framework for the present analysis, also follows the linguistic view of clarity.

2.5. Fitzgerald's Concept of Clarity in Codes: Theoretical Framework For This Analysis

Fitzgerald (1990, 132-42) presents his concept of clarity in codes as a part of his ideas about satisfying the needs of the readers of codes, in his account of interpretation, structure, and arrangement of codes. He (p. 128-29) illustrates this account through the Model Penal Code (of the United States of America), the English Criminal Code, and the Canadian Criminal Code. In Fitzgerald's (p. 129-30) view, the intended readers of a criminal code are not only officials in a particular country such as judges, lawyers, and politicians but also the people the code intends to govern. Rather, the people are more direct and fundamental addressees of legislation compared to the officials, and this known from the concerns, aims, and values of the laws themselves. Notably, Macaulay, the main creator of the Indian Penal Code, emphasizes that laws must be understandable and accessible for the laypersons (Yeo and Wright 2016, 5). He, in absence of electronic media one and half centuries ago, goes to the extent of suggesting that each person in the relevant population should be provided with a copy of this penal code in their native languages (p. 5-6). Lord Radcliffe (1950, 368) and Hopwood (2017, 696, 731) also emphasize comprehensibility of the laws for common persons. Since the mainly concerned entity of the laws is the relevant public, the laws need to have an easily understandable form in order to gain the people's favour and commitment (Lord Radcliffe 1950, 368; Fitzgerald 1990, 131). Fitzgerald (p. 132) observes that, as laws are reflection of benefits and obligations for the people, they must be written in clear language that is also easily understandable, because if the laws are not clear the related

people may not adequately comprehend their rights and obligations, which has practical implications in the society. So, for the public, the laws, particularly criminal laws, must be such as easy to access, easy to remember, and easy to understand. Fitzgerald views this clearly and shows what needs readers of a statutory text should be able to satisfy. Fitzgerald (p. 32) categorically points out the properties that are crucial for the comprehensiveness and comprehension of the code: "the code must be complete enough to contain all the criminal law, short enough to cater to lay memory, and clear enough for ready comprehension. Completeness relates to the whole code, brevity to the sentences within it, and clarity to their style, arrangement, and internal logic." In all the textual-communicative qualities of a code, Fitzgerald seems to be most concerned with clarity, as he (p. 142) shares his concerns that, among clarity, certainty, and comprehensiveness, the first attribute namely clarity always comes at the end, and he is concerned that clarity needs to be given its rightful importance while drafting statutes.

This study picks up the strand of clarity from Fitzgerald's broad account of the needs of the readers of the codes. He (p. 134) describes clarity in a code as a combined operation of "linguistic simplicity, orderly arrangement, and perspicuous lay out" together. In order to achieve maximum clarity, a criminal code should consist of sentences that are "short, simple, and streamlined", avoiding "long-windedness, redundancy, and complexity." Explaining the orderly arrangement, Fitzgerald (p. 137) further points out that the simplicity of sentences is not the only source of clarity, but that (simple) sentences should also find logical arrangement in different textual parts, and these textual parts should demonstrate logical relations with each other. For instance, everything of general nature such as sections on liability and all forms of defence should be supplied in one general part and, then, the sections or provisions on each general topic should be described systematically and coherently in a special part for each of general topic, which is supposed to consist of the particular information relating to that general topic. Fitzgerald (137-138) illustrates his view of arrangement through an account of the organization in multiple criminal codes, which is described in methodology chapter (section 3.2). As for the perspicuous layout, Fitzgerald (138-39) proposes that provisions in a code should come in an inviting and eliciting layout. For instance, the code should be divided into

parts of appropriate length, these parts should be numbered and each part should have a compact title. The code should be divided into at least two parts, namely general and special parts. Besides, many other devices such as "tables of contents, headings, marginal notes, schedules, commentaries, illustrations, indexes, and textualization" etc. are useful in raising perspicuousness of the layout of the code.

As apparent from Fitzgerald's view, the concept of clarity comprises two main components: transparency of linguistic or verbal material and transparency of the presentation of that material. Transparency of presentation has a further two components: transparency of the organization of the linguistic material, i.e., internal logic, and appeal of the layout. It may be interesting to note that Fitzgerald's concept of clarity, particularly orderly arrangement of the sentences and parts in a code, appears to be very much close to the arrangement of ideas in an argumentative essay.

There seems to be some relevance in mentioning that Fitzgerald's (1990, 132-42) account of clarity in codes appears close to Grice's (1975, 45-46) proposal of effective communication, particularly the maxim of manner, and is also particularly close to Halliday and Hasan's (2013) idea of cohesion in the text. A comparison between these three frameworks is presented in the methodology chapter (section 3.2).

The following section (2.6) describes what contribution the present study makes in connection to clarity in codes.

2.6. Contribution of This Study

This section presents the contribution of this study in three respects: what development this study makes in the selected theoretical framework, i.e., Fitzgerald's concept of clarity in codes, descriptions of the basic unit of information, termed in this study as *information-units*, in codes, and how this examination furthers the existing/previous studies of clarity in statutory texts.

2.6.1. Furtherance of Fitzgerald's Concept of Clarity in Codes

This study builds, primarily, on Fitzgerald's (1990, 137) point of logical arrangement (i.e., internal logic) in the statutory text, though other aspects such as redundancy might also be touched. He proposes that arrangement should operate on the (simplified) sentences in the text in the relevant parts of the code, and that these statutory parts should also be logically related to each other. So, he conceives the idea of internal logic in terms of *sentences* and *parts* of the text. In other words, the proposed objects of his *arrangement* theory are *sentences* and particular *parts* of the text. But, Fitzgerald's account of arrangement shows room for elaboration, i.e., what dictates the arrangement of a particular set of sentences, when this is the first instance of arrangement in a code? In order to arrange a set of things, one needs a model to follow, as arrangement is made *according to* some standard. In other words, a point of reference is needed in order to arrange sentences, parts etc. in a code. This point of reference can be anything such as a particular mental model, a particular external logic, or another text. However, these assumed reference-points are relevant only in the case of the first occurrence of arrangement (of its own kind) in the code; the subsequent rounds of arrangement are supposed to follow or systematically develop from the pattern of arrangement set in the first instance. This implies that, in a finished promulgated code, readers can observe the arrangement of sentences or other communicative elements in one part of the code with reference to the arrangement of similar elements in another part the code that is logically and essentially related to the first part. A code might have many such parts (or provisions or sections) as they are essentially related within one particular topic, and, in such a case, the pattern of the arrangement of particular elements can be observed through mutual comparison of these related parts in the code. This is the aspect of arrangement this study advances: this study examines the patterns of presentation of particular pieces of information by comparing the presentation of the information in the essentially related parts of the text.

Further, four other aspects also need to be recalled in this framework of arrangement of information in a text, which are understood standards followed in writing and drafting. *One,* the large divisions in the text such as the main topic, subordinate topics etc.,

particularly the ones that are to be detailed through description, should be orderly structured. *Two*, the text should reflect the practicality of a particular adopted pattern of arrangement of information in the orderly structured parts of the text. For example, if a text shows a pattern of assigning selective information to selective parts of the text, as illustrated through example (1) in the introduction chapter (section 1.1), the utility raising such a pattern should be understandable at the level of the text itself. *Three*, if an arrangement operates on information of multiple natures or classes, all the kinds of information need to be mutually reconciling. For example, two classes of explicit mental and physical nature cannot smoothly blend with one class that is neither explicitly mental nor physical, as illustrated in examples (3)

(3) This is crime to unlawfully enter another person's house with intent to harm them, or with preparation to harm them, or, having entered, to cause harm to them.

In example (3), the part about *preparation* does not seem to smoothly cohere with any of the other parts, i.e., *intent* and act of *cause harm*, because *preparation* does not seem to explicitly belong to a mental or physical class. Clearly, in order to maximize clarity, a text needs to arrange or introduce the explicitly reconciling or reconcilable classes of information; in other words, particular information should be arranged or introduced only in such part of the text as corresponds to that kind of information; or, particular information should be arranged or introduced, first of all, in such part of the text so that it immediately incorporates that information. *Four*, the arrangement or introduction of particular information should be proportionate and without redundancy in the related parts of the text. It is not that Fitzgerald has not paid attention to these aspects; instead, he seems to take the theme for granted. Further, his treatise is, basically, oriented to law, and not text or linguistics. So, he does not need to dig deep into the characteristics of textual arrangement for the sake of text or linguistics. This study only highlights these obvious standards of writing and drafting.

Moreover, this study differs from Fitzgerald's focus on the *sentence* as a basic level of arrangement to *information unit* as the main object of arrangement. The idea of information-unit, as adopted in this study, is that one information unit is an independent building block of information in the text such as committer (of offence), crime-constituting element, crime-aggravating element etc. The need to change the focus from sentences to information units arises from the observation that the primary constituents of each law-section in a code are the independent elements or ingredients of that section, which might not, necessarily, find expression as sentences; instead, one independent building block of information can also occur in the form of a phrase, a lexical bundle, collocation, a word and so on. That is, the pattern of arrangement might or might not belong to the sentence-level. So, the right focus of arrangement is not sentences but information unit. A detailed general discussion on this study's concept of information-unit is presented in the following section (2.6.2), and a discussion on how this study uses information units is given in the methodology chapter (section 3.3). This proposal does not run counter to Fitzgerald's proposal of the arrangement of the sentences, but *develops* focus from sentence to information units in that the immediate recipients of arrangement are the constituent information units in a statutory text.

Thus, this study develops from Fitzgerald's concept of clarity and arrangement a theoretical proposal that is particularly oriented to the arrangement of information in a text, i.e., *proportionate introduction and utile arrangement of the information-units of an immediately compatible nature in the logically structured parts of the text, without redundancy*.

2.6.2. Information-Unit, the Basic Unit of Analysis

This study follows information-units as the basic building blocks of statutory content. So, they are also the primary units of analysis in this study. This examination concerns the patterns of presentation of similar information units in the related parts of the text. So, description of information unit, as conceived in this study, seems desirable. Every systematic, particularly statutory texts, can be broken down in different types of units, as per the nature of study, such as lexical, grammatical, syntactic, semantic, discourse,

textual, communicative etc. (Bhatia 1987, 6). The size and nature of these units can be different according to what type of pattern is the focus of research (Robinson 1994, 125). A unit can range from a small bit of language as a morpheme to a content word, a phrase, a clause, a sentence, a piece of text above sentence etc. For example, in order to investigate grammatical aspects in a text, the units might need to be cut in terms of sentence, clause, phrase, noun, adjective, tense, adverb, preposition etc. Similarly, for a semantic investigation, the text can be broken up in the units or referents, each of which represents one distinct concept or reference. Alternatively, for one analyst, who is investigating the organization and coherence of the large parts of the text or discourse the units such as discourse segment, sentences, clause, phrases etc. can be relevant, while for another analyst who is working on the text from other aspects such as semantic, grammatical, lexical etc. the relevant units seem to be content words, function words, and phrases. Studies, according to their foci, explore the patterns of particular kinds of units in the text, because these basic units of text are also the basic units of analysis in that the analytical process, primarily, operates on these units. In some cases, the genre of the text can also affect the selection of the basic unit of analysis in the text. The idea of *unit* is also one of the fundamental notions of representational theory of language, which Stark (1994, 211) has precisely summed up, i.e., language consists of units, and each of the units represents a real entity, and these entities are in a one-to-one relationship with each other. The idea of information unit in this study is not far from the idea of this *representative unit*. Halliday and Hasan (2013, 288) also observe that discourse (or a text) does not, loosely and randomly, stray through topics, but unfolds systematically following a particular topic and predictable development. This organization of discourse or the text dictates the pattern of lexical items in the text.

As mentioned in the preceding section (2.6.1), this study cuts the basic unit of analysis in the selected statutory text from the point of view of independent information-blocks of the text, termed as *information-units* in this analysis. An information unit, in this study, refers to an independent building block of information in the text such as a committer (of offence), crime-constituting element, crime-aggravating element, time of commission, object of commission, aggrieved entity etc. The carving of information units in a

statutory text is governed by the extent of one independent piece of information in the text. This is practically shown in the analysis chapter (section 4.3), which presents each of the law-sections in the selected text broken down to the information-units in the section. Apparently, an information-unit is difficult to translate and compare to any of the conventional linguistic units such as sentence, clause, phrase, word etc., because a piece of information in the code or one independent statutory element might take the form of any linguistic unit such as preposition, adverb, content word, phrase, clause etc. So, fixation of one or more particular linguistic units to capture one piece of information in the text is difficult. Accordingly, the concept, outlook, and orientation of information unit are, primarily, textual and communicative, and not legal. This fact situates this study at the crossroads of multiple fields such as linguistics, communication, (perhaps, information), law etc.

The line adopted in this study, i.e., analysing the statutory text through *information-units*, is supported by many experts. Coode (1848, 8) proposes four segments of a legislative expression namely "the legal subject, the legal condition, the case, and the condition", and Driedger's (1949) critique of these segments in his view of legislative sentence strengthens the proposal to consider statutory sentences in terms of some kind of linguistic units the sentences comprise.

Robinson and Grall's (1983) element analysis in determining criminal liability, which is primarily illustrated through the Model Penal Code (of the US), is very close to the analysis of information units in this study. This element analysis also addresses the elements below the level of offence (and linguistic sentence), as they (p. 684-85) quote it as an analysis of the elements of an offence. Further, they (p. 690, 694) represent the elements of offence as *independent* and *objective*. Likewise, this study describes the information units as *independent* building blocks of the text. One of the functions of element analysis they describe is that this scheme discovers the issues inherent in the definition of a particular offence, and investigates how these issues bear on each other within the definition. Similarly, this study aims to examine the pattern of information-presentation by breaking down each provision in the independent units of information in

it. Robinson and Grall (p. 692-93) report that element analysis is instrumental in the clarification of *mens rea* analysis in the Model Penal Code, as this formula has narrowed down the nearly eighty previous followed culpability terms into only four, namely purpose, knowledge, recklessness, and negligence. Similarly, they (p. 684-85) observe that, in the element-analysis concept advanced by the Model Penal Code, each material element of an offence may require a culpable state of mind. Robinson and Gall (p. 694-702) debate the scope of expressions, which, surely, are individual pieces of information, in the description of culpability such as: knowingly, recklessly, negligently, maliciousness or viciousness vs. callousness, highly probable vs. substantial, wilful, careless, intentional, taking risks, absolute or strict liability, exposes his genitals, violations, in fact, purposely causes such suicide by force etc. These expressions belong to culpability at three levels of the code, namely the description of offence in the general part, definition of particular offences, and the objective elements of particular offences. These are only a few of the expressions Robinson and Grall have discussed. Notably, this legal division of the objective elements is very close to the textual and communicative division of information units in this study. In contrast to Robinson and Grall, the present study does not follow any conventional legal notion such as culpability, *mens rea*, liability, defence etc., while carving the information units; however, this study appears to have established the units with more linguistic precisions than the law does. That is, this study proposes multiple information units, which, together, are tantamount to what the law describes as culpable state of mind. These units might include, among other, *legal-behaviour frame of mind* e.g., lawfully, unlawfully, dishonestly etc., *manner of commission* (of offence) e.g., voluntarily, and *crime-aggravating intent* e.g., intent to commit any offence during house-trespass, which is punishable with imprisonment, or, to commit theft, as enlisted in the sections (4.3.1, 4.3.21, 4.3.20, 4.3.11 etc.) about the breakdown of the law-sections into information-units. Robinson and Grall (p. 704) find that element analysis offers great conceptual advantage for this analysis maximizes simplicity by precisely presenting all the individual elements of the definition of an offence. As this study proposes to analyse the text through information units, Robinson and Grall (p. 703) endorse that statutes become comprehensive, clear, and precise due to element analysis. Notably, Robinson and Grall's focus is almost an exact reflection of

Fitzgerald's (1990, 132) abovementioned proposal of completeness, brevity, and clarity in codes. This overview of element analysis significantly supports the idea of information units in this study.

Very similarly, Yankova's (2006) linguistic-textual investigation of the organization of message at supra-sentential level in Bulgarian and English criminal laws closely supports the notion of information units. Her (p. 124) proposal of statutory units in the text and structure of criminal law appears similar to the idea of information units adopted in this study. The main point of Yankova's (2006, 124) investigation is how text-forming strategies and flow of information control lexical and structural choices in individual sentences. She observes that:

> "They (statutes) consist of a main provision explicating the legal subject and the legal action, and can encompass qualifications or all the additional information in order for that provision to function. Qualifying expressions describe the circumstances to which the rule applies (case description), who initiates or controls the legal action (volitional control), how and when the legal action is required to take place (specifying legal means), what it is meant to achieve (ascribing legal purpose), what its scope is inter- or intra-textually (defining legal scope). The most frequent qualification and most central to the main provisionary clause is that of case description.
> A good starting point in studying the structure of the legislative provision is to consider what legal theorists and practitioners have to say about the arrangement of statutory units." (Yankova 2006, 126-27)

Similarly, while discussing one outstanding method, i.e., producing a General Part, to generate a sound criminal code, Yeo, Stanley, and Wright (2016, 10) specify these elements of a crime: (i) the physical or conduct elements of a crime, (ii) the fault or mental elements of a crime, (iii) general defences, and (iv) ancillary or abetment and vicarious liability and the inchoate crimes of attempt and conspiracy. Though this categorization is, directly, legal in nature, and not linguistic, textual, or communicative, this categorization does indicate that the distinguishing the aspects of crime is a useful step to analyse both, crime and text. Fries (1995, 49) adopts the concept of an "independent conjoinable clause complex", which Thomson (2005, 3-4) and Fetzer (2008) call a thematic unit and a theme zone respectively; it is larger than clause and

smaller than sentence. Cloran (1995) identifies three hierarchical units, i.e., text, rhetorical units, and message: A text consists of any number of rhetorical units, and a rhetorical unit has any number messages.

These references witness that the concepts similar to *information units* in statutes already exist in different forms and for different purposes. The idea of information-units, as adopted in the present study, is tailor-made for the present purpose and in the present field. The information-units, which are individual building blocks of information in the text, will serve as the basic scale of comparison in the essentially related parts of the text. By comparing the presentation and orientation of information-units in the related parts, the pattern of presentation or introduction of information will be studied, showing if and how a pattern of presentation bears on the clarity of the text. A description of how this study uses information units towards data analysis is given in the methodology chapter (section 3.3).

2.6.3. Previous Study of Clarity in Statutes, and This Study's Contribution

As this study follows development from the existing theoretical account of clarity in codes (as discussed in sections 2.6.1-2.6.2), it, naturally approaches and analyses the data in the way this development dictates. So, this project expands or steers the existing body of research on clarity in codes accordingly. Notably, legal or operational orientation of clarity in codes has received much attention compared to linguistic view of clarity. Even if linguistic clarity is discussed, it is done with a main focus on legal operation or concrete applicability of language. Bentham (1843) considers the imperfections of linguistic or textual function in statutes among second-order imperfections, which give rise to the imperfections of first-order namely ambiguity, obscurity, and over-bulkiness (Driedger 1949, 294-95). Further, the majority of the studies discuss the statutory clarity through the semantics and pragmatics of particular words or phrases. Although Bentham has considered patterns of information-introduction in legislative text in his views such as unsteady expression and unsteady import of expression (Driedger 1949, 294; Bentham 1843), no such study is reported as takes these views to application by actually examining the relation between patterns of information-presentation and clarity in a particular

statutory text. Fitzgerald's (1990, 137-38) account of the Model Penal Code (of the U. S. A), English Criminal Code, and Canadian Criminal Code does examine arrangement in these statutes. But, this enquiry of the arrangement (or present nation of introduction) of information remains at the level of the general and special parts and introduction and division of law-sections, and does not go down below the levels of section or sentence, as Fitzgerald (p. 137) proposes the logical arrangement of sentences in the relevant statutory parts and these parts should also be logically linked to each other.

Coode (1848) is the first to present a scientific analysis of linguistic sentence in legislative writing and Driedger's (1949) critique of Coode's scheme, further, refines the notion of legislative sentence. Notably, their notion of legislative sentence, in fact, concerns legislative *expression*, and not the sentence in the linguistic sense. The analyse the legislative expression using the terms such as *the legal subject,* i.e. the person the particular law is directed to, *the legal action,* i.e. the action the particular law directs the subject to do or not to do, *the case*, i.e. the particular circumstances, in which the law applies, as illustrated in example (4) (italic part), and *the conditions*, i.e. the particular requirement that must be fulfilled before the particular law applies, as illustrated in example (5) (italic part) (Driedger, 301-2).

(4) *Where the compensation has not been otherwise apportioned,* a judge in chambers may apportion the same among the persons entitled.

(5) Where a person is charged with an offence under this Act, *if it is established that the said person did any act for which a permit is required under this Act,* it shall not be necessary to establish that the person charged did not possess a permit and the burden of proof that he possessed the necessary permit shall be upon the person charged.

Clearly, this proposal is not about the linguistic sentence in statutes, but it is about the nature and outlook of the expression of statutes.

Dickerson (1964, 5) approaches legislative clarity through what he calls the diseases of legislative language, ambiguity (p. 6), over-vagueness and over-precision (p. 10), over-generality and under-generality (p. 12), and obesity (p. 13). He (p. 10) reports that ambiguity challenges the audience in terms of equivocation or "either-or" choice between multiple meaning or referents of one expression, whereas the challenge of vagueness is in terms of the level of the certainly of an expression, independent of equivocation of meaning. Language can be vague without involving ambiguity. For example, if in a particular legal case, "he" appears to be equally referring to mortgagor as well as mortgagee, "he" is ambiguous. However, the term "red" is vague in that "red" does not offer certainty of the degree of redness. Dickerson (p. 11) points out that vagueness is, unusually, valuable, but the uncertainties that are more or less than the legislature's policy requires or allows cause over-vagueness or under-vagueness respectively; under-vagueness is also known as over-precision. Dickerson (p. 12) describes that generality is when one reference *simultaneously* refers to multiple referents (and not *alternatively*, as in the case of ambiguity). For example, the phrase "brother-in-law" simultaneously refers to a husband's, wife's, or sister's husband. So, this phrase is general. Generality is not always a disease of language; it is inevitable. However, over-generality and under-generality are problematic. Over-generality and under-generality arise from the use of broader or narrow reference than the one that is precisely meant by the legislature. Dickerson (p. 13) illustrates that using *crime* in place of *felony* (i.e. a subset of serious crimes such murder, arson, armed robbery etc.), and vice versa, are over-generality and under-generality respectively. As apparent from this brief account Dickerson, mainly, discusses the semantics and pragmatics of multiple linguistic units in statutes such as words, phrases, sentences etc. Though Dickerson (p. 5) has in view legal-operational and the linguistic-function sides of legislative clarity, his primary concern is, still, the former. That is, his account has legal orientation, and linguistic treatment comes only as an ingredient of the legal account.

In another study, Re (2019, 1505), in his discussion of clarity doctrines, takes an extreme positions, and rules out the idea of clarity as being linguistic and empirical at all. His (p. 1523) illustration is, particularly, based, on § 2254 (d)(1) the US's Anti-Terrorism and

Effective Death Penalty Act 1996 (AEDPA). He, rather, considers legislative clarity as "normatively grounded characterization". He (p. 1506) finds that legal clarity is only a second-order concept, which builds on the idea of legal correction as a first-order requirement. That is, legal proposition before being clear needs to be correct. Re's position echoes the aforementioned Bentham's (1843) division of first-order and second-order imperfections. However, Re (p. 1507) is convinced of the distinction between legal clarity and linguistic clarity, and mentions that one cannot be equivalent to the other. He (p. 1509) takes the phenomenon of legislative clarity as purely relating to law and judgment, which can be approached in two ways, namely *certainty* and *predictability*. The notion of certainty is about the court's level of certainty or, alternatively, the degree of being well-informed of how to apply a particular statutory text to resolve a particular legal issue. Predictability concerns how predictably the laws can be interpreted (p. 1516). Though Re has not mentioned this explicitly, but the notions of certainty and predictability, ultimately, seem to rest on linguistic clarity. Like numerous other studies, Re also touches linguistic clarity but, again, it is for the sake of legal clarity.

In a similar study, Stark (1994) discusses whether the drafters should prefer *accuracy* or *clarity* in legislative drafting. As briefly mentioned in the section (2.3) about the meaning of clarity, Stark (p. 208-9) gives competitive description of the two concepts. Clarity means one of the two things, lack of ambiguity in statutes and a statute's quality of being rapidly comprehendible. As for accuracy, a statute has accuracy if it addresses exactly that behaviour, which it intends to direct. Stark (p. 209, 213) proposes that the drafters should strive for accuracy, and not clarity. Tharney et al. (2021) also offer a similar investigation, in which they reject vagueness in laws and link clarity with precision. To uphold their thesis, they debate the semantic and pragmatic scope of particular words, phrases, and *mens rea* in different criminal laws in the US such as harassment, kidnapping, aggravated assault, and the offences by disorderly persons, based on the observation of the New Jersey Law Revision Commission. For Flückiger (2008), though legislative clarity can be approached from legal and linguistic perspectives, as mentioned in the before (section 2.3), he (p. 9), still, finds the principle of clarity as ambiguous one, because, he thinks that, the drafters cannot hold both principles as the same time. This

view, for its competitive nature, is similar to Stark's (1994) aforementioned competitive view of accuracy vs. clarity. Following a slightly different line form this, Welkowitz (2013) has discussed advantages and disadvantages of clarity in Trademark Law.

Solan (2004) introduces the idea of pernicious ambiguity, i.e., when multiple parties consider that the particular statutory text is clear, but each of the party has different meaning of that text. Dickey, Schultz, and Fullin's (1989) debate the Wisconsin's law of homicide to clarify its aspects such as liability, defence, forms etc., and certain phrases in this law. In their proposal for framing smarter statutes, Ingram and Schneider (1990) approach the idea of clarity in respect of the patterns to allocate discretion to the implementers of the law and how much discretion the laws should leave to the implementers. In this regard, they present a comparative overview of the relevant approaches. Hopwood (2017) links clarity in criminal law with the fairness of criminal law, and emphasizes *criminal-law clear-statement rule*. He (p. 748) condemns the legislature's "leave-the-details-to-be-sorted-out-by-the-courts" method.

Sharma and Anand (2012) emphasize the need for including illustrations in the statutes, as they note that the colonial era statutes show that illustrations are highly effective to increase clarity in statutes. They term inclusion of illustration as "forgotten practice." They suggest illustration as a way to clarify legislative intent and to visualize context for the application of particular provisions. Notably, one of the provisions, §445 that defines the offence of house-breaking, in the selected text of the IPC (GOVERNMENT OF INDIA 1860, 98-101) also includes illustrations.

All of these studies discuss linguistic clarity as one variable of legislative clarity. The main focus of each of these enquiries is always law, and never linguistics. Here, this seems relevant to describe how the Fitzgerald's (1990, 132-42) approach to clarity in codes in more textual-linguistic compared to any of the study reviewed in this section. Although Fitzgerald's view of clarity (described in section 2.4) also appears to be more legal than linguistic, his study touches more textual-linguistic specifics than any of the studies reviewed in this section, as he goes down to the particular elements such as short,

simple, and streamlined sentences without prolixity, redundancy, and complexity (p. 134); logically arranged sentences, and connected parts (p. 137); transparent and facilitating lay out (p. 138-39). Unlike any other study reviewed here, Fitzgerald's proposal reminds of the textual and linguistic patterns that are specific to argumentative essays, and this affinity takes Fitzgerald's proposal much close to textual-linguistic domain.

The present investigation develops from the existing study of clarity in statutes in that this study adopts two such notions as are not focused previously, i.e., information-presentation and information-unit. This study does not, directly, concern semantic or grammatical explanation of any word, phrase, clause, or sentence in the selected statutory text; instead, this study focuses the patterns of the presentation (or arrangement or introduction) of information in the text at the level of information units of the text. In this way, this study is, mainly, mechanical in nature as it largely concerns the mechanical concept of arrangement or introduction of expressions, and not, directly, semantic or pragmatic interpretation of words, phrases etc. This makes this examination less genre-sensitive to a great extent. However, though the main concern of this enquiry is textual, linguistic, and communicative, it has normative implications as well.

2.7. Summary of the Chapter

The reviewed literature indicates that, despite the Indian Penal Code being considered one of the finest codes, the experts have noted that certain parts of the code show ambiguity, complexity, gaps, and lack of comprehension and precision. The IPC's treatment of criminal trespass is concise, systematic, and complex. This study examines if this statutory text shows any impractical patterns or lack of pattern in information-presentation and the possible impact of this lack of pattern on the clarity of the text by comparing the presentation of information-units, the independent building blocks of the text, in the essentially relation comparable sections of this text. Clarity in statutes has two dimensions, legal and linguistic. This study follows the linguistic line, using Fitzgerald's (1990, 132-42) view of clarity in codes as theoretical framework, which is much inclined to the textual and linguistic side of the statutory text compared to other existing accounts

of statutory clarity. Previous focus has treated the conventional linguistic units such as words, phrases, clause, sentences etc. in the statutes, mainly from semantic and pragmatic points of view, for the sake of legal and not textual-linguistic clarification. However, this study searches for any lack of patterns in the presentation (or introduction or arrangement) of information, operating on the information units in the text. This project builds on and differs from the previous research on the linguistic clarity in codes in terms of theory as well as method.

Chapter 3: Methodology

3.1. Introduction

This chapter describes three components which form the methodology of this analysis: *first*, selection of suitable theoretical framework (section 3.2), *second*, the procedure of analysis (section 3.3), and, *third*, the description of the material used in this examination (section 3.4).

3.2. Selection of Appropriate Theoretical Framework

This study aims to examine the patterns of information units in the text, comparing them to the pattern of similar units in the essentially related similar sections of the text, and the impact of any possible lack of pattern. Keeping in view the aim of this study, three theoretical frameworks appear to be the outstanding candidates for this analysis namely Fitzgerald's (1990, 132-42) concept of clarity in codes, Grice's (1975, 45-46) conversational maxims, and the theory of textual cohesion (Halliday and Hasan 2013, 4, 18-19) (also referred to as textual unity, texture, unity of texture, connectedness, coherence etc.). Though the three frameworks concern the organization of information in talks or texts, they differ in their foci and orientation.

Fitzgerald (1990, 132-42) concerns the textual-linguistic organization of legislative text, with an emphasis on simplicity and orderliness of expression, and perspicuous lay out of statutory texts. Grice (1975, 45-46) focuses the speakers' observance of a cooperative principle, during talk, with four conversational maxims of quantity, quality, relation, and manner, with respect to the topic or purpose of the talk. Particularly, the Manner maxim appears very close to Fitzgerald scheme, as this maxim says that the speakers try to be perspicuous in their conversation by avoiding obscurity, ambiguity, prolixity, and disorderliness. Cohesion refers to a semantic relationship between the relevant expressions in a text (Halliday and Hasan 2013, 4), where the interpretation of one expression depends on another expression in the text (p. 18-19). Fitzgerald's focus is readability and understandability of statutory texts, Grice focuses rational participation in talk exchange, and Halliday and Hasan's focal point is semantic network underlying a

text. Though the three foci overlap in some way, they are oriented to different types of material (or genres) and different purposes. Fitzgerald's clarity is, particularly, about statutory texts, Grice's maxims concern conversation, and Halliday and Hasan deal with text or discourse in general.

This juxtaposition highlights similarity in Fitzgerald and Grice, as the two experts concern similar attributes at different levels of communication such as simplicity, orderliness, perspicuity, prolixity etc., which is, essentially, different from Halliday and Hasan's focus on semantic connectedness in a text. At the same time, similarity is also visible in Fitzgerald, and Halliday and Hasan, as the two are directed to the text, unlike Grice's concern with talk-exchange. However, Fitzgerald's framework appears one step more closely relevant to this study compared to the other two frameworks, as this study and Fitzgerald account deal with the same kind of material namely statutory text. So far, Fitzgerald's framework seems to be more closely relevant to the aim of this examination and the type of material selected for examination.

As the main variables in this analysis are the information-units for they will function as points-of-reference for each other, a comparison of the nature and function of the points-of-reference in each of the three frameworks is also desirable. The difference of the target material (or genre) in the three frameworks also controls the main variables, i.e., points-of-reference, on which each of the three frameworks operates for the analysis of the given material. Fitzgerald's proposal of arrangement or internal logic requires the drafters to arrange sentences in a rational order in the relevant parts of the code, and these parts should be logically connected to each other. This proposal implies that the pattern of arrangement for each sentence and each set of sentences should correspond to the similar sentences or the set of sentences in the essentially related similar parts of the text. That is, Fitzgerald's notion of arrangement is realized through the mutual orientation of the patterns of arrangement in the related parts, as illustrated through the precisely similar situation and scope of *causing* and *attempting to cause* in example (6a)-(6b) (which are schematized versions of examples (2a)-(2b) in the introduction chapter (section 1.1), where the presentation of *causing* and *attempting to cause* is not mutually consistent).

(6a) A house-trespasser's act of *causing or attempting to cause death or grievous hurt* to the occupier of the house will be punished with imprisonment for life or for term up to ten years.

(6b) In the case of one house-trespasser's act of *causing or attempting to cause death or grievous hurt* to the occupier of the house, where multiple persons are jointly concerned in the offence, each of the committers will be punished with imprisonment for life or for term up to ten years.

In Grice's maxims, the speakers try to make their communication sufficient, valid, relevant, and perspicuous with reference to the topic or purpose of communication on the whole. Particularly, as the Manner maxim suggests that the speakers' participation in conversation should be free of obscurity, ambiguity, prolixity, and disorderliness, the reference-points in the maxims are the topic, purpose, and other contextual variable of conversation, as shown in example (7).

(7) Mary: Our train is leaving in one hour.
John: I have already finished packing.

In example (7), Mary and John's exchange is mutually oriented on the points of a common purpose and the common direction of their talk: the apparent purpose is signalling each other to get ready for leaving or informing each other about the preparation for the travel, and the conversation is directed to the mutually supposed travel.

As textual cohesion is about the sense-connectedness in the text or discourse, the points of reference this framework operates through are expressions in the text, which complete one semantic sense together for example the mutual reference in *rose*, *this flower*, and *it* in example (8).

(8) *Rose* is the best of all flowers. *This flower* is a symbol of love. You deserve *it*.

The points of reference involved in textual cohesion are similar to that of clarity framework, i.e., expressions of any length in the text. However, the primary function of the reference-points in textual cohesion is to control *semantic connectedness in the text or discourse*, whereas the main function of the reference-points in text-arrangement is to maintain *orderly and logical development of the text*. So, cohesion and arrangement are, essentially, different concepts. On the other hand, the reference-points in conversational maxims namely conversation's topic, purpose etc., primarily, function to bring in a speaker's contribution *rationalization according to the context* of the exchange as far as possible; besides, they belong to entirely another kind of communication (i.e. conversation), and are less concrete and stable compared to that of cohesion and clarity. So, as this examination aims at patterns of information-presentation instead of any semantic issue in the text, Fitzgerald's clarity appears one step further relevant to the aim of this study.

The comparison of the three candidate frameworks shows that Fitzgerald's account of clarity in codes is much appropriate for the present analysis. The basis for this appropriateness is the observation that, Fitzgerald's focus, target material or genre, the main variables namely points-of-reference in the material, and outlook are the most closely situated to the present examination, in the three frameworks.

Here, this seems necessary to demonstrate how Fitzgerald has analysed organization in criminal codes. Fitzgerald's (1990, 137) analysis remains, mainly, confined to the discussion of general and special parts of a code, and does not go down to the level of information units in the sentences and law-sections. Regarding general parts, For example, he describes the English Draft Code and the Wright's Code to have no scheme, as these two codes enlist various defenses without any pattern of arrangement. On the other hand, Wright's Code keeps the general exemptions such as infancy, insanity, and intoxication separate from justifiable force and harm such as self-defense, statutory authorization etc. Fitzgerald (p. 138) reports that the Model Penal Code shows, further, better arrangement than in these codes, as it categorizes all the general principles of justification and responsibility like self-protection and mental illness, separated from

defenses such as duress, intoxication etc. that are included in the part about general principles of liability. The English Criminal Code allocates these factors in, comparatively, more formal categories for example mistake and intoxication come in the class of *fault*, mental abnormality and automatism are combined under *incapacity and mental disorder*, and self-defence and duress are in *defenses*. The Canadian Criminal Code combines all defenses in one chapter, dividing them in two categories within that chapter. Further, the majority of the codes presents inchoate and participation offences, mainly, in two ways: the Model Penal Code and the English Criminal Code introduce them in separate sections that do not have any connection in them, whereas the Canadian Criminal Code presents them in one chapter. Regarding special part, the Model Penal Code and the English Criminal Code does not any follow any pattern to organize the offences, which are randomly thrown in the text. However, the Canadian Criminal Code tries to arrange the offences from less grave to more grave.

Notably, Fitzgerald's is, mainly, focused on the organization of the *macro-parts* of the structure of the text, whereas the present study operates on the units of information in each sentence and section of the text. So, this study develops Fitzgerald's view into a scheme that, precisely, serves the aim of this study. The account of this development is in the theory chapter (section 2.6.1).

3.3. Procedure of Analysis

The analysis proceeds in two steps. *Firstly*, each of the selected law sections is broken down to unique information units in it such as the nature of committer (of criminal trespass), crime-constituting act, object of commission (real or non-real property), crime-aggravating act or intention, time of commission, options of punishment etc. General description of the notion of information unit, as adopted in this study, is given in the theory chapter (section 2.6.2). The establishment of information units is required so that the textual patterns could be followed down to level of the building block of the text. The main process of the analysis, which looks for the information that is without any strict or rational pattern of arrangement, operates on these information units. So, breakdown of

each law-section into its information units appears to be the most basic and controlling step in this analysis.

Notably, the law sections in the selected text consist of multiple parts namely heading, definition or description, explanation, and illustration, and each of these parts shows information units. However, the main comparison is between the information units in the description parts. This is for two reasons: *one*, the frequency of explanation and illustration parts does not seem significant, as only two sections of law (442 and 445) include explanation and only one section (445) includes illustration; *two*, though both, description and heading parts, are come in each law-section in the text, the descriptions precisely include the content of the related headings. So, the study has mainly focused the description part of each law-section.

Further, although not each of the information units is picked up in the analysis of the text, each information unit in each provision is presented in the analysis chapter (section 4.3) so that this could be shown that how the law-sections are, for the most part, constructed from independent building blocks.

Secondly, on the basis of the comparison of information units in two or more related parts of the text, the under-represented or over-represented elements are captured. Based on these inconsistencies, information gaps in the related parts are discussed. The effect of each such instance on the adequacy of the text in terms of quantity of information is also discussed.

This process of finding the information units without proper arrangement is run at each level of the text's structure one by one, at the levels of the kinds of criminal trespass namely trespass to real property or land and to non-real property or goods, the types of trespass to real property such as house-trespass, house-trespass by night, house-breaking, house-breaking by night etc., the aggravated levels of each type of trespass to real property, and the set of law sections under each type. The imperfections relating to the

pattern of presentation at each level are pointed out on the basis of the comparison of information units in the essentially related similar sections of the text.

The procedure of analysis is devised keeping in view the aim of this study. The aim of this study is to look for any information units that have problematic arrangement or introduction in the statutory text, and to examine if/how these pattern-problems impact the clarity of the text. As this study aims to examine presentation-patterns at the basic level of *information* in the text, this study requires such analytical procedure as could operate on basic and, as far as possible, independent *information units* in the text. So, the adopted procedure of analysis seems precisely congruent with the aim of this study.

3.4. Material

The material used in this study includes only the selected primary data. These primary data consist of the text on the topic of criminal trespass in the Indian Penal Code or IPC (GOVERNMENT OF INDIA 1860, 98-101). The text "Of Criminal Trespass" occurs in chapter XVII, "OF OFFENCES AGAINST PROPERTY", of the IPC. Selection of the data rests on three reasons: *first*, the strict systematicity of the text that is typical to statutory texts, *second*, opportunity to tap solely textual-linguistic aspect of the existing debate on legislative clarity, and *third*, the researcher's personal experience with the selected text in non-academic setting, which caused interest. This study's procedure of analysis, being largely mechanical, is much suitable for the genres of the text, which are highly systematic such as statutory, scientific, argumentative writing etc., because the preciseness and strict organization of the content in these texts makes the carving of information units easy. The job of cutting information units appears, comparatively, difficult in other genres such as fiction, poetry, speeches, columns, conversations etc., because they are, comparatively, less organized texts.

The data were collected from the official website of the Legislative Department of the Ministry of Law and Justice, Government of India. The content of the collected material was also verified from another official online platform maintained by the Government of India namely Digital Repository of All Central and State Acts (INDIA CODE 1860). The

penal codes of Bangladesh (Government of Bangladesh 1860, 158-164), and Pakistan (THE PAKISTAN CODE 1860, 149-153) were also obtained from the official websites of the two governments.

Description of the systematic organization of information in the selected material is given in the analysis chapter (section 4.2).

3.5. Summary of the Chapter

Fitzgerald's (1990, 132-142) concept of clarity and arrangement in codes is selected as theoretical framework in this study, leaving Grice's (1975, 45-46) conversational maxims and Halliday and Hasan's (2013, 4, 18-19) textual cohesion. The procedure of analysis, i.e., search for the expressions with problematic arrangement or introduction in the text, operates on comparative examination of information units in the essentially related similar parts of the selected statutory text. The primary data for this analysis is the text "Of Criminal Trespass" of the Indian Penal Code (GOVERNMENT OF INDIA 1860, 98-101), which is selected, mainly, because of its highly systematic construction.

Chapter 4: Data Analysis

4.1. Introduction

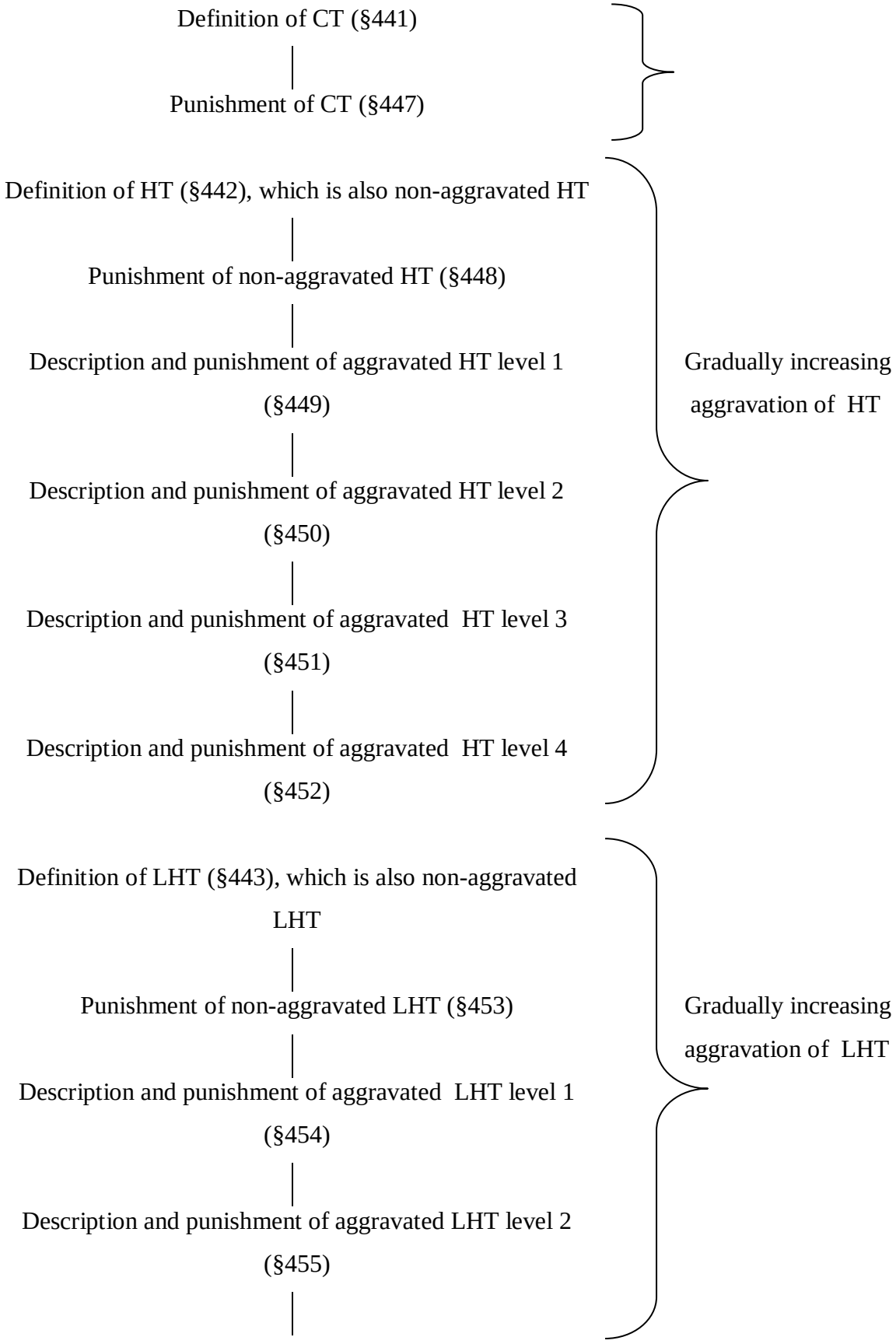
This chapter presents an examination of the selected statutory text to see if the text have any information units with impractical or no pattern of presentation (or arrangement or introduction) in the text, and if/how these information units impact the clarity of the text. As the selected text is categorically divided in trespass to real property (or land) and to non-real property (or goods), the analysis of information-presentation in the two kinds of trespass is undertaken separately. This analysis develops through the discussion of these main points: disassemblage of the structure of the selected text (section 4.2), breakdown of each law-section into the information units the section consists of (section 4.3), patterns of presentation in trespass to real property (section 4.4), patterns of presentation in trespass to non-real property (section 4.5), a comparison of the patterns in trespass to teal and non-real properties (section 4.6), disproportionate coverage of *land* vs. *goods* in the definition of criminal trespass (section 4.7), and miscellaneous incongruities (section 4.8).

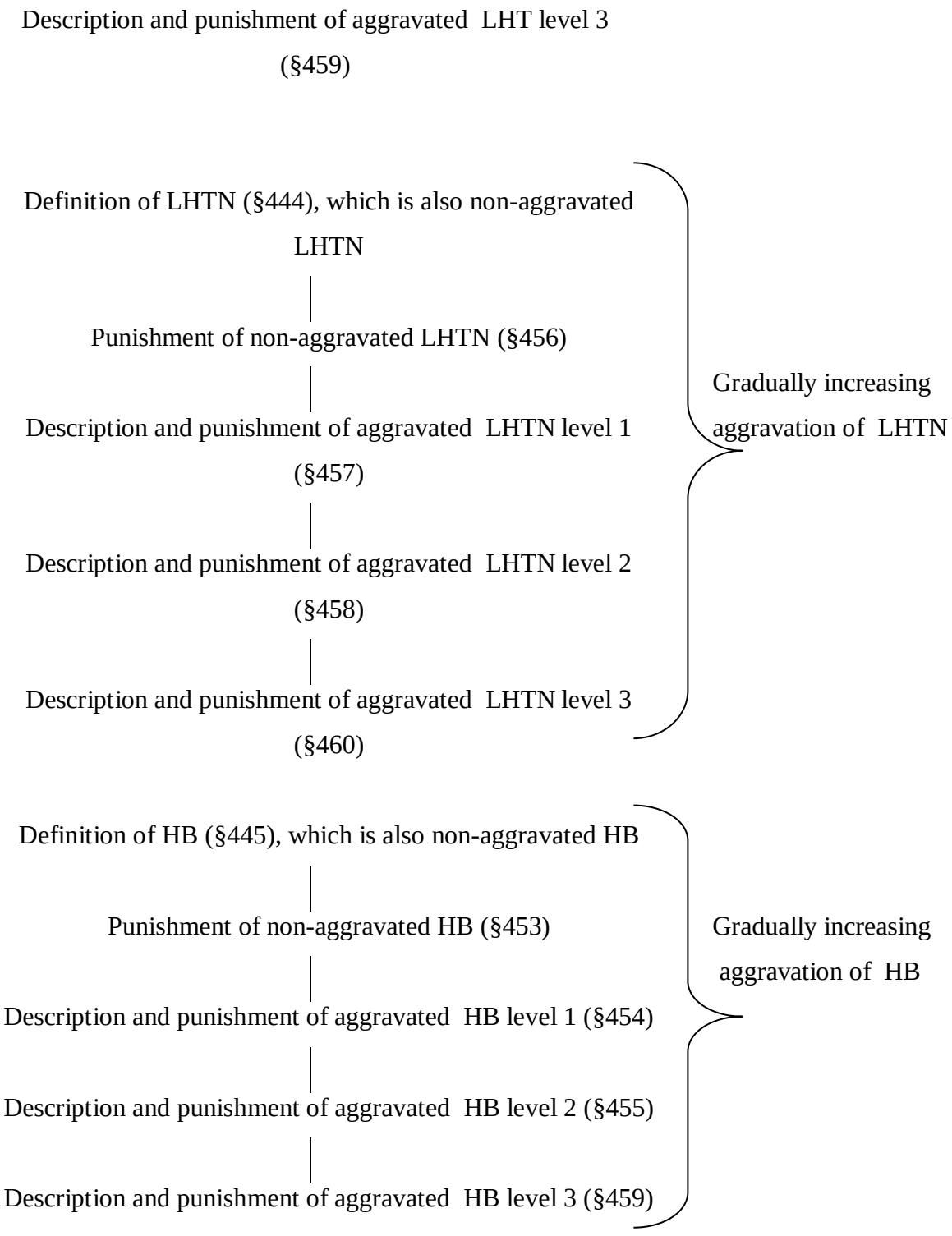
But before this, an account of the organization of information in the selected text seems necessary for the sake of acquaintance with the structure and nature of the selected text.

4.2. Disassembling the Structure of the Text

The selected text "Of Criminal Trespass" in the Indian Penal Code consists of twenty-two sections, §441-§462 (GOVERNMENT OF INDIA 1860, 98-101). The topic of criminal trespass is divided in two kinds of namely trespass to real property or land and trespass to non-real property or goods. The first twenty sections, §441-§460, are about trespass to real property, and the last two sections, §461-§462, are about trespass to non-real property. Trespass to real property has six types, whereas trespass to non-real property is its sole type itself. The six types relating to trespass to real property are criminal trespass (CT), house-trespass (HT), lurking house-trespass (LHT), lurking house-trespass by night (LHTN), house-breaking (HB), and house-breaking by night (HBN). Notably, as already touched in the introduction chapter (section 1.5), "criminal trespass" is not treated as one

type of trespass to land, making the number of types five, which is explained in a following section (4.4.2) of this thesis. Each of these offences consists of a related set of law-sections, which differ from each other in respect of manner, time, place, and, above all, aggravation of the offence. The two other related sections, §461-§462, which form one separate (seventh) type, deal with trespass to non-real property, as they describe the offence of one person dishonestly breaking open another person's property (DBNP, i.e., dishonestly breaking open non-real property). Sections 461-462 present non-aggravated and aggravated forms of DBNP respectively. The non-aggravated form involves one person dishonestly breaking open another person's property, whereas the aggravated form is about one person dishonestly breaking open another person property when the former is entrusted with the custody of that property by the latter. The categorization of the types of criminal trespass, with the sections relating to each type and the topic of each section, in the selected text is shown in figure 1.


Definition of CT (§441)
Punishment of CT (§447)
Definition of HT (§442), which is also non-aggravated HT
Punishment of non-aggravated HT (§448)
Description and punishment of aggravated HT level 1 (§449)
Description and punishment of aggravated HT level 2 (§450)
Description and punishment of aggravated HT level 3 (§451)
Description and punishment of aggravated HT level 4 (§452)
Gradually increasing aggravation of HT
Definition of LHT (§443), which is also non-aggravated LHT
Punishment of non-aggravated LHT (§453)
Description and punishment of aggravated LHT level 1 (§454)
Description and punishment of aggravated LHT level 2 (§455)
Gradually increasing aggravation of LHT


Description and punishment of aggravated LHT level 3 (§459)
Definition of LHTN (§444), which is also non-aggravated LHTN
Punishment of non-aggravated LHTN (§456)
Description and punishment of aggravated LHTN level 1 (§457)
Description and punishment of aggravated LHTN level 2 (§458)
Description and punishment of aggravated LHTN level 3 (§460)
Gradually increasing aggravation of LHTN
Definition of HB (§445), which is also non-aggravated HB
Punishment of non-aggravated HB (§453)
Description and punishment of aggravated HB level 1 (§454)
Description and punishment of aggravated HB level 2 (§455)
Description and punishment of aggravated HB level 3 (§459)
Gradually increasing aggravation of HB

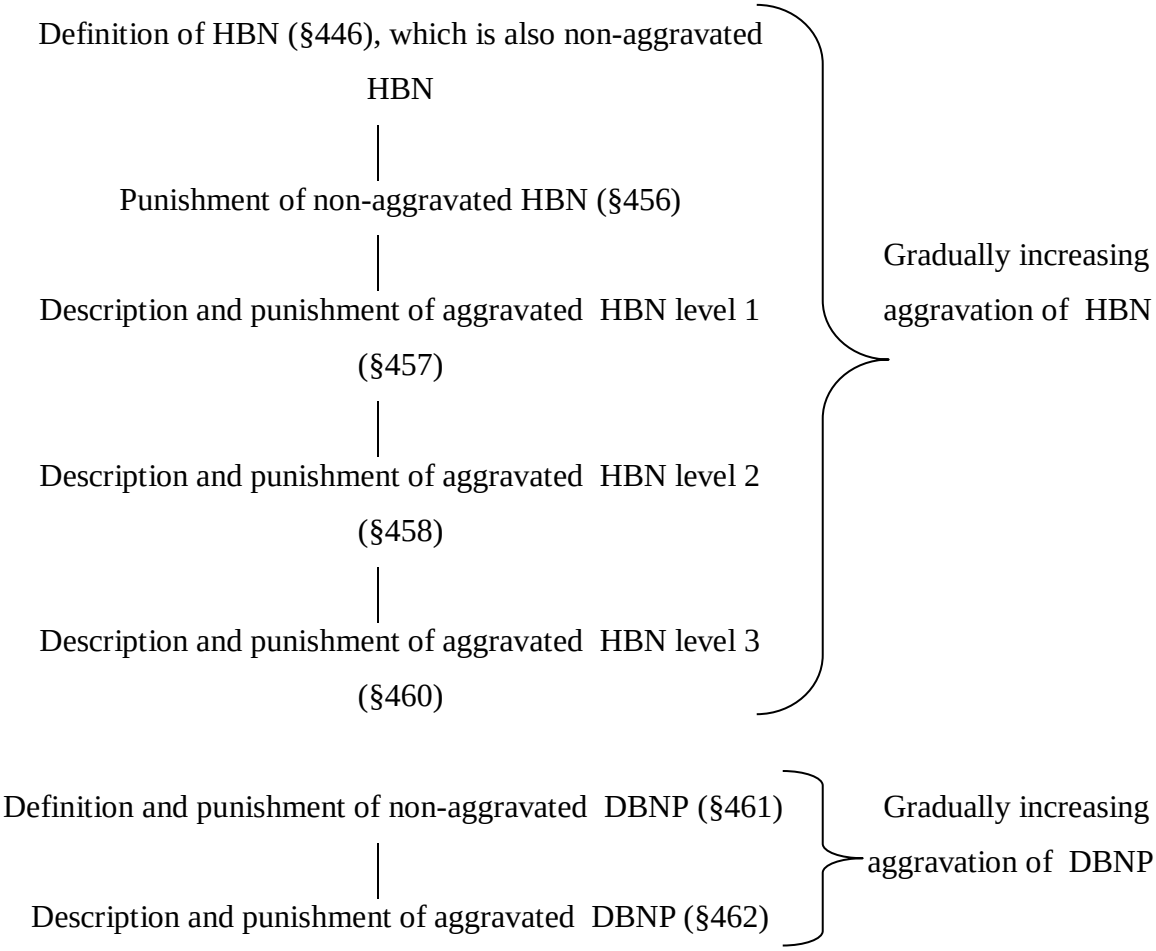


Figure 1. Categorization of the content of "Criminal Trespass" in the IPC.

As shown in figure 1, "criminal trespass" or CT consists of two related sections, §441 and §447: Section 441 supplies the definition of CT and section 447 specifies punishment of CT. The offence of criminal trespass does not have any aggravated form in the IPC. Notably, this study does not consider criminal trespass as a type of trespass to land, which is explained in the following section (4.4.2).

The type "house-trespass" or HT has six related sections, §442 and §448-§452, which is the highest number of sections any subtopic has in the selected text. Section 442 provides definition of HT, and sections 448-452 describe punishment of HT. Through §448-§452, severity of punishment increases from non-aggravated form of HT to the aggravated forms, which goes up to four levels of aggravation.

The type “lurking house-trespass” or LHT has five related sections, §443, §453-§455, and §459. The punishment of LHT also increases from non-aggravated form through aggravated forms, which goes up to three levels of aggravation.

The types “lurking house-trespass by night” or LHTN, “house-breaking” or HB, and “house-breaking by night” or HBN have five related sections each. LHTN comes in §444, §456-§458, and §460, HB consists of §445, §453-§455, and §459, and HBN covers §446, §456-§458, and §460. Each of these three types has aggravation up to three levels.

Notably, LHT and HB share §453-§455 and differ in §443 and §445, which means they differ in definitions but receive the same punishments. Similarly, LHTN and HBN have different definitions in §444 and §446 respectively, but have the same punishments in §456-§458 and §460.

Notably, the majority of these types of trespass have been treated in pairs such as lurking house-trespass and house-breaking, and lurking house-trespass by night and house-breaking by night. Further, this seems necessary to point out here that the distribution of the aggravated levels in the types of trespass to land is not as uninterrupted in the text as shown in figure 1. Instead, the allocation of the aggravated levels to the types seems absurdly multiform, which raises question about the practicality and objectivity of the pattern of distribution of aggravated levels to the types of trespass to land. This is discussed in the section (4.4.1) about the apparently irrational allocation of the aggravated levels of trespass to land in the types of trespass.

Figure 1 also shows that the set of sections in each type has a pattern: each set covers two related aspects of the relevant type, i.e., the description of the particular forms of that offence, and specification of punishments for each form. Each type has aggravated and non-aggravated forms of offences. In the case of non-aggravated forms of trespass to land, definition and punishment are presented in two individual separate sections; in the case of the aggravated forms, the description and punishment are covered in one section. But, in the case of aggravated trespass to goods, the description and punishment are

presented in one section, which is, further, discussed in the section (4.4.3) about random organization of information and the section (4.6) about the differing pattern in trespass to land and goods.

Up to this point, the arrangement and introduction of information in different parts of the text appears in accordance with Fitzgerald's (1990, 137) proposal, i.e., sentences or information should follow particular arrangement in the text in the relevant parts of the code, and these parts have to be logically linked to each other.

Further, down at the level of individual law-sections, each section is also divided in two or more parts such as heading, definition or description, explanation, and illustration. The information in each part of each section comprises concise and systematically laid out pieces of information (or building blocks), which this study takes as *information units* and the analysis operates on them.

A simulation of the organizational structure of the content of the selected text is given in figure 2.

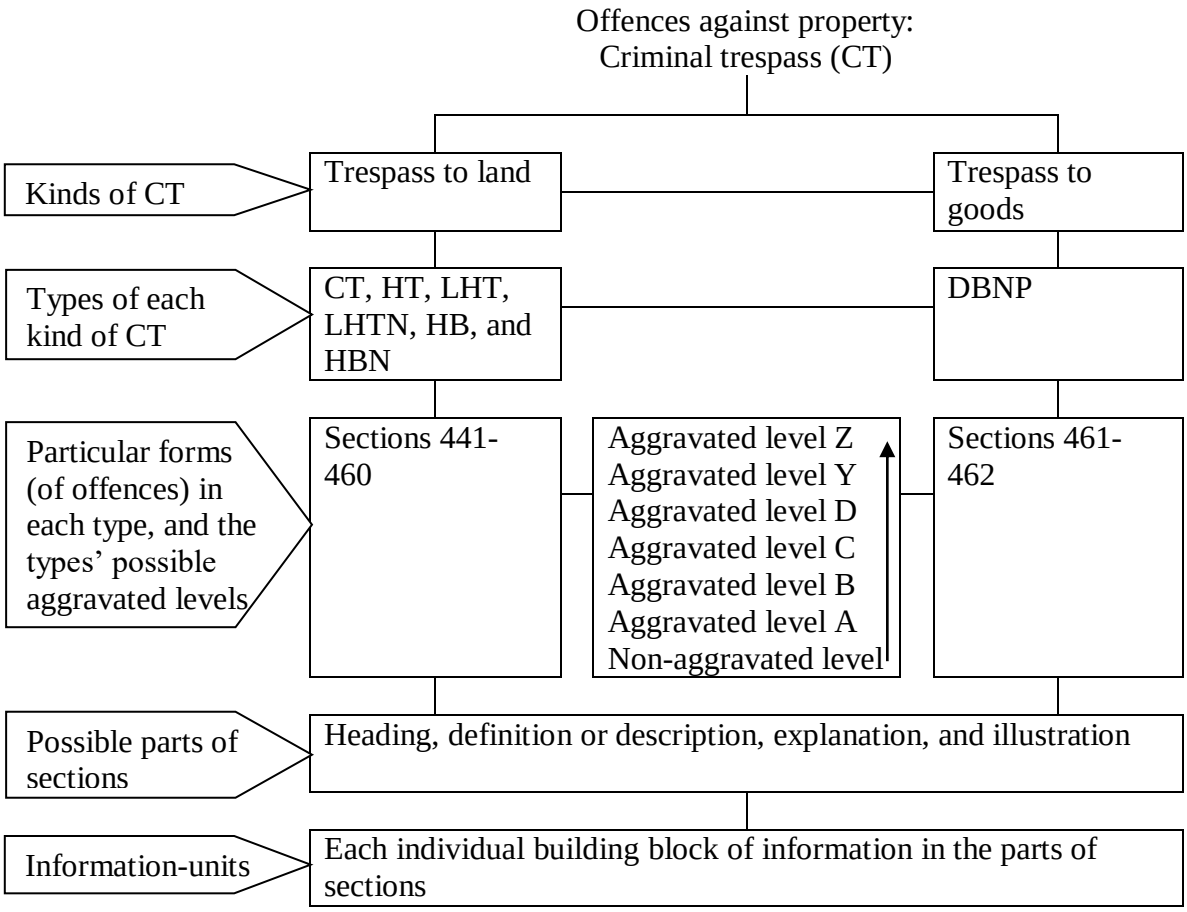


Figure 2. Structural hierarchy of the text "Of Criminal Trespass" in the IPC.

4.3. Break Down of the Law Sections to Information-Units

4.3.1. Section 441

Topic of the section: definition of criminal trespass.

Number and nature of the parts of the section: two parts, i.e., heading, and description

Content of heading: criminal trespass

Information-units in description:

Nature of committer: any person.

Crime-constituting act: the committer's act of entering into or upon the object of trespass (see below the information-unit "object of commission"), or having lawfully entered the object property, unlawfully remaining there.

Crime-constituting intent: to commit any offence or intimidation, insult, or annoyance to the occupier of the object of trespass.
Object of commission: real property, or non-real physical property such as any physical object e.g., goods.
Direction/preposition of commission: into or upon.
Legal-behavioural frame of mind: lawfully, and unlawfully ("[. . .] or having *lawfully* entered into or upon such property, *unlawfully* remains there [. . .]").
Aggrieved entity: the person, who are the occupier of the property.
Naming of offence: criminal trespass.

4.3.2. Section 442

Topic of the section: definition of house-trespass.
Number and nature of the parts of the section: three parts, i.e., heading, description, and explanation.

Content of heading: house-trespass.

Information-units in description:
Nature of committer: any person.
Basic offence: criminal trespass.
Crime-constituting act: the committer's act of entering into or remaining in the object of commission.
Object of commission: any building, tent or vessel that is used as a human dwelling, any building that is used as a worship-place, or any place that is in the custody of a particular person (that might be and might not be in any particular use).
Direction/preposition of commission: into, and in ("[. . .] by entering *into* or remaining *in* any building [. . .]").
Naming of offence: house-trespass.

Content of explanation: threshold of "entering".

4.3.3. Section 443

Topic of the section: definition of lurking house-trespass.

Number and nature of the parts of the section: two parts, i.e., heading, and description.

Content of heading: lurking house-trespass.

Information-units in description:

Nature of committer: any person.

Basic offence: house-trespass.

Crime-constituting act: while committing house-trespass, the committer's act of adopting precautions to elude any such person, who has rightful authority to exclude or eject the trespasser from the object property.

Object of commission: any building, tent or vessel that is used as a human dwelling, any building that is used as a worship-place, or any place that is in the custody of a particular person (that might be and might not be in any particular use).

Naming of offence: lurking house-trespass.

4.3.4. Section 444

Topic of the section: definition of lurking house-trespass by night.

Number and nature of the parts of the section: two parts, i.e., heading, and description.

Content of heading: lurking house-trespass by night.

Information-units in description:

Nature of committer: any person.

Basic offence: lurking house-trespass.

Crime-constituting act: committing lurking house-trespass at a time after sunset and before sunrise.

Naming of offence: lurking house-trespass by night.

4.3.5. Section 445

Topic of the section: definition of house-breaking.

Number and nature of the parts of the section: four parts, i.e., heading, description, explanation, and illustrations.

Content of heading: house-breaking.

Information-units in description:

Nature of committer: any person.

Basic offence: house-trespass.

Crime-constituting act: while committing house-trespass, the committer's act of entering into the house or any part thereof, or having entered, quitting the house or any part thereof, using any of these six ways: *firstly*, a passage made by the committer or any abettor, *secondly*, a passage not intended for human entrance, or by scaling or climbing over any wall or building, *thirdly*, a passage opened by the committer or any abettor, which the occupier did not intend to be opened, *fourthly*, by wrongfully opening any lock, *fifthly*, by using criminal force or committing an assault, or by threatening any person with assault, and *sixthly*, a passage unfastened by the committer or any abettor, which was fastened against entrance or departure.

Object of commission: a house or any part of it.

Naming of offence: house-breaking.

Content of explanation: definition of "house" within this section.

Content of illustrations:

(a) Person A making a hole through the wall of person Z's house, and A passing their hand towards Z's house through the hole.

(b) A creeping into a ship through a porthole.

(c) A entering Z's house through a window.

(d) A entering Z's house by unfastening a fastened door.

(e) A entering Z's house through a door, having lifted the latch by using a wire through a hole in the door.
(f) A entering Z's house by unlocking a door of the house with a key, which Z has lost.
(g) A entering Z's house, have forced a passage by knocking down Z standing in the doorway.
(h) A entering Y's house, by threatening the doorkeeper, Z, to beat them (Z).

4.3.6. Section 446

Topic of the section: definition of house-breaking by night.
Number and nature of the parts of the section: two parts, i.e., heading, and description.

Content of heading: house-breaking by night.

Information-units in description:
Nature of committer: any person.
Basic offence: house-breaking.
Crime-constituting act: committing house-breaking at a time after sunset and before sunrise.
Naming of offence: house-breaking by night.

4.3.7. Section 447

Topic of the section: description of punishment for criminal trespass.
Number and nature of the parts of the section: two parts, i.e., heading, and description.

Content of heading: punishment for criminal trespass.

Information-units in description:
Nature of committer: any person.
Offence (or basic offence): criminal trespass.
Number of available options of punishment: three

Imprisonment option: rigorous or simple imprisonment for a term, which may extend to three months.
Fine option: fine, which may extend to five hundred rupees.
Imprisonment-plus-fine option: any combination of imprisonment and fine, not exceeding the limits of the two, as specified in this section.

4.3.8. Section 448

Topic of the section: description of punishment for house-trespass.
Number and nature of the parts of the section: two parts, i.e., heading, and description.

Content of heading: punishment for house-trespass.

Information-units in description:
Nature of committer: any person.
Offence (or basic offence): house-trespass.
Number of available options of punishment: three
Imprisonment option: rigorous or simple imprisonment for a term, which may extend to one year.
Fine option: fine, which may extend to one thousand rupees.
Imprisonment-plus-fine option: any combination of imprisonment and fine, not exceeding the limits of the two, as specified in this section.

4.3.9. Section 449

Topic of the section: description of the aggravated house-trespass level A and punishment for this particular form of house-trespass.
Number and nature of the parts of the section: two parts, i.e., heading, and description.

Content of heading: house-trespass to commit an offence, which is punishable with death.

Information-units in description:
Nature of committer: any person.

Basic offence: house-trespass.
Crime-aggravating intent: to commit any offence, which is punishable with death.
Phrase to introduce the aggravating element: in order to ("[. . .] *in order to* the committing of any offence punishable with death [. . .]").
Number of available options of punishment: two
Imprisonment-plus-fine option 1: imprisonment for life, plus any amount of fine
Imprisonment-plus-fine option 2: rigorous imprisonment for a term not exceeding ten years, plus any amount of fine.

4.3.10. Section 450

Topic of the section: description of aggravated house-trespass level B and punishment for this particular form of house-trespass.
Number and nature of the parts of the section: two parts, i.e., heading, and description.

Content of heading: house-trespass to commit an offence, which is punishable with imprisonment for life.

Information-units in description:
Nature of committer: any person.
Basic offence: house-trespass.
Crime-aggravating intent: to commit any offence, which is punishable with imprisonment for life.
Phrase to introduce the aggravating element: in order to ("[. . .] *in order to* the committing of any offence punishable with 1[imprisonment for life] [. . .]").
Number of available options of punishment: two
Imprisonment-plus-fine option 1: imprisonment for life, plus any amount of fine
Imprisonment-plus-fine option 2: rigorous or simple imprisonment for a term not exceeding ten years, plus any amount of fine.

4.3.11. Section 451

Topic of the section: description of aggravated house-trespass level C and punishment for this particular form of house-trespass.
Number and nature of the parts of the section: two parts, i.e., heading, and description.

Content of heading: house-trespass to commit an offence, which is punishable with imprisonment.

Information-units in description:
Nature of committer: any person.
Basic offence: house-trespass.
Crime-aggravating intent: to commit any offence, which is punishable with imprisonment, or, to commit theft.
Phrase to introduce the aggravating element: in order to ("[. . .] *in order to* the committing of any offence punishable with imprisonment [. . .]").
Number of available options of punishment: one
Punishment (imprisonment-plus-fine): rigorous or simple imprisonment for a term, which may extend to two years, plus any amount of fine; or, for theft, rigorous or simple imprisonment for a term, which may extend to seven years, plus any amount of fine.

4.3.12. Section 452

Topic of the section: description of aggravated house-trespass level D and punishment for this particular form of house-trespass.
Number and nature of the parts of the section: two parts, i.e., heading, and description.

Content of heading: house-trespass after preparation for hurt, assault or wrongful restraint.

Information-units in description:
Nature of committer: any person.
Basic offence: house-trespass.

Crime-aggravating act: having preparation for causing hurt to the occupier or for assaulting or wrongfully restraining the occupier; or, for putting the occupier in fear of hurting, assaulting, or wrongfully restraining them.
Phrase to introduce the aggravating element: having made preparation for ("[. . .] *having made preparation for* causing hurt etc. to [. . .]").
Number of available options of punishment: one
Punishment (imprisonment-plus-fine): rigorous or simple imprisonment for a term, which may extend to seven years, plus any amount of fine.

4.3.13. Section 453

Topic of the section: description of punishment for lurking house-trespass, or house-breaking.
Number and nature of parts of the section: two parts, i.e., heading, and description.

Content of heading: punishment for lurking house-trespass or house-breaking.

Information-units in description:
Nature of committer: any person.
Offence (or basic offence): lurking house-trespass, or house-breaking.
Number of available options of punishment: one
Punishment (imprisonment-plus-fine): rigorous or simple imprisonment for a term, which may extend to two years, plus any amount of fine.

4.3.14. Section 454

Topic of the section: description of aggravated lurking house-trespass level A or aggravated house-breaking level A and punishment for this particular form of lurking house-trespass or house-breaking.
Number and nature of the parts of the section: two parts, i.e., heading, and description.

Content of heading: lurking house-trespass, or house-breaking to commit an offence, which is punishable with imprisonment.

Information-units in description:
Nature of committer: any person.
Basic offence: lurking house-trespass, or house-breaking.
Crime-aggravating intent: to commit any offence, which is punishable with imprisonment, or, to commit theft.
Phrase to introduce the aggravating element: in order to ("[. . .] *in order to* the committing of any offence punishable with imprisonment [. . .]").
Number of available options of punishment: one
Punishment (imprisonment-plus-fine): rigorous or simple imprisonment for a term, which may extend to three years, plus any amount of fine; or, for theft, rigorous or simple imprisonment for a term, which may extend to ten years, plus any amount of fine.

4.3.15. Section 455

Topic of the section: description of aggravated lurking house-trespass level B or aggravated house-breaking level B and punishment for this particular form of lurking house-trespass or house-breaking.
Number and nature of the parts of the section: two parts, i.e., heading, and description.

Content of heading: lurking house-trespass, or house-breaking after preparation for hurt, assault or wrongful restraint.

Information-units in description:
Nature of committer: any person.
Basic offence: lurking house-trespass, or house-breaking.
Crime-aggravating act: having preparation for causing hurt to the occupier or for assaulting or wrongfully restraining the occupier; or, for putting the occupier in fear of hurting, assaulting, or wrongfully restraining them.
Phrase to introduce the aggravating element: having made preparation for ("[. . .] *having made preparation for* causing hurt to [. . .]").
Number of available options of punishment: one

Punishment (imprisonment-plus-fine): rigorous or simple imprisonment for a term, which may extend to ten years, plus any amount of fine.

4.3.16. Section 456

Topic of the section: description of the punishment for lurking house-trespass by night, or house-breaking by night.
Number and nature of the parts of the section: two parts, i.e., heading, and description.

Content of heading: punishment for lurking house-trespass by night, or house-breaking by night.

Information-units in description:
Nature of committer: any person.
Offence (or basic offence): lurking house-trespass by night, or house-breaking by night.
Number of available options of punishment: one
Punishment (imprisonment-plus-fine): rigorous or simple imprisonment for a term, which may extend to three years, plus any amount of fine.

4.3.17. Section 457

Topic of the section: description of aggravated lurking house-trespass by night level A or aggravated house-breaking by night level A and punishment for this particular form of lurking house-trespass by night or house-breaking by night.
Number and nature of the parts of the section: two parts, i.e., heading, and description.

Content of heading: lurking house-trespass by night, or house-breaking by night to commit an offence punishable with imprisonment.

Information-units in description:
Nature of committer: any person.
Basic offence: lurking house-trespass by night, or house-breaking by night.

Crime-aggravating intent: to commit any offence, which is punishable with imprisonment, or, to commit theft.
Phrase to introduce the aggravating element: in order to ("[. . .] *in order to* the committing of any offence punishable with imprisonment [. . .]").
Number of available options of punishment: one
Punishment (imprisonment-plus-fine): rigorous or simple imprisonment for a term, which may extend to five years, plus any amount of fine; or, for theft, rigorous or simple imprisonment for a term, which may extend to fourteen years, plus any amount of fine.

4.3.18. Section 458

Topic of the section: description of aggravated lurking house-trespass by night level B or aggravated house-breaking by night level B and punishment for this particular form of lurking house-trespass by night or house-breaking by night.
Number and nature of the parts of the section: two parts, i.e., heading, and description.

Content of heading: lurking house-trespass by night, or house-breaking by night after preparation for hurt, assault, or wrongful restraint.

Information-units in description:
Nature of committer: any person.
Basic offence: lurking house-trespass by night, or house-breaking by night.
Crime-aggravating act: having preparation for causing hurt to the occupier or for assaulting or wrongfully restraining the occupier; or, for putting the occupier in fear of hurting, assaulting, or wrongfully restraining them.
Phrase to introduce the aggravating element: having made preparation for ("[. . .] *having made preparation for* causing hurt to [. . .]").
Number of available options of punishment: one
Punishment (imprisonment-plus-fine): rigorous or simple imprisonment for a term, which may extend to fourteen years, plus any amount of fine.

4.3.19. Section 459

Topic of the section: description of aggravated lurking house-trespass level C or aggravated house-breaking level C and punishment for this particular form of lurking house-trespass or house-breaking.
Number and nature of the parts of the section: two parts, i.e., heading, and description.

Content of heading: grievous hurt caused while committing lurking house-trespass, or house-breaking.

Information-units in description:
Nature of committer: any person.
Basic offence: lurking house-trespass, or house-breaking.
Crime-aggravating act: Grievous hurt caused or attempted to be caused to the occupier of the object property by the committer.
Phrase to introduce the aggravating element: causes to, or attempts to cause to ("Whoever [. . .] *causes* grievous hurt *to* any person or *attempts to cause* death or grievous hurt *to* any person [. . .]").
Number of available options of punishment: two
Imprisonment-plus-fine option 1: imprisonment for life, plus any amount of fine
Imprisonment-plus-fine option 2: rigorous or simple imprisonment for a term, which may extend to ten years, plus any amount of fine.

4.3.20. Section 460

Topic of the section: description of aggravated lurking house-trespass by night level C or aggravated house-breaking by night level C and punishment for this particular form of lurking house-trespass by night or house-breaking by night.
Number and nature of the parts of the section: two parts, i.e., heading, and description.

Content of heading: all persons jointly concerned in lurking house-trespass by night or in house-breaking by night are punishable, where death or grievous hurt is caused by one of them.

Information-units in description:
Nature of committer: each person of the multiple committers, who are jointly involved in this lurking house-trespass by night or house-breaking by night.
Basic offence: lurking house-trespass by night, or house-breaking by night.
Crime-aggravating act: death or grievous hurt voluntarily caused or attempted to be caused to the occupier of the object property by any one of the multiple committers, or an attempt thereof by any one of the multiple committers.
Manner of commission: voluntarily ("If, [. . .] any person guilty of such offence shall *voluntarily* cause or attempt to cause death or grievous hurt to any person, [. . .]")
Phrase to introduce the aggravating element: jointly concerned in committing ("[. . .] every person *jointly concerned in committing* such lurking house-trespass by night or house-breaking by night [. . .]").
Number of available options of punishment: two
Imprisonment-plus-fine option 1: imprisonment for life, plus any amount of fine.
Imprisonment-plus-fine option 2: rigorous or simple imprisonment for a term, which may extend to ten years, plus any amount of fine.

4.3.21. Section 461
Topic of the section: definition of trespass to non-real physical property and description of punishment for this offence.
Number and nature of the parts of the section: two parts, i.e., heading, and description.

Content of heading: dishonestly breaking open receptacle containing property.

Information-units in description:
Nature of committer: any person.
Crime-constituting act: the committer's act of breaking open or unfastening any closed receptacle that contains or that the committer believes to contain any physical object or goods, which is in the possession of another person.
Crime-constituting intent: to commit mischief.
Object of commission: non-real physical property such as any physical object e.g., goods.

Legal-behavioural frame of mind: dishonestly.
Aggrieved entity: the entity, who are the possessor of the object property.
Number of available options of punishment: three
Imprisonment option: rigorous or simple imprisonment for a term, which may extend to two years.
Fine option: any amount of fine.
Imprisonment-plus-fine option: any combination of imprisonment and fine, not exceeding the limit of imprisonment-term, as specified in this section.

4.3.22. Section 462

Topic of the section: description of aggravated trespass to non-real physical property and punishment for this particular form of trespass to non-real physical property.
Number and nature of the parts of the section: two parts, i.e., heading, and description.

Content of heading: punishment for the same offence, as occurred in section 461, when committed by person entrusted with custody.

Information-units in description:
Nature of committer: any person.
Basic offence: breaking open or unfastening any closed receptacle that contains or that the committer believes to contain any physical object such as goods, which is possession of another person.
Object of commission: non-real physical property such as any physical object.
Legal-behavioural frame of mind: dishonestly.
Crime-constituting intent: to commit mischief.
Crime-aggravating act: the act of breaking open or unfastening any receptacle that contains or that is believed to contain a person's non-real property by a person entrusted with custody of that property but not with authority to open it.
Phrase to introduce the aggravating element: being entrusted with ("whoever, *being entrusted with* any closed receptacle which contains [. . .] property, [. . .] breaks open or unfastens that receptacle [. . .]").

Number of available options of punishment: three
Imprisonment option: rigorous or simple imprisonment for a term, which may extend to three years.
Fine option: any amount of fine.
Imprisonment-plus-fine option: any combination of imprisonment and fine, not exceeding the limit of imprisonment-term, as specified in this section.

4.4. Patterns of Presentation in Trespass to Real Property

The part about trespass to real property (or land) in the selected text appears to be highly systematic with strict pattern of information-presentation. However, some aspects show problems regarding their pattern (or arrangement) in the text. This section analyses such expression that show lack of arrangement in the parts of the text about trespass to land. However, as pointed out in introduction chapter (section 1.4), this account is delimited to point out any inconsistency in the textual pattern of information in the essentially related comparable sections of the text, without deciding that which one of the multiple units has the normal pattern. Further, the examination is run in a top-down manner, i.e., starting from the types of trespass to real property such as criminal trespass, house-trespass, house breaking etc. down to the information units in each section, through the set of sections under each type and each section in each set of sections.

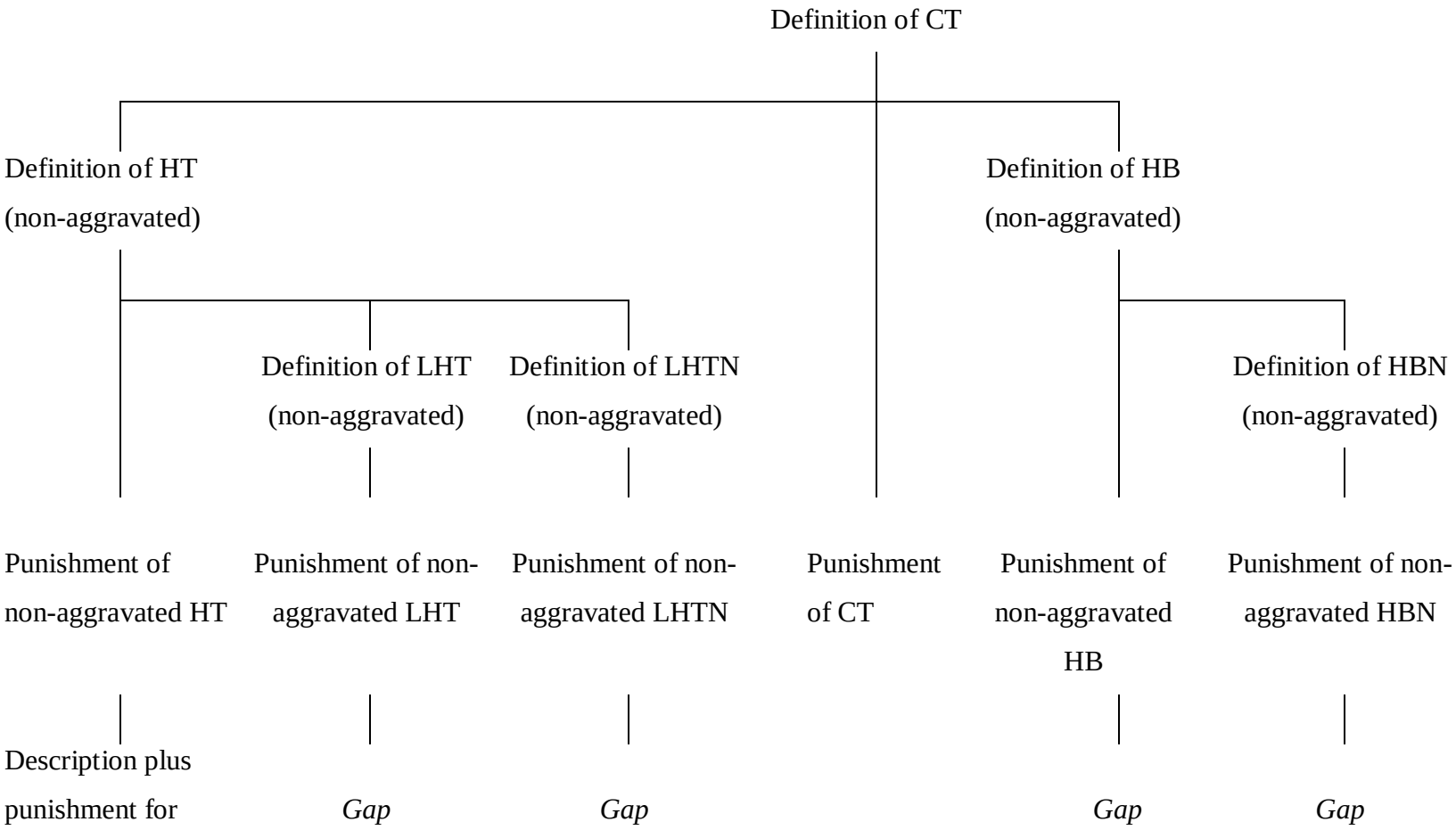
4.4.1. Inexplicable Pattern in Allocating the Aggravated Levels in the Types of Trespass

This section highlights the fact that the allocation of the aggravated levels in the types of trespass to land follows a pattern, but this pattern does not seem to serve any practical purpose. That is, apparently, the text and the pattern of the text are clear, but the function of this pattern is not clear. The trespass-to-land part of the text shows, in total, six levels of aggravation, A-D and Y-Z. The aggravated levels A-D are essentially the similar: level A marks the highest point of aggravation, which gradually lowers through level D. However, levels Y-Z differ from A-D in nature, and these two levels are also different from each other in nature. The aggravated levels are distinguished by the information units “crime-aggravating intent” and “crime aggravating act” in each level, as presented in table 1.

Table 1. Crime-aggravating elements in the six aggravated levels of trespass to land

Level A	Level B	Level C	Level D	Level Y	Level Z
Trespass, with intent of an offence punishable with death	Trespass, with intent of an offence punishable with imprisonment for life	Trespass, with intent of an offence punishable with imprisonment, or of theft	Trespass, with preparation for hurt, assault, or wrongful restrain	Trespass, with causing or attempting to cause grievous hurt	Trespass, with death or grievous hurt caused or attempted by one of the multiple committers

However, the distribution of these aggravated levels among the types of trespass appears to be pointless. It is not that the allocation does not show any pattern; pattern is visible, but the utility of the pattern is not known. Notably, the focal point is the apparent lack of purpose in the adopted pattern, and not that why some types comprise some aggravated levels and not the other, though the latter might help understanding the former. The distribution of aggravated levels in the types of trespass to land is summed up in figure 3, in which the exclusion of an aggravated level from a type of trespass is labelled as *Gap*.


Definition of CT
Definition of HT (non-aggravated)
Definition of HB (non-aggravated)
Definition of LHT (non-aggravated)
Definition of LHTN (non-aggravated)
Definition of HBN (non-aggravated)
Punishment of non-aggravated HT
Punishment of non-aggravated LHT
Punishment of non-aggravated LHTN
Punishment of CT
Punishment of non-aggravated HB
Punishment of non-aggravated HBN
Description plus punishment for aggravated HT level A: HT, in order to commit an offence punishable with death
Gap
Gap
Gap
Gap

Description plus punishment for aggravated HT level B: HT, in order to commit an offence punishable with life-imprisonment	*Gap*	*Gap*	*Gap*	*Gap*
Description plus punishment for aggravated HT level C: HT, in order to commit an offence punishable with imprisonment, or theft	Description plus punishment for aggravated LHT level C: LHT, in order to commit an offence punishable with imprisonment, or theft	Description plus punishment for aggravated LHTN level C: LHTN, in order to commit an offence punishable with imprisonment, or theft	Description plus punishment for aggravated HB level C: HB, in order to commit an offence punishable with imprisonment, or theft	Description plus punishment for aggravated HBN level C: HBN, in order to commit an offence punishable with imprisonment, or theft
Description plus punishment for aggravated HT	Description plus punishment for aggravated LHT	Description plus punishment for aggravated LHTN	Description plus punishment for aggravated HB	Description plus punishment for aggravated HBN

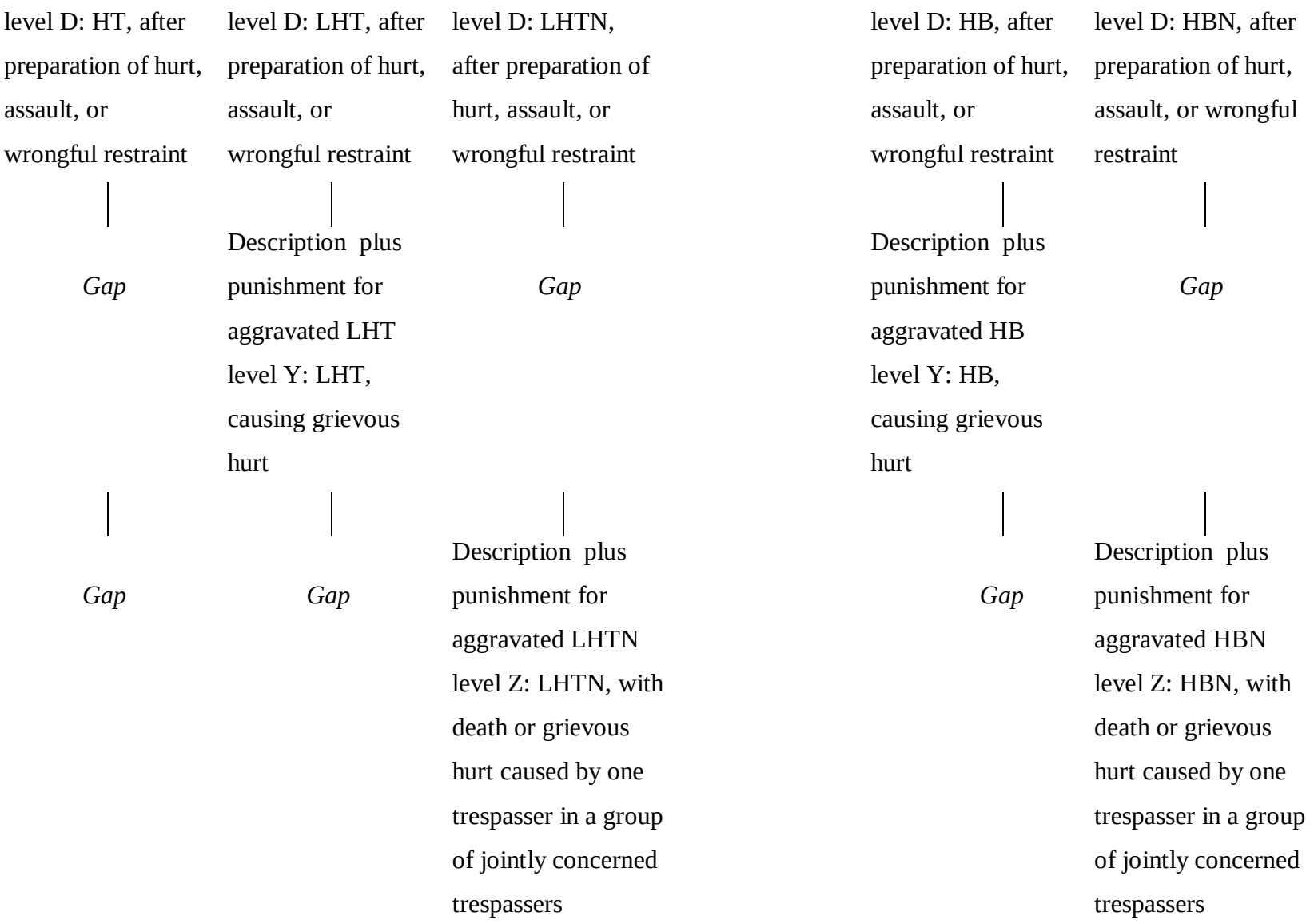


Figure 3. An overview of the allocation of the aggravated levels in the types of trespass to land in the IPC.

Figure 3 shows that, from the given six aggravated levels, criminal trespass does not have any aggravated level. House-trespass includes four levels, A-D, but does not include Y-Z; each of the lurking house-trespass and house-breaking includes three levels, C-D and Y, but does not include three levels, A-B and Z; each of the lurking house-trespass by night and house-breaking by night includes three levels, C-D and Z, but does not include the three levels, A-B and Y. This multiform allocation of aggravated levels, naturally, triggers one question, what is the purpose including particular aggravated levels in particular types alone? Alternatively, cannot each type of trespass to land have a similar set of aggravated levels? And, if any of the given forms of trespass happens in such aggravated way as is not included in that form of trespass at the level of the text, what would be the punishment for that form of trespass to land? Clearly, exclusion of a particular aggravated level from a particular type of trespass to land does not mean that the particular form of trespass cannot occur the ways the excluded levels describe. In not providing a particular aggravated level in a particular type of trespass in the text, provision and clarity of two things are compromised: the particular form (i.e., the excluded aggravated level) the offence can happen, and the punishment for that particular form of offence.

Surely, lurking house-trespass, lurking house-trespass by night, house-breaking, and house-breaking by night can be committed with intent to commit an offence punishable with death, i.e., aggravated level A, or with intent to commit an offence punishable with life-imprisonment, i.e., aggravated level B. But these forms of trespass have not been supplied with the aggravated levels A-B in the text, whereas house-trespass has these two levels. Likewise, house-trespass can, additionally, include grievous hurt, i.e., aggravated level Y, or include death or grievous hurt by one of the multiple jointly concerned committers, i.e., aggravated level Z, but the selected text does not show these two levels under house-trespass. Similarly, lurking house-trespass and house-breaking can include death or grievous hurt by one of the multiple jointly concerned committers, i.e., aggravated level Z, but these two offence do not include the level Z in the text. In the same way, inclusion of grievous hurt, i.e., aggravated level Y, cannot be ruled out in

lurking house-trespass by night and house-breaking by night, but the level Y is not included in these offences in the text.

Then, the questions such as what is the purpose of assigning particular aggravated levels to some types of trespass while beholding them for others? What is the principle that dictates this pattern of allocation? etc. do not find answers, at least, at textual level. So, this multiform pattern namely differently formulized treatment for different types of trespass, according to which particular types of trespass to land find selective aggravated levels, appears impractical and arbitrary, as this pattern of presentation does not show any rationale behind it. Notably, the problem is not the *form* of the pattern; information-presentation can follow any pattern whether uniform or multiform. But, in the present case, the advantage of employing a multiform pattern does not show any justification for its selection.

In the light of this study's framework developed from Fitzgerald's (1990, 137) proposal of text arrangement, the allocation of the aggravated levels in the mutually related types of trespass shows a pattern rather a set of patterns of arrangement (as shown in figure 3). However, the practicality of the adopted pattern of arrangement also needs to be established with reference to clarity and completeness of the text, as recollected in the theory chapter (section 2.6.1). As for the utility of the allocation-formula for the aggravated levels in this text, the pattern and principle for each type or each pair of the types of trespass to introduce a particular set of aggravated levels while leaving the other levels are not clear in the text. In this instance, clarity does not lack, directly, in the text, but in the rationale of the particular textual pattern. Both, the text and the particular pattern, are transparent, but what motive has been achieved by employing this pattern is not clear.

4.4.2. "Criminal Trespass", an Overdeveloped Subtopic in the Scheme of the Subtopics

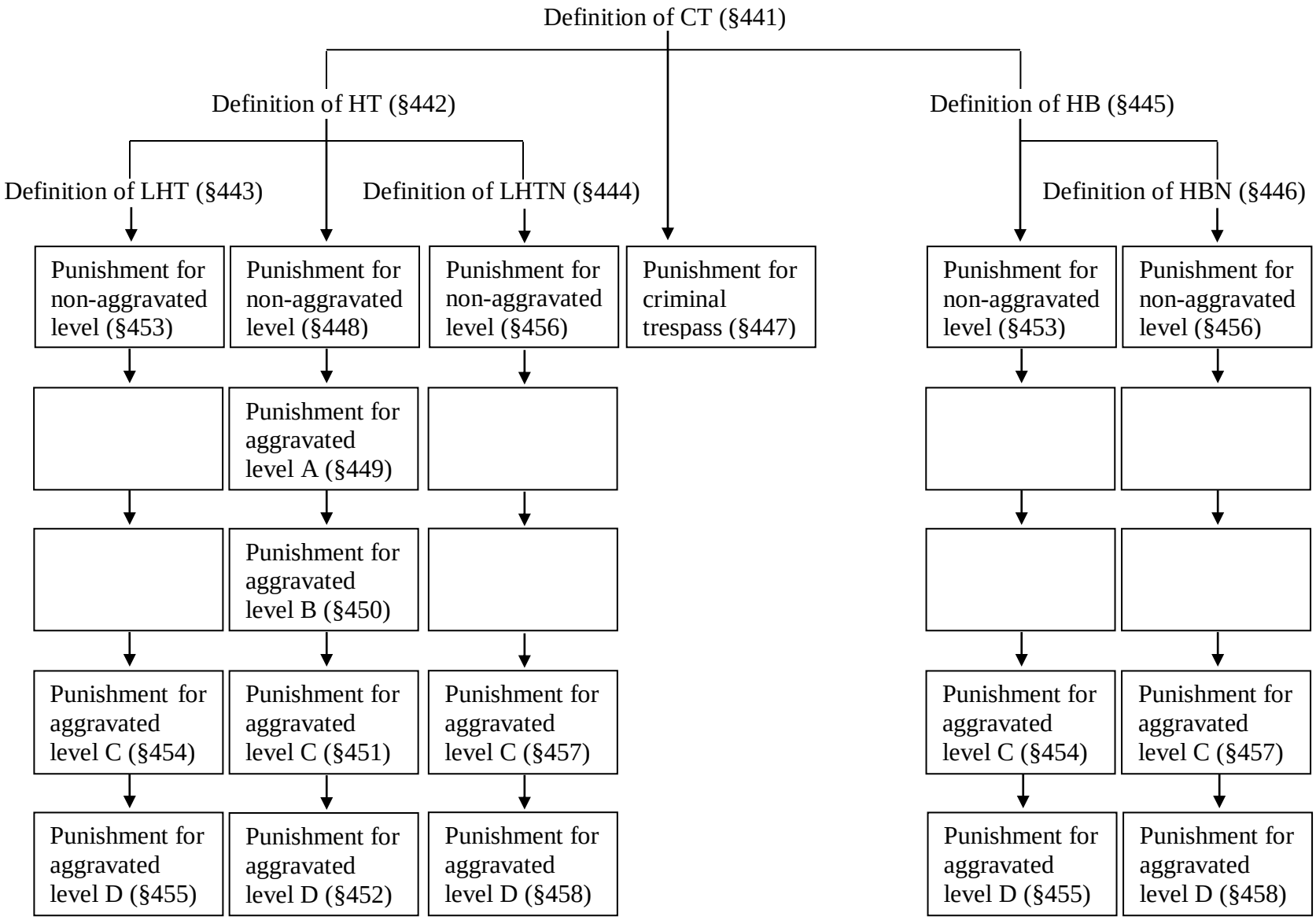
The generic concept "criminal trespass" cannot be a *subtopic* or *type* of trespass to land or criminal trespass. This section shows how the pattern of the introduction of the types of trespass bears one overdeveloped or *overripe* piece, or, alternatively, how one term

occupies extra space, deviating from the pattern the other terms follow to grow within their due space in the hierarchy of the text. This deviation is mainly about "criminal trespass" vs. "house trespass": the content of the generic concept "criminal trespass" is presented on a par with that of the particular types of criminal trespass such as house-trespass (GOVERNMENT OF INDIA 1860, 98-99). This over-development causes confusion in establishing that the specifications and punishment of which of the two provisions (criminal trespass vs. house-trespass) should be followed in the case of house-trespass. Notably, the term "criminal trespass", being a generic term, intends to cover equally the two kinds of trespass, to land and goods. In Dickerson's (1964, 12) terms, this over-development is an instance of over-generality, i.e., when a class expresses more than the legislature's apparent objective. This section also clarifies why this study does not treat "criminal trespass" as one of the types of trespass to land.

The selected text comprises total seven types of trespass to property that are criminal trespass, house-trespass, lurking house-trespass, lurking house-trespass by night, house-breaking, house-breaking by night, and dishonestly breaking open a (non-real) property. The first six subtopics of criminal trespass are essentially similar, as they belong to trespass to real property, and "criminal trespass" is one of these; the last type is about the so called trespass to goods. However, as touched in the introduction chapter (section 1.5), this study does not treat the term "criminal trespass" as one *type* of criminal trespass, because the place of "criminal trespass", as the IPC treats it, is confusing in the scheme of the types. "Criminal trespass" provides definition and threshold of criminal intrusion with another person's property whether real or non-real.

Therefore, "criminal trespass" has a general status, because this term is supposed to cover both, trespass to land and goods. Criminal trespass is the primary and the pervasive concept throughout the text. This expression controls and integrates all the types of trespass. "Criminal trespass" is not only the title of the selected segment of the IPC (GOVERNMENT OF INDIA 1860, 98-101) but also the point of departure in this segment, as it is the first section, §441, in the text "Of Criminal Trespass". This section describes the criteria, on which a particular act of intrusion is termed as criminal trespass,

and sets foundation, on which the rest of the sections of trespass to land and goods operate. Though the phrase “criminal trespass” does not occur in each section, the concept of criminal trespass, explicitly or implicitly, runs through each section. Within trespass to land, all the types of trespass are the branches of the root concept “criminal trespass”, as shown in figure 4. The blank boxes in the figure represent the gaps between the aggravated levels of the types of trespass, which have already been explained through figure 3 in the previous section (4.4.1).


Definition of CT (§441)
Definition of HT (§442)
Definition of HB (§445)
Definition of LHT (§443)
Definition of LHTN (§444)
Definition of HBN (§446)
Punishment for non-aggravated level (§453)
Punishment for non-aggravated level (§448)
Punishment for non-aggravated level (§456)
Punishment for criminal trespass (§447)
Punishment for non-aggravated level (§453)
Punishment for non-aggravated level (§456)
Punishment for aggravated level A (§449)
Punishment for aggravated level B (§450)
Punishment for aggravated level C (§454)
Punishment for aggravated level C (§451)
Punishment for aggravated level C (§457)
Punishment for aggravated level C (§454)
Punishment for aggravated level C (§457)
Punishment for aggravated level D (§455)
Punishment for aggravated level D (§452)
Punishment for aggravated level D (§458)
Punishment for aggravated level D (§455)
Punishment for aggravated level D (§458)

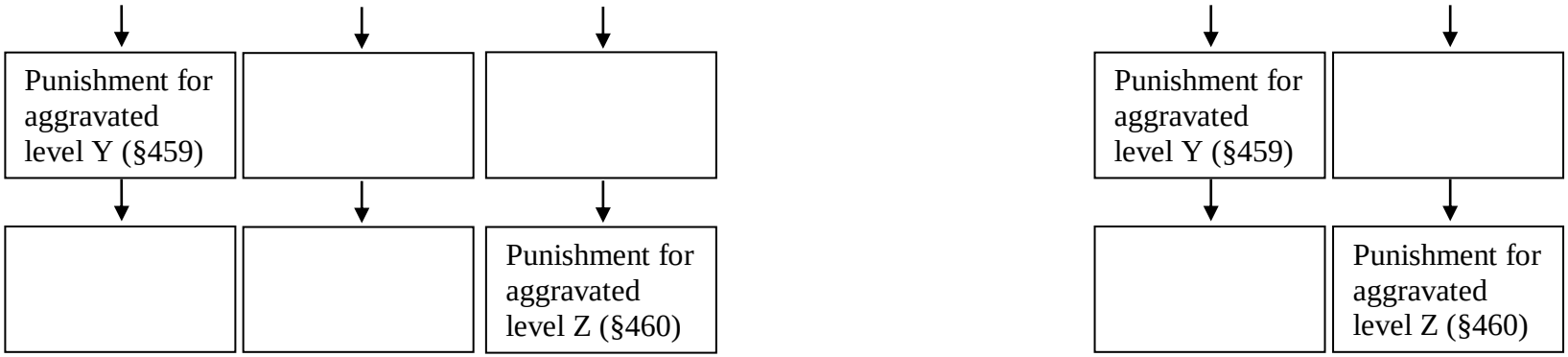


Figure 4. Criminal trespass (CT) as the general basis for all types of trespass in the IPC.

As figure 4 shows, the position of the term “criminal trespass” is not clear in whether “criminal trespass” supplies only a general and abstract norm of trespass, or a particular and concrete form of trespass like “house-trespass”, “house-breaking” etc., or both. What “criminal trespass” describes is clear but in what capacity this subtopic functions in the structure of the text is not clear. This confusion arises from the fact that “criminal trespass” does not refer to any particular form of trespass, and provides only the norm that controls the types of trespass, but the text includes provision of the punishment for “criminal trespass” like the punishments for each type of trespass such as “house-trespass”, “house-breaking” etc. This portrays “criminal trespass” as one type of trespass to land, and this development drags “criminal trespass” over “house-trespass”. Here, punishment for such a general concept as “criminal trespass” appears as over-development.

To be further clear about the confusing place of “criminal trespass” in the pattern, understanding of the function of the term “criminal trespass” is desirable. In order to understand the nature and function of “criminal trespass”, an examination of its content and a comparison between “criminal trespass” and “house-trespass” are required. The content of “criminal trespass”, in §441, shows that criminal trespass is when anyone enters particular property, which is in possession of another person, with an intent of committing an offence, intimidating, insulting, or annoying the occupier; or, if anyone, having lawfully entered the property, unlawfully stays there with an intent of committing an offence, intimidating, insulting, or annoying the occupier. This content determines the threshold where a particular act of intrusion enters the realm of crime. However, this does not sound so general until it is compared to the content of house-trespass in §442. Section 442 describes that house-trespass is when any person commits criminal trespass to any building, tent, or vessel, which is used as a human dwelling or as a place for worship, or is in another person’s custody. The comparison of criminal trespass and house-trespass reveals that the primary differences between the two are of foci, and generality and particularity. “Criminal trespass” focuses the primary ingredients of the act of trespass, and is general compared to “house-trespass”, whose focus is the object (property) of trespass and threshold of “entering”, and is specific compared to “criminal trespass”. That

is, the texts of the two subtopics differ mainly in respect of the general expression of property in “criminal trespass” and the specific expression of house in “house-trespass”. This difference can be, further, highlighted through the comparison of the information units of the two subtopics, which is given in table 2.

Table 2. Information units in “criminal trespass” vs. “house-trespass”

Information units	Criminal trespass	House-trespass
Number and nature of the parts of the subtopic	Two parts: heading, and description	Three parts: heading, description, and explanation
Nature of committer	Any person	Any person
Basic offence	-	Criminal trespass
Crime-constituting act	The committer’s act of entering into or upon the object of trespass, or having lawfully entered the object property, unlawfully remaining there	The committer’s act of entering into or remaining in the object property
Object (property) of commission	Real property, or non-real physical property such as any physical object, goods etc.	Any building, tent or vessel that is used as a human dwelling, or as a worship-place, or any place that is in the custody of a particular person
Direction/preposition of commission	Into or upon	Into, and in
Manner/adverb attached to commission	Lawfully, and unlawfully	
Intent in commission	Committing any offence or intimidation, insult, or annoyance	-
Aggrieved entity	The occupier party	
Naming of offence	Criminal trespass	House-trespass
Explanation		The committer’s entering any part of their body into the object property constitutes house-trespass

In table 2, the comparison of the information unit "object of commission" in "criminal trespass" and "house-trespass" shows that the two subtopics differ in their foci, and their general and specific approach. The difference of general nature of "criminal trespass" and particular nature of "house-trespass" are, further, highlighted from the absence of the information units "basic offence" and "explanation" in "criminal trespass" and their presence in "house-trespass". "Criminal trespass" has such a general that this subtopic is the basic offence throughout the types of trespass. This fact also distinguish "criminal trespass" and "house-trespass" as general and particular that "criminal trespass" does not involve any explanation in particular, as house-trespass does (i.e., the threshold of "entering" particular land). The difference of general and specific is highlighted even further by the provision of the units "legal-behavioural frame of mind" and "intent in commission", which occur in "criminal trespass" alone; these two variables do not appear in "house-trespass", because they are inherently embedded and tacit in house-trespass and all the other subtopics.

In table 2, the juxtaposition of the information units of "criminal trespass" and "house-trespass" shows that criminal trespass is no particular and concrete type like "house-trespass", "house-breaking" etc. Instead, "criminal trespass" is the abstract norm that provides foundation for the particular types of trespass to operate. "Criminal trespass" is a generic term, which might refer to any one or more particular instances of trespass to real and non-real property. So, "criminal trespass" does not need to have punishment of its own as the particular forms such as "house-trespass", "house-breaking" etc. do.

However, one might reject this observation and, first, might want to firmly establish that "what makes "criminal trespass" look like a type of trespass at first place?" Notably, this establishment that the "criminal trespass" has been presented in the pattern of the types of criminal trespass is also establishment of the view that "criminal trespass" has developed beyond its actual scope. The answer to this question has been touched above (following figure 4), i.e., "criminal trespass" has been supplied with punishment like the punishments for the other types of trespass such as house-trespass, house-breaking etc. This presentation tempts the audience of this text to treat "criminal trespass" in the way

“house-trespass”, “house-breaking” are treated, which is misguiding. The punishment of “criminal trespass” is specified in the §447 of the IPC (GOVERNMENT OF INDIA 1860, 99), i.e., simple or rigorous punishment for a maximum period of three months, or fine extending to five hundred rupees, or both (as presented in table 2). This makes “criminal trespass” as abstract and general criteria, and, at the same time, as concrete and particular form of trespass like “house-trespass”, “house-breaking” etc., which is confusing.

How the provision of the punishment of “criminal trespass” is burden on the overall pattern can be, further, understood by examining how much space each of the other terms such as “house-trespass”, “house-breaking” etc. occupies in the organization of the text. The definition of each particular type of trespass functions in two ways simultaneously: it is the definition of that particular form of trespass, and, at the same time, it is the description of the non-aggravated form of that offence. But, the term “criminal trespass”, being an umbrella term, does not offer description of any non-aggravated form, like each of the other types does. This implies that the ambit of “criminal trespass” is, essentially, half of or less than that of any other term in the formula. The half of the function “criminal trespass” is devoid of is the description of non-aggravated form of offence. This implies that the provision of punishment of “criminal trespass” is, essentially, non-existent, and this provision, if supplied, would not logically fit in the scheme of the text. So, supplying punishment for such a general term as “criminal trespass” makes it a type of criminal trespass like house-trespass. This, clearly, develops beyond the scope of “criminal trespass”, compared with the scope of the types of criminal trespass in the light of the pattern of development they show.

Moreover, the internal development of “criminal trespass” and the each of the other subtopics are not mutually consistent. Each of the other types develops into its aggravated forms without losing itself, but “criminal trespass” develops into these particular types without directly and explicitly maintaining itself, as each of the types does. Figure 4 witnesses that house-trespass develops into lurking house-trespass and lurking house-trespass by night, and house-breaking develops into house-breaking by night, which

shows that the terms “house-trespass” and “house-breaking” maintain themselves throughout their related categories. However, the term “criminal trespass” develops into “house-trespass” and “house-breaking”, without developing any specific category of its own, as “house-trespass” and “house-breaking” do, plus this term does not maintain itself explicitly as the other two terms do through their aggravated levels. This implies that “criminal trespass” dictates an abstract standard to identify a particular act as trespass to property as a criminal act, and does not have to be treated as a particular type or form of trespass. That is why this study does not treat “criminal trespass” as one of the types of trespass to land.

This account establishes that the subtopic “criminal trespass” is over-developed compared to the other subtopics relating to trespass to land. The part that has grown over the boundary of the development-pattern is the provision of the punishment of “criminal trespass.” This provision confuses the status and function of two terms, “criminal trespass” and “house-trespass”, in the text. That is, the two terms appear to be pointing to one offence, and following one of them become a much sensitive and confusing matter in view of the fact that penalty of house-trespass is severe than that of criminal trespass in the text. The over-development of the subtopic “criminal trespass” makes the function of this term less clear. The lack of clarity about the function of the term “criminal trespass” detracts from the clear and certain character of the text, at least, with reference to “house-trespass”.

Under this study’s information-arrangement framework that is based on Fitzgerald (1990, 137), the provision of punishment of “criminal trespass” appears to be an extra piece of information. That is, the status of the provision of the punishment of “criminal trespass” is *hanging*, as it has left the pattern (structure or texture) of the text open. This information seems to be a forced one, as it does not frictionlessly fit in the hierarchy of the text. In including this provision, the development of “criminal trespass” goes, at least, one step out of the pattern of development noted in any other subtopic of trespass to land.

4.4.3. Random Organization of Description and Punishment in Provisions

The mutually different organization of particular information in the five types of trespass to land is also notable. The organization of non-aggravated forms and their punishments is different from the organization of aggravated forms and their punishments in that the description of each non-aggravated form and its punishment occur in two sections respectively while the description of each aggravated form and its punishment is dealt with in one section, as highlighted in the section (4.2) about the structure of the selected text. If this is the set pattern, it is not maintained in the non-aggravated trespass to non-real property, as discussed in a following section (4.6). This unwarranted variation in the organization of information seems absurd in that what is achieved by inserting this variation at the cost of organizational uniformity is not clear.

4.4.4. Lack of Pattern in the Presentation of Crime-Aggravating Acts

One gap in the pattern arises from the presence of the expression "voluntarily" in the aggravated level Z, and its absence in Y, where Y-Z is a pair of essentially related aggravated levels and provisions in §459-§460 of the IPC (GOVERNMENT OF INDIA 1860, 101). This presentation of "voluntarily", further, becomes a matter of concern when it appears that this expression occurs in the *second* member, Z, of the pair Y-Z, skipping the first member, Y, as shown in the sections (4.3.19-4.3.20) about the information units of these provisions. The expression "voluntarily" occurs as part of the information unit "crime-aggravating act" at the aggravated level Z, i.e., death or grievous hurt voluntarily caused or attempted to be caused to the occupier by any one of the jointly concerned trespassers. Unlike the legal-behavioural units "lawfully" and "unlawfully", the information unit "voluntarily" belongs to the category of physical manner, presented as the information unit "manner of commission". This encounter with "voluntarily" at level Z in §460 triggers the attention to review the preceding sections in terms of this unit. However, this lacking is noticeable only at level Y, §459, because only this section includes crime-aggravating act of similar nature as in §460. That is, only sections §460 and §459 are mutually comparable from the point of view of "voluntarily". The crime-aggravating act in §460 is that when multiple committers jointly commit trespass though only one of them voluntarily causes or attempts to cause death or grievous hurt to the

occupier. The crime-aggravating act in §459 is the committer's act of causing grievous hurt, or attempting to cause death or grievous hurt to the occupier. The definition of "voluntarily" is found in §39 of the IPC (GOVERNMENT OF INDIA 1860, 20). The presence of "voluntarily" at the aggravated level Z in §460 highlights its absence in the preceding level Y in §459, as shown in table 3.

Table 3. Expression of "voluntarily" in aggravated levels Y vs. Z

Aggravated levels	Crime-aggravating acts
Z	The act of *voluntarily* causing or attempting to cause death or grievous hurt to the occupier by any one of the multiple committers jointly concerned in committing this offence
Y	The committer's act of causing grievous hurt, or attempting to cause death or grievous hurt to the occupier

As compared in table 3, the inconsistent representation of "voluntarily' in the crime-aggravating elements at levels Y and Z creates confusion about the norm in the Y-Z pair of provisions. This also seems to cause information gap in the two sections. This lack of pattern in the presentation of "voluntarily" raises questions about the scope and operation of this expression in Y-Z, such as: are both voluntarily and non-voluntarily (or involuntarily) grievous hurt punishable at the aggravated level Y, §459, as this level does not specify any one of the two? If no, why does the level Y not present "voluntarily" caused grievous hurt? If yes, why is non-voluntarily caused grievous hurt not present at the aggravated level Z, §460? Etc.

The answers to these questions can be sought in the other parts of the IPC, by noting whether the IPC includes definition and punishment for voluntarily caused grievous hurt alone, or for voluntarily as well as non-voluntarily caused grievous hurt. Notably, the IPC has enlisted punishment for *voluntarily* alone, i.e., voluntarily caused hurt and voluntarily caused grievous hurt in §323 and §325 (GOVERNMENT OF INDIA 1860, 74) respectively. However, leaving the establishment of the norm to the legal domain, this study concerns only to point out that the pattern of presentation or introduction of

"voluntarily" in §459-§460, the aggravated levels Y-Z, is inconsistent and confusing at the level of the text.

Another lack of pattern is noted in the crime-aggravating units, i.e., about the scope of *causing* and *attempting to cause* at the aggravated levels Y and Z in §459-§460 respectively (GOVERNMENT OF INDIA 1860, 101), as highlighted in italics in table 4.

Table 4. Scope of *causing* vs. *attempting to cause* in the aggravated levels Y and Z

Aggravated levels	Crime-aggravating elements
Y	The committer's act of *causing grievous hurt*, or *attempting to cause death or grievous hurt* to the occupier
Z	The act of voluntarily *causing or attempting to cause death or grievous hurt* to the occupier by any one of the multiple committers jointly concerned in committing this offence

As table 4 highlights, the subjects of *causing* and *attempting to cause* are differently covered and are not mutually consistent at levels Y and Z. At the level Y (§459), the act of *causing* includes grievous hurt alone (and not death), but the act of *attempting to cause* includes death and grievous hurt. Notably, the punishment (i.e., imprisonment for life) is the same for *causing* or *attempting to cause* these harms. To flesh out, the punishment is the same for the trespassers, who cause grievous hurt to the occupier or who attempt to cause death or grievous hurt to the occupier. Then, what is penalty for *causing* death? That is, a trespasser that *causes grievous hurt* to the occupier will receive the punishment of life-imprisonment, but a trespasser that *causes death* to the occupier is not mentioned in the text. If this arbitrarily set scope of *causing* and *attempting to cause* is the pattern to be followed, the presentation of these elements in the level Z (§460) deviates from this standard pattern, as death and grievous hurt are included in the scope of both, *causing* and *attempting to cause*, at once. Notably, the punishments specified for both *causing* and *attempting to cause* death or grievous hurt are the same at the two aggravated levels Y and Z.

In addition to this, one more aspect of deviation, comparatively minor, is notable in the arrangement of *causing* and *attempting to cause* at the two aggravated levels, Y-Z (§459-§460). The level Y represents *causing* (grievous hurt) and *attempting to cause* (death or grievous hurt) as separated from each other by introducing comma (,) between the two, which is not the case in Z, where the two expressions are unbroken (GOVERNMENT OF INDIA 1860, 101). The drafters' reluctance in combining the two expressions at the level Y is, further, witnessed from a comparison of the heading and description parts in Y: the heading part of the level Y does not mention "death", but the description part does. What the author of this text wanted to achieve from this separation is not clear.

This examination of the presentation of *causing* and *attempting to cause* shows that this expression lacks pattern in three ways: the level Y does not include death in the scope of *causing*, whereas it includes death in *attempting to cause*; the level Y tends to present *causing* and *attempting to cause* separated from each other; the level Z does not follow any of these (two) patterns, but includes both, death and grievous hurt, in the scope of both, *causing* and *attempting to cause* at once.

With reference to the arrangement-proposal developed from Fitzgerald's (1990, 137), this variation in the presentation of "voluntarily", and "causing" and "attempting to cause" in two aggravated levels, Y-Z (§459-§460) is without any pattern of arrangement. This information is not properly arranged or introduced in the relevant information units or parts of the text. The expressions "voluntarily" and "death" are out of arrangement in the two sections, even, out of the scheme in Y, which makes the determination of the norm in the two sections unclear. In this way, the apparent inattentiveness in sticking to a pattern in the presentation of this particular information in the two sections significantly blurs the transparency of the text.

4.4.5. Lack of Pattern in the Phrases to Introduce the Crime-Aggravating Elements

The phrases, which introduce the crime-aggravating elements in the aggravated levels of trespass to land, lack pattern in the related parts of the text. This, again, causes confusion in deciding the extent of particular aggravating elements. The phrases form two

categories, acts (i.e., physical) and intent (i.e., mental), in the selected text, as shown in the sections (4.3.9-4.3.22) about the information units. The crime-aggravating acts occur at the aggravated levels D and Y-Z, whereas the crime-aggravating intents belong to the levels A-C, through §459-§460 of the IPC (GOVERNMENT OF INDIA 1860, 100-101). One of the sources to inform of this physical and mental behaviour of the two categories is the phrases that introduce the aggravating elements in the related law-sections, as captured in table 5.

Table 5. Correspondence between the introductory phrases of the crime-aggravating elements and the nature of the elements, in the aggravated levels

Aggravated levels	Phrases to introduce the aggravating elements	Crime-aggravating elements	Nature of the aggravating elements, as predicted from the phrases
A	"In order to"	Commit an offence punishable with death	Mental
B	"In order to"	Commit an offence punishable with life-imprisonment	Mental
C	"In order to"	Commit an offence punishable with life-imprisonment	Mental
D	"Having made preparation for"	Causing hurt to the occupier, or for assaulting or wrongfully restraining the occupier, or, for putting the occupier in fear of these three offences	Physical
Y	"Causes [. . .] to" plus "or attempts to cause [. . .] to"	Grievous hurt, or death or grievous hurt	Physical
Z	"Jointly concerned in committing"	The act of voluntarily causing or attempting to cause death or grievous hurt to the occupier by any one of the multiple committers jointly concerned in committing this offence	Physical

As table 5 shows, the introduction of aggravating intent is so uniform that each instance involves one phrase, “in order to”, to introduce the intent, which belongs to the first three levels, A-C. However, the other three levels, D and Y-Z, which involve aggravating acts, do not show such high level of uniformity: the level D involves the phrase “having made preparation for” (or “after preparation for”) , the level Y has the phrases “causes (grievous hurt) to (the occupier)” and “attempts to cause”, and the level Z carries “jointly concerned in committing”. At the levels D and Y-Z, this variation of phrasing is the result of the varying foci of each level, which is not diverse in A-C. Clearly, the use of each of these phrases is reserved for any one of the two categories, physical or mental.

The phrase “in order to”, in A-C, introduces the intent of the committers, whereas the phrases such as “having made preparation for”, “causes (grievous hurt) to (the occupier)” plus “attempts to cause (death or grievous hurt to the occupier)” etc., in D and Y-Z, primarily, introduce a physical act of the committer. The levels A-C deal with intent to commit an offence punishable with death, with imprisonment for life, and with imprisonment respectively. The level D concerns the act of having made preparation for committing any of the offences specified at this level, the level Y is about the act of causing grievous hurt or attempting to cause death or grievous hurt to the occupier, and the level Z provides to punish all the jointly concerned trespassers equally, where any one of them voluntarily causes or attempts to cause death or grievous hurt to the occupier. So, apparently, the selected text shows two standard patterns to introduce an aggravating element, i.e., explicit reference to the intention of the committer, and explicit reference to the harm the committer causes or attempts to cause. But, inconsistency of pattern does not arise from the difference in foci of the two categories, physical and mental.

The inconsistency of pattern arises from the physical category: the introductory phrase “having made preparation for” in D is not in line with the two standard patterns of introducing an aggravating element; instead, expresses an implicit fusion of both, intent and act. Notably, the expression “preparation” has, mainly, physical connotation; that is why this analysis enlists it with *acts* instead of *intent*. Here, the extent of the phrase “having made preparation for” needs to be discussed so that this could be precisely

shown that how this particular phrasing deviates this unit from the two patterned phrases to the introduction of aggravating elements.

The phrase “having made preparation for” at the aggravated level D introduces a, comparatively, local type of temporal element through the expression “having made” or “after”, which is not present at the other two levels, Y-Z, which also involve crime-aggravating *act*. This temporal specification restricts that this aggravated trespass is constituted only if the committer *has made physical preparation for* this offence *before* the commencement of the offence starts. This type of restriction is not found in any other introductory phrase such as “in order to”, “cases” etc. This binding raises one question, i.e., is this aggravated trespass to land constituted if the physical preparation relating to this particular offence is undertaken during (and not before) the commission of such trespass for example having trespassed a house, as in example (9)?

(9) Miss *X*, a licensed/privileged visitor to neighbourhood, enters one neighbouring house where an old lady, *Y*, lives alone. Out of usual informality, *X* starts heating water for their tea. But she ends up throwing the hot water on *Y*, telling *Y* that this is the punishment for keeping the music too loud in the late night noisy parties and for which she (*X*) has talked to her (*Y*) many times before. *X* leaves the house, pressing *Y* to state that she (*Y)* got this burn while working in the kitchen.

In (9), *X* does not make any preparation before entering the house but house-trespass plus an offence is perpetrated. In such situation, a trespasser might rather prefer to exclude the idea of making advance preparation in order to make the offence look a normal/natural occurrence. So, the introduction of the phrase “having made” or “after” makes the text inadequate to cover all possible situations of the aggravated level D of trespass to land.

The previous question triggers another question regarding the inevitability of “preparation” for this offence, i.e., is this criminal trespass constituted if no physical

preparation is adopted for it but the trespasser causes hurt, assault, or wrongful restraint to the occupier, or puts the occupier in fear of any of these offences, as in example (10)?

(10) A wife, *X*, with her children has started living with her parents after a quarrel with her husband, *Y*. *Y* visits them frequently to look after the needs of the children and *X*. During one visit, a verbal argument between *X* and *Y* develops into a physical fight, where one or more relations of *X* also side with her. The hurt *Y* flees from that house, leaving one or more opponents hurt with a metallic, wooden, or plastic toy such as a mouth-organ, flute, hockey etc., he has brought for the children on this visit.

In example (10), the person *Y* has neither intent nor preparation for committing any offence, but both, the offence and the environment in which the offence takes place, are typical to house-trespass. This complexity makes this instance highly problematic in whether it should be treated as aggravated house-trespass D or not.

These two examples, 9-10, show that the insertion of the local type of temporal phrase, "having made preparation for" or "after preparation for" is not only imprecise in itself but also takes the nature of the introduction of the aggravating element much away from the set pattern, i.e., explicit reference to act or intent.

In this way, the level D's deviation from the two patterns of presentation makes the text of D less explicit than that of other levels, as the phrase "having made preparation for" lands the relevant provisions in confusion of *act* and *intent*.

This phrasal deviation goes against the Fitzgerald's (1990, 17) informed concept of text arrangement, as developed in this analysis. This deviation falls in the scope of Fitzgerald's proposal for the arrangement of information in the sense that the standard classes of information (mental and physical) are logically and systematically related, but another class of information ("having made preparation for") resists coherence with these classes. This type of incongruity has been visualized in the theory chapter (section 2.6.1).

The phrases “in order to”, and “causing” and “attempting to cause” explicitly form mental and physical categories respectively, but the phrase “having made preparation for” resists embracing this formula, which lessens the clarity of the text.

4.5. Patterns of Presentation in Trespass to Non-Real Property

Presentation of trespass to non-real property (or goods) is also very systematic, like that of real property. However, this kind too shows some issues with the pattern of arrangement or introduction of information, which might leave the text less clear. Trespass to non-real property (or goods), the second kind of criminal trespass in the IPC (GOVERNMENT OF INDIA 1860, 101), consists of two law-sections, §461-§462. These two sections respectively present the non-aggravated and aggravated levels of the offence of dishonestly breaking open receptacle that contains another person’s non-real material property such as goods etc. (referred to as DBNP, i.e., dishonestly breaking open non-real property, in this analysis). The breakdown of these sections into their information units has been given in sections (4.2.21-4.2.22) about the information units. The text of trespass to goods shows some deviations from the textual patterns set in the text of trespass to land, which are discussed in a following section (4.6); but, the text of trespass to goods, within itself, shows one notable problem of pattern, discussed in the following section (4.5.1).

4.5.1. Lack of Pattern, and Redundancy in Trespass to Goods

Section 462 of the IPC (GOVERNMENT OF INDIA 1860, 101) presents the (only) aggravated level of the offence of dishonestly breaking open another person’s property by such person as is entrusted with the custody of that property but who is not authorized to intrude the property. A comparing look at the crime-constituting act and crime-aggravating act in the non-aggravated and aggravated DBNP reveals that the expression about the other person’s authority to break open the property is out of proper arrangement. *Not with authority to open it* (the receptacle, containing property) (originally, “without having authority to open the same” (p. 101) is the phrase in the information unit “crime-aggravating act” that skips the first and primary provision namely non-aggravated trespass to land in §461, and appears in the second provision

namely aggravated trespass to land in §462. This instance is much similar to the one about the introduction of "voluntarily" in the two aggravated levels Y-Z of trespass to land, as discussed before in the section (4.4.4) about lack of pattern in crime-aggravating elements. However, the two instances differ in the sense that "voluntarily" is compared in the two aggravated levels, where one does not control the other, whereas the present case is between non-aggravated and aggravated levels, where former controls the latter. The introduction of the expression about the committer's authority to open the receptacle is highlighted by comparing the related information units of non-aggravated and aggravated trespass to goods in table 6.

Table 6. Crime-constituting vs. crime-aggravating acts in the aggravated and non-aggravated trespass to goods, with reference to *not with authority to open it*

Information units	Non-aggravated DBNP	Aggravated DBNP
Crime-constituting act	The committer's act of breaking open or unfastening any closed receptacle that contains or that the committer believes to contain any physical object, which is in the possession of another person	
Crime-aggravating act		The act of breaking open or unfastening any receptacle that contains or that is believed to contain a person's non-real property by a person entrusted with custody of that property but *not with authority to open it*

Table 6, further, raises a question, i.e., does its appearance in the second provision mean that this expression does not hold for the first instance? The presence of this expression in the aggravated form alone gives an impression as if the condition of the committer being unauthorized to intrude the property does not apply to the non-aggravated form, and the committer in the non-aggravated form might have authority to break open the property, which is misguiding proposition. Surely, the intruder does not have authority to open the receptacle in the non-aggravated level as well, but the aggravated level, which is *normal*

level, does not set this introduce this expression in the pattern. Since the expression of the committer's authority is of constituting or basic nature, this expression belongs to the crime-constituting act in the non-aggravated form, and not crime-aggravating act. If this is introduced in the non-aggravated form, it will be embedded in the aggravated form *by default*, and the text of the aggravated form could dispense with the description of this expression, as each aggravated form inherits one information unit "basic offence" in it.

Thus, observing from this study's formula of text arrangement, derived from Fitzgerald (1990, 137), the expression about the committer's authority to open the receptacle in trespass to goods does not show proper arrangement, and, also, this arrangement does not show any purpose served.

Other than this, the aggravated trespass to goods includes two redundant information units, "to commit mischief" and "dishonestly", as shown in table 7.

Table 7. Redundant information units in the aggravated trespass to goods

Information units	Non-aggravated DBNP	Aggravated DBNP
Crime-constituting intent	To commit mischief	To commit mischief
Legal-behavioural frame of mind	Dishonestly	Dishonestly

These information units are redundant, not because one provision is repeating them from another provision, but because one subordinate provision is repeating them from a controlling, superordinate provision that has, already, affected them. So, in this case, the aggravated provision that is subordinate to the non-aggravated provision has these units embedded in it, and does not need to describe them repeatedly. Fitzgerald (1990, 134) considers avoiding redundancy as one of the conditions to achieve maximum clarity in statutory texts.

After taking an overview of this section, one might ask that, while such intent and frame of mind as mischief and dishonesty are already introduced, why does the text need to express that the entrusted person should not be authorized to open the receptacle that

contains the property? That is, the anticipation of a person's mischief and dishonesty, inherently, involves the idea that the person is not authorized to meddle with the property. However, this curiosity belongs to the other domains such as pragmatics, semantics, law etc., and not to the area of arrangement, introduction etc.

4.6. A Comparison of Presentation in Trespass to Real and Non-Real Properties

The majority of the arrangement-patterns in the texts of trespass to real and non-real properties are congruent. However, presentation in them differs in three respects, i.e., the primary generic term "criminal trespass" unequally representing the two kinds of trespass (to real and non-real properties), redundancy of information, and concurrent presentation of definition (i.e., also the non-aggravated level) of an offence and the punishment of that offence within one law-section.

So, *one*, the term "criminal trespass" (§441) does not represent trespass to goods as explicitly and precisely as it represents trespass to land. This is evident from two observations. *Firstly*, the information unit "basic offence", which refers to "criminal trespass", is not represented in the definition of trespass to non-real property in §461 (GOVERNMENT OF INDIA 1860, 101), whereas this unit is represented in the definition of trespass to land, in §442 (p. 98). The absence of the unit "basic offence" in the definition of trespass to goods is deviation from the pattern of introducing this unit in the definition of each non-aggravated form, as set throughout trespass to land. This deviation in the pattern shows the governing concept, "criminal trespass", skewed in favour of trespass to land. This translates into unequal and imprecise representation of trespass to land and goods by their superordinate, governing concepts "criminal trespass", which is supposed to represent the two subordinate concepts equally precisely. This lack of equal distribution can be visualized from another perspective, i.e., the creators of this text might not suppress their dominant mental inclination to trespass to land. *Secondly,* as touched in a previous section (4.4.2), the description and punishment of "criminal trespass" is presented alongside the types of trespass to land such as lurking house-trespass, house-breaking etc. This, again, implies that "criminal trespass" in inclined to trespass to land. These observations support the view that the term "criminal trespass" is

not equally distributed in trespass to land and goods. This point is, further, explored in its own right in the following section (4.7).

Two, as for the redundant content, the aggravated trespass to goods shows undesirable repetition of information units that are already covered in the basic offence namely non-aggravated trespass to goods. The information units such as *object of commission*, *legal-behavioural frame of mind*, and *crime-constituting intent* are already introduced in the non-aggravated trespass to goods, but they are again presented in the aggravated trespass to goods. Notably, the redundant content has already been analysed, through table 7 in the preceding section (4.5.1), as redundancy within trespass to goods. The purpose of picking this point again here is to highlight this contrast in land and goods parts: trespass to land does not show such an instance of redundancy.

Three, the text of trespass to goods also deviates from the existing pattern in that the definition and punishment of non-aggravated trespass to goods have been presented together in one section 461. Concurrence of the definition of an offence and its punishment might not have a significant impact on the comprehension of this information. However, this instance does not follow the pattern of the organization of information followed in trespass to land, as mentioned in the section (4.2) about the structure of the selected text and in the section (4.4.3) about the random organization particular information in the text.

Another, comparatively minor, difference is noted in the heading of the aggravated trespass to goods in §462, i.e., the use of expression of "same offence" to refer back to the non-aggravated trespass to goods in the previous section 461. This type of reference is not found elsewhere in the selected text. Besides, a layperson might also blame that trespass to goods, as much it appears at textual level, is far less comprehensive that trespass to land.

These instances of deviation in the presentation of trespass to land and goods appear against Fitzgerald's view that information should be arranged in different parts of the

text, and these parts should be logically connected. In the present case, the textual parts namely trespass to land and goods are essentially and logically related, but the arrangement and introduction of information in the two parts is not congruent.

4.7. Disproportionate Coverage of *Land* vs. *Goods* in "Criminal Trespass"

Apparently, the pattern the presentation of "criminal trespass" shows with reference to trespass to land and goods does not seem evenly distributed in trespass to land and goods. It seems much inclined to represent trespass to land than trespass to goods. This appears so, because the term "criminal trespass" in §441 stands on, among others, the idea of *entering* a particular property (GOVERNMENT OF INDIA 1860, 98). The expression of entrance, primarily, evokes the concept of land, and not any non-real physical object, which raises one question, i.e., does the term "criminal trespass", being the governing concept for trespass to land and goods equally, represent land and goods equally? The unequal representation or coverage of the two kinds of trespass in the definition of criminal trespass, as briefly described in the previous section (4.6), would also mean that the relation of trespass to non-real property to "criminal trespass" is not as direct, explicit, and strong as that of to land is also an expression of. But what initiates the assumption that this representation is not proportionate? As pointed out in previous sections (4.4.2 and 4.6), the presentation of the penalty of "criminal trespass" along the punishments of the other types of trespass to land, and the expression of *entrance* trigger the assumption that "criminal trespass" is inclined to trespass to land than goods.

However, to determine, in depth, whether the primary term "criminal trespass" inclines to land or not, an examination of how the expression of entrance has been phrased in the description of "criminal trespass" is desirable. The expression of entrance occurs in the information unit "crime-constituting act" of the law-section about "criminal trespass", which shows that the expression of entrance is followed by two prepositions, "into" and "upon". Apparently, the two prepositions suggest two functions of the verb "enter", but this impression needs to be verified. For verification, the two phrases namely "enter into" and "enter upon" are explored in the Collins dictionary, which is a corpus-based English dictionary (McEnery and Hardie 2012, 80). The dictionary verifies that the verb "enter"

followed by preposition “into” functions differently from “enter” followed by preposition “upon.” However, this might be interesting to note that none of the two phrases refers to the act of entering any real or non-real property at all. This discovery is more than what the aforementioned assumption or question expected, i.e., “criminal trespass” appears inclined to trespass to land compared to goods, because the phrases “enter into” and “enter upon” do not refer to entering land too. The dictionary shows that, particularly in British English, the subject that collocates with the prepositional verb “enter into” is, unlike a trespasser, considered a necessary part of one’s plans, calculations etc.; further, the combination “enter into” refers to the act of being in sympathy with someone (Collins Dictionary). As a phrasal verb, “enter into” refers to getting involved in things like agreement, discussion, and relationship etc.; also, when one thing “enters into” another thing, the former is a factor in the latter. Notably, the Collins dictionary has captured the usage of this prepositional verb and phrasal verb diachronically from the year 1708 through present day. The online Oxford Learner’s Dictionary (Oxford Learner’s Dictionaries) also shows similar meaning of “enter into” as found in Collins dictionary. Clearly, the combination “enter into” does not represent the idea of physically getting in any real or non-real property in any way. As for the combination “enter upon”, the dictionary does not mention it as a British expression at all (Collins Dictionary). As an American expression, “enter upon” is equivalent of “enter on”, which means “to begin” (or to set out on, or to start) or “to begin to possess or enjoy” (or to take possession of). Here, the latter use “to begin to possess (or enjoy)” seems to give an impression of entering real or non-real or both properties on account of the element of “possession” in this use. However, this does not come out to be the case: this meaning refers to a situation, where one person starts gradually taking possession of or lucks into a particular thing.

Clearly, this use of “enter upon” is essentially different from the act of (wrongfully) entering real or non-real property, as represented under “criminal trespass” in the IPC. Notably, the Oxford Learner’s Dictionary does not enlist this latter use of “enter upon”, but only the former one (Oxford Learner’s Dictionaries). However, one legal use of “enter upon” is found in the Oxford English and Spanish Dictionary, Synonyms, and

Spanish to English Translator (Lexico, Powered by OXFORD). But, still, the phrasal verb "enter upon" is enlisted in this dictionary as a legal entitlement, and not as a wrongful act, referring to the act of going freely into particular property or as if being the owner, as illustrated in example (11).

(11) The tenants shall have the right to enter the premises.

This use of "enter upon", again, does not relate to criminal trespass. This examination of the two combinations, "enter into" and "enter upon", reveals that none of them relate to the act of entering real or non-real property, as found in the description of "criminal trespass" in the IPC. None of them can even be exploited to precisely fit in with "criminal trespass".

Besides, the term "property" in the definition of criminal trespass is a loose expression: this term does not precisely refer to real property or land, or non-real property. This is what Dickerson (1964, 12) calls over-generality of expression. Property is a generic term, which refers to several things. Two terms, real and non-real property or, in the strict sense of trespass, land and goods could be categorically used in place of one loose expression, "property". Notably, the Hansard corpus (Davies 2015) shows that the word "goods" was in use in the British Parliament as back as in 1803 in connection with the East-India company, a British trade company in India prior to the Britain took control of the Indian Subcontinent as her colony. The Hansard corpus consists of nearly every speech delivered in the British Parliament through 1803-2005. So, the phrasing of the definition of criminal trespass appears to be over-economic or hasty in terms of addressing the two kind of trespass equally precisely.

Hence, apparently, it is not that the definition of criminal trespass inclines to land; instead, it does not seem to relate to the acts of wrongfully entering real property and wrongfully intruding non-real property. If, at all, the definition is taken as a tacit reference to the act of trespass, it, still, inclines to real property, whereas the expression

of wrongfully intruding non-real property such as goods is not adequately represented by the definition of "criminal trespass".

Regarding this study's framework of information-arrangement, as developed from Fitzgerald-based (1990, 137), if the definition of criminal trespass is taken out of convention as tacit for criminal trespass, the number and nature of information units included in this definition largely concern real property. This means the definition has concentration of land-expression compared to goods-expression. That is, the drafters have arranged or introduced more land-expression at one end of "criminal trespass" than the other. So, the content about *land* or *goods* in the definition of "criminal trespass" is oversupplied or undersupplied.

4.8. Miscellaneous Incongruities

One instance, which might be regarded as a minor difference in construction of the law-sections, is the unique presence of "Illustrations" part in the section §445 about house-breaking (GOVERNMENT OF INDIA 1860, 99). Sharma and Anand (2012) suggest, on the basis of their observation of the statutes of colonial times, that inclusion of illustrations in the statutes can make the laws much clearer and comprehensible.

Only in the IPC, three typographical or spelling errors are also noted in the text. Two mistakes are noted in the heading and description of §452, where the words "after" and "any" are misrepresented as "alter" and "and" respectively (p. 100). One instance of misspelling is found in the description part of §460: the word "lurking" has been misspelled as "lurkking" (p. 101).

4.9. Summary of the Chapter

This examination builds on independent information units, which this analysis has carved out within each law-section in the selected statutory text. The problems about the arrangement or introduction of information units in the selected text can be summed up, mainly, in nine interrelated points. *One*, the definition of the term "criminal trespass" does not appear to relate criminal trespass, and, if the definition is taken to be relevant to

criminal trespass at all, it is much more inclined to represent trespass to real property (section 4.7). *Two*, compared to trespass to real property, trespass to non-real property suffers from three problems, namely an imprecise and implicit relationship to the central concept "criminal trespass", redundancy of information, and inconsistency in the organization of the definition and punishment of the non-aggravated form (section 4.5.1).

Three, in the text of trespass to real property, the aggravated levels A-D and Y-Z have not been proportionally allocated in the five types of criminal trespass. None of the five types has all the six levels of aggravation; if aggravation level of a particular type goes to level D, it does not reach to Y or Z (section 4.4.1). Each type finds selective levels of aggravation. *Four*, the generic concept and term "criminal trespass" has been treated as a particular offence like house-trespass, house-breaking etc., by providing framing penalty of criminal trespass, which makes this subtopic over-developed in the scheme of the subtopics (section 4.4.2). *Five*, the pattern of presenting the definition and punishments of each non-aggravated offence in two separate sections and of each aggravated offence in one section does not appear significantly practical, and is instable (section 4.4.3) throughout the text, especially, when this pattern is abandoned in non-aggravated trespass to goods (section 4.6). *Six*, the absence and presence of the expression "voluntarily" in the aggravated levels Y and Z of trespass to land creates confusion about the scope of the two provisions and about deciding that which of the two provisions is the standard to follow (section 4.4.4). Similarly, the scope and standard of the expressions "causing" and "attempting to cause" in the aggravated levels Y and Z is not clear (section 4.4.4). *Seven*, the phrase to introduce the crime-aggravating act, "having made/after preparation for [. . .]", at the aggravated level D of trespass to land does not fit in any of the set, mental and physical, kinds of crime-aggravating element (section 4.4.5). Due to its implicit nature, arising from the temporal binding "after"/"having made", this phrase causes the aggravated level D to miss out other commonly possible situations of trespass to land, which this phrase anticipates itself.

On the side of trespass to non-real property (section 4.5), the patterns in the text have been examined from two angles: within trespass to non-real property, and compared to

the text of trespass to real property. The problems of patterns noted in the comparison of the two kinds of trespass (sections 4.6-4.7) have been summarized as points *one* and *two* of this section. Within trespass to non-real property, *eight*, the expression about the authority of the committer to break open the non-real property is found to be incorrectly arranged or introduced in the aggravated trespass to goods, as this expression is an element of basic or constituting nature (i.e., non-aggravated trespass) (section 4.5.1).

Nine, as miscellaneous and minor incongruities (section 4.8), one law-section §445 (GOVERNMENT OF INDIA 1860, 99) explains the law by including an "Illustrations" part in the text, which is a unique instance in the selected text. Further, only in the IPC, minor typos are noted (section 4.8).

Chapter 5: Conclusion and Perspectives for Further Research

5.1. Introduction

This chapter presents a discussion of the results of the data analysis (section 5.2), the findings induced from these results and the status of the hypotheses (section 5.3), implications of this study (5.4), and suggestions for further research (section 5.5).

5.2. Discussion of the Results of Data Analysis

This section presents classification of the results of data analysis (section 5.2.1), explanation of how the resulting types impact the clarity of the text (section 5.2.2), and the findings along with the status of the hypotheses (section 5.2.3).

5.2.1. Classification of Results

The analysis of the data informs certain resulting points about the pattern of presentation in the selected statutory text, as summarized in the analysis chapter (section 4.8). Here, these points are further classified and large patterns are induced from this classification. The imperfections relating to the presentation of information, as analysed through the information units in the selected statutory text, form five related categories namely irrational pattern of arrangement or introduction of information, complete but scattered or disorderly information, arranged but oversupplied or undersupplied unique information, redundancy, and mixing information of incompatible kinds. Here, *complete* (*but scattered…information*) means *precisely equal* information in the comparable parts of the text. Apparently, another category, probably, worst of all, might exit, i.e. randomly selective and scattered or disorderly information; however, no example of such a category is found in the text. Further, a significant amount of typographical errors can also turn into a problem of presentation in a text.

The direct instances of irrational arrangement are: the inexplicable pattern of the allocation of aggravated levels in the types of trespass to land (section 4.4.1); the pattern of presenting definition and punishment of non-aggravated trespass to land in two sections but of aggravated trespass in one section. The latter, however, also develops into

an instance of complete but scattered or disorderly information, when this hardly practical pattern is abandoned in the case of trespass to goods (section 4.4.3). Besides, redundancy is, usually, also purposeless, which has one instance in the selected text that is the repeated introduction of expressions such as “dishonestly” and “to commit mischief’ in aggravated trespass to goods from the non-aggravated form, which is not in line with the pattern set in trespass to land (section 4.5.1).

Five instances belong to the category of arranged but oversupplied or undersupplied unique information: unequal representation of trespass to land and goods in the definition of criminal trespass (sections 4.6-4.7), which, however, applies only if the key verbs in the definition are taken to be referring to the act of entering another person’s land unlawfully, which do not appear to be referring to, at least, at the level of the text (see section 4.7); the overdeveloped subtopic of “criminal trespass” compared to the other subtopic in the scheme (section 4.4.2); the introduction of “voluntarily” in the aggravated level Z of the pair Y-Z (section 4.4.4); the introduction of the committer’s “causing” and “attempting to cause” particular harm to the occupier (section 4.4.4); the introduction of the basic-level expression about the committer’s authority to break open the receptacle that contains goods in the aggravated trespass to goods (section 4.5.1).

One instance shows a mixture of incompatible kinds of information, i.e. the aggravating elements of incompatible nature appear to have been forcibly introduced together through introductory phrases such as “in order to” that is explicitly mental and pre-commission, “causes/attempts to cause” that is explicitly physical and during-commission, and “having made preparation for” that does not demonstrate explicit mental or physical and temporal position (section 4.4.5).

This outcome is summed up in table 8.

Table 8. Categorization of the arrangement-issues noted in the text, with illustrations from the text

No.	Irrational pattern of arrangement or introduction of information	Complete but scattered or disorderly information	Arranged but oversupplied or undersupplied unique information	Redundant information	Mixture of information of incompatible kinds
1	HT finds aggravated levels A-D *Vs.* LHT finds aggravated levels C-D, Y *And* HB finds aggravated levels C-D, Y *Vs.* LHTN finds aggravated levels C-D, Z *And* HBN finds aggravated levels C-D, Z	Non-aggravated trespass to land finds *description* and *penalty* separately *Vs.* Aggravated trespass to land finds *description* and *penalty* combined *Vs.* Non-aggravated and aggravated trespass to goods finds *description* and *penalty* combined	CT's unequal coverage of *land* vs. *goods*	Non-aggravated DBNP introduces "dishonestly", and "to commit mischief" *Vs.* Aggravated DBNP also introduces "dishonestly", and "to commit mischief"	"In order to" is, explicitly, mental and pre-crime *Vs.* "Causing" or "attempting to cause" death, grievous hurt etc. is explicitly physical. *And* "Jointly concerned in committing" is, explicitly, physical and during-crime *Vs.* "Having made preparation for" does not, explicitly, reflects its mental or physical and temporal position
2	Non-aggravated trespass to land finds *description* and *penalty* separately		Confusing overlap in CT and HT		

	Vs. Aggravated trespass to land finds *description* and *penalty* combined	
3		Aggravated level Y introduces *causing grievous hurt* *Vs.* Aggravated level Z introduces *voluntarily causing grievous hurt*
4		Aggravated level Y introduces *causing grievous hurt, or attempting to cause death or grievous hurt* *Vs.* Aggravated level Z introduces *causing or attempting to cause death or grievous hurt*
5		Non-aggravated DBNP does not mention that an unauthorized person, who breaks open someone's goods, commits trespass to goods *Vs.* Aggravated DBNP

	introduces expression that an unauthorized person, who breaks open someone’s goods, commits trespass to goods	

This lack of clarity, which arises from the problematic arrangement and introduction of information, triggers critical questions about the comprehensiveness of this text in a beginner's mind, as discussed in the relevant sections in the analysis chapter.

5.2.2. Impact of the Noted Imperfections of Presentation on the Clarity of the Text

As Martin (2002, 360-361) observes that penal statutes are highly construction-sensitive, the noted imperfections of arrangement in the selected text negatively impacts the clarity of the text in some way. For example, an irrational pattern of arrangement in the text seems, primarily, to make the text uselessly and absurdly complex. Complete but scattered or disorderly information in the text can leave the reader lost or entangled in the text because a less organized text does not properly guide the reader through the phases of the text, make the text complex, or slow down the elicitation of information from the text; disorganization takes extra effort of the reader without any reward. Randomly selective and scattered or disorderly information affects explicitness and comprehensiveness, and causes confusion in deciding the standard idea. Arranged but oversupplied or undersupplied unique information can diminish two characteristics of the text- comprehensiveness and explicitness. Redundancy is impractical; a redundant expression can also mislead the reader into thinking that the redundant part has emphasis from the writer because it is repeated, and it then becomes an interruption in the flow of information; redundancy is *noise* (Oliver-Lalana 2001) in the text and gives an impression of absurdity and takes extra effort of the reader. A mixture of information of incompatible kinds can bring implicitness and confusion. These are, mainly, assumed impacts. Other impacts and overlap in the impacts are also possible. So, each of these types of presentation-problems detracts from the clarity of the text in some way.

5.3. Findings and Status of the Hypotheses

Taking *clarity* as the quality of fast readability or/and rapid comprehension (section 2.3) (Stark 1994, 208-209; Flückiger 2008, 9; Fitzgerald 1990, 132-42), this examination finds out that each noted type of lacking in the presentation decreases the selected text's quality of being rapidly comprehensible.

These findings supports the two hypotheses (section 1.2) of this study: the selected text "Of Criminal Trespass" in the penal codes of India (GOVERNMENT OF INDIA 1860, 98-101), Bangladesh (Government of Bangladesh 1860, 158-164), and Pakistan (THE PAKISTAN CODE 1860, 149-153), shows many expressions that are without particular or rational pattern of arrangement or introduction in the text, and these poorly arranged or introduced expressions diminish the clarity of the text. So, the aim (section 1.4) of this study is achieved.

5.4. Implications of the Research

The main implication of this research is that the idea of logical arrangement of information in the related parts of the text is general, and needs to be refined. Arrangement or introduction of the information-bits in a text might include the ideas of semantic and grammatical smoothness, but presentation is something distinct from semantic and grammatical aspects of a text. Presentation of information in a text should focus not only to ensure internal connectedness in the text but also to avoid pointless pattern of arrangement or introduction, complete but scattered or disorderly information, randomly selective and scattered or disorderly information, arranged but oversupplied or undersupplied unique information, redundancy, and mixing information of two incompatible kinds at the level of the organizational parts of a text and within each part. A fragment of a text might appear arranged and transparent on its own, but, as shown through this analysis, a comparison in the comparable fragments and parts of the text reveals the state of arrangement and transparency in the text. This implies that any pattern of presentation in one part of the text should also be observable in any other comparable part of the text, as far as possible, and the pattern should not be without purpose. These are theoretical implications of this research.

Further, the textual issues found in the selected statutory text do not, necessarily, imply that these issues are problems in the practice of the law. They might be or might not be problems in the field of the law. A number of law-practitioner might be handling or mishandling them in Bangladesh, India, and Pakistan. But, these textual issues, definitely, makes the text less clear for an attentive novice reader of the law. For such readers, these

imperfections of presentation, clearly, raise confusion and questions until they are explained under some implied meaning. But, since textual-linguistic transparency in a legislative text is highly significantly responsible for legal clarity of the text, this study also has implications for the students, professionals, and laypersons relating to some level of language and the law.

5.5. Perspectives for Further Research

The next logical step from this study is to challenge the validity of this study. This can be done, mainly, from two perspectives: the findings of this study can be assessed under another theoretical approach such as Grice's (1975, 45-49) framework of conversational maxims, particularly, the Manner maxim; the theoretical and/or methodological approach of this study can be critiqued.

One prominent avenue of further study is pragmatics. As this research finds that many aspects of the selected text are not clear, the possibility of implied meaning cannot be ruled out in this and any other unclear text. So, the text can be examined for implicature in it (Grice 1975; Marmor 2009; Slocum 2016). The study of implicature can be further deepened under Dickerson's (1964, 8-9) complication, i.e., one of the most challenging parts of comprehension of a text is the uncertainty in determining the presence and the possible nature of the implied meaning in the given part of the text. The characteristics of completeness in the text can also be investigated, for which Grice's (1975, 45-49) maxim of Quantity (maybe, with the Manner maxim) seems a particularly relevant framework, and, to some extent, Fitzgerald's (1990, 132-134) concept of completeness also appears helpful. Effectiveness of the text can also be explored under Grice's (1975) cooperative principle and conversational maxims.

Another suggestion for further enquiry involves the study of language change, particularly, semantic change (Leech et al. 2009; Lewis 1979; Laske 2020) in normative or other, comparatively, old texts. As pointed out in the theory chapter (section 2.1), modern practitioners of law have to struggle to comprehend the particular expressions in the Indian Penal Code (GOVERNMENT OF INDIA 1860, 98-101) (Yeo and Wright

2016, 4-5). This also involves grammar and idiomaticity of expressions such as “in order to the committing of”, “in order to the quitting of the house”, and “enters into or upon property” in §449-§451, §445, §441 etc. of the IPC (GOVERNMENT OF INDIA 1860, 98-100), the PPC (THE PAKISTAN CODE 1860, 149-151), and the Penal Code of Bangladesh (Government of Bangladesh 1860, 158-159, 161-162). So, investigation of language change appears much relevant to old texts.

The extent and characteristics of criminal trespass in the IPC can be compared with the idea of trespass in a corpus. Starting this with the study of the concordances of “trespass” (the expanded context) in the ACADEMIC section of the British National Corpus (or BNC) (Davies 2004) appears helpful.

It can also be investigated how the lack of clarity in the selected statutory text, as came out in this analysis, is handled by law-practitioners in the field. However, this type of investigation might slip a bit further into the domain of law.

Besides, other types of the text or other topics in legislative text can be examined using the approach of this study. For example, in the PPC (THE PAKISTAN CODE 1860), a number of provisions are about *hurt* and *grievous hurt*, but the code provides definition of *hurt* alone, §332 (p. 110), and not of *grievous hurt*. This is an example of arranged but over-/under-supplied information in the related (and comparable) parts of the text.

5.6. Conclusion

Unclear texts burden or victimize the readers. The apparent factors of problematic presentation in a text created by a competent writer might include the writer’s inattentiveness or any covert motive, or significant typos in the text. Lack of clarity in a text leaves an opportunity for all the concerned to misinterpret or misuse the text conscious or unconsciously. If the text is a criminal statute, it also creates chance for the judges to pass subjective or moral judgments, which is against the purpose and the spirit of the law (Yeo and Wright 2016, 4-5; Chan, Wright, and Yeo 2016, [vii]). For a layperson, linguistic clarity in legislative texts might mean many things, awareness,

certainty, liberty, utility etc. For any readers, linguistic clarity in any type the text brings rapid comprehension with smooth reading-experience for less effort and time. Proper presentation is one of the crucial things in maximizing clarity of texts, and this study proposes systematic observation of the variables of arrangement or introduction of information in the text, after the text is finished in other typical linguistic aspects such as semantics, grammar etc. It is hoped that the results and findings of this thesis about the presentation of information in the text will be useful for the creators and interpreters of texts.

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Appendix A

THE INDINAN PENAL CODE

Available online: http://legislative.gov.in/actsofparliamentfromtheyear/indian-penal-code

And https://www.indiacode.nic.in/handle/123456789/2263?locale=en

Of Criminal Trespass

441. Criminal trespass.—Whoever enters into or upon property in the possession of another with intent to commit an offence or to intimidate, insult or annoy any person in possession of such property,
or having lawfully entered into or upon such property, unlawfully remains there with intent thereby to intimidate, insult or annoy any such person, or with intent to commit an offence, is said to commit "criminal trespass".

442. House-trespass.—Whoever commits criminal trespass by entering into or remaining in any building, tent or vessel used as a human dwelling or any building used as a place for worship, or as a place for the custody of property, is said to commit "house-trespass".
Explanation.—The introduction of any part of the criminal trespasser's body is entering sufficient to constitute house-trespass.

443. Lurking house-trespass.—Whoever commits house-trespass having taken precautions to conceal such house-trespass from some person who has a right to exclude or eject the trespasser from the building, tent or vessel which is the subject of the trespass, is said to commit "lurking house-trespass".

444. Lurking house-trespass by night.—Whoever commits lurking house-trespass after sunset and before sunrise, is said to commit "lurking house-trespass by night".

445. House-breaking.—A person is said to commit "house-breaking" who commits house-trespass if he effects his entrance into the house or any part of it in any of the six ways hereinafter described; or if, being in the house or any part of it for the purpose of committing an offence, or having committed an offence therein, he quits the house or any part of it in any of such six ways, that is to say:—

First.—If he enters or quits through a passage made by himself, or by any abettor of the house-trespass, in order to the committing of the house-trespass.

Secondly.—If he enters or quits through any passage not intended by any person, other than himself or an abettor of the offence, for human entrance; or through any passage to which he has obtained access by scaling or climbing over any wall or building.

Thirdly.—If he enters or quits through any passage which he or any abettor of the house-trespass has opened, in order to the committing of the house-trespass by any means by which that passage was not intended by the occupier of the house to be opened.

Fourthly.—If he enters or quits by opening any lock in order to the committing of the house-trespass, or in order to the quitting of the house after a house-trespass.

Fifthly.—If he effects his entrance or departure by using criminal force or committing an assault, or by threatening any person with assault.

Sixthly.—If he enters or quits by any passage which he knows to have been fastened against such entrance or departure, and to have been unfastened by himself or by an abettor of the house-trespass.

Explanation.—Any out-house or building occupied with a house, and between which and such house there is an immediate internal communication, is part of the house within the meaning of this section.

Illustrations

(*a*) A commits house-trespass by making a hole through the wall of Z's house, and putting his hand through the aperture. This is house- breaking.

(*b*) A commits house-trespass by creeping into a ship at a port- hole between decks. This is house-breaking.

(*c*) A commits house-trespass by entering Z's house through a window. This is house-breaking.

(*d*) A commits house-trespass by entering Z's house through the door, having opened a door which was fastened. This is house-breaking.

(*e*) A commits house-trespass by entering Z's house through the door, having lifted a latch by putting a wire through a hole in the door. This is house-breaking.

(*f*) A finds the key of Z's house door, which Z had lost, and commits house-trespass by entering Z's house, having opened the door with that key. This is house-breaking.

(*g*) Z is standing in his doorway. A forces a passage by knocking Z down, and commits house-trespass by entering the house. This is house-breaking.

(*h*) Z, the door-keeper of Y, is standing in Y's doorway. A commits house-trespass by entering the house, having deterred Z from opposing him by threatening to beat him. This is house-breaking.

446. House-breaking by night.—Whoever commits house-breaking after sunset and before sunrise, is said to commit "house-breaking by night".

447. Punishment for criminal trespass.—Whoever commits criminal trespass shall be punished with imprisonment of either description for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

448. Punishment for house-trespass.—Whoever commits house-trespass shall be punished with imprisonment of either description for a term which may extend to one year, or with fine which may extend to one thousand rupees, or with both.

449. House-trespass in order to commit offence punishable with death.—Whoever commits house-trespass in order to the committing of any offence punishable with death, shall be punished with 1[imprisonment for life], or with rigorous imprisonment for a term not exceeding ten years, and shall also be liable to fine.

450. House-trespass in order to commit offence punishable with imprisonment for life.—Whoever commits house-trespass in order to the committing of any offence punishable with 1[imprisonment for life], shall be punished with imprisonment of either description for a term not exceeding ten years, and shall also be liable to fine.

451. House-trespass in order to commit offence punishable with imprisonment.—Whoever commits house-trespass in order to the committing of any offence punishable with imprisonment, shall be punished with imprisonment of either description for a term which may extend to two years, and shall also be liable to fine; and if the offence intended to be committed is theft, the term of the imprisonment may be extended to seven years.

452. House-trespass alter preparation for hurt, assault or wrongful restraint.—Whoever commits house-trespass, having made preparation for causing hurt to any person or for assaulting any person, or for wrongfully restraining any person, or for putting and person in fear of hurt, or of assault, or of wrongful restraint, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

453. Punishment for lurking house-trespass or house-breaking.—Whoever commits lurking house-trespass or house-breaking, shall be punished with imprisonment of either description for a term which may extend to two years, and shall also be liable to fine.

454. Lurking house-trespass or house-breaking in order to commit offence punishable with imprisonment.—Whoever commits lurking house-trespass or house-breaking, in order to the committing of any offence punishable with imprisonment, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine; and if the offence intended to be committed is theft, the term of the imprisonment may be extended to ten years.

455. Lurking house-trespass or house-breaking after preparation for hurt, assault or wrongful restraint.—Whoever commits lurking house-trespass, or house-breaking, having made preparation for causing hurt to any person, or for assaulting any person, or for wrongfully restraining any person, or for putting any person in fear of hurt or of assault or of wrongful restraint, shall be punished with imprisonment of either description or a term which may extend to ten years, and shall also be liable to fine.

456. Punishment for lurking house-trespass or house-breaking by night.—Whoever commits lurking house-trespass by night, or house-breaking by night, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

457. Lurking house-trespass or house-breaking by night in order to commit offence punishable with imprisonment.—Whoever commits lurking house-trespass by night, or house-breaking by night, in order to the committing of any offence punishable with imprisonment, shall be punished with imprisonment of either description for a term which may extend to five years, and shall also be liable to fine; and, if the offence intended to be committed is theft, the term of the imprisonment may be extended to fourteen years.

458. Lurking house-trespass or house-breaking by night after preparation for hurt, assault, or wrongful restraint.—Whoever commits lurking house-trespass by night, or house-breaking by night, having made preparation for causing hurt to any person or for assaulting any person, or for wrongfully restraining any person, or for putting any person in fear of hurt, or of assault, or of wrongful restraint, shall be punished with imprisonment of either description for a term which may extend to fourteen years, and shall also be liable to fine.

459. Grievous hurt caused whilst committing lurking house-trespass or house-breaking.—Whoever, whilst committing lurking house-trespass or house-breaking, causes grievous hurt to any person or attempts to cause death or grievous hurt to any person, shall be punished with 1[imprisonment for life], or imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

460. All persons jointly concerned in lurking house-trespass or house-breaking by night punishable where death or grievous hurt caused by one of them.—If, at the time of the committing of lurking house-trespass by night or house-breaking by night, any person guilty of such offence shall voluntarily cause or attempt to cause death or grievous hurt to any person, every person jointly concerned in committing such lurkking house-trespass by night or house-breaking by night, shall be punished with 1[imprisonment for life], or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

461. Dishonestly breaking open receptacle containing property.—Whoever dishonestly or with intent to commit mischief, breaks open or unfastens any closed receptacle which contains or which he believes to contain property, shall be punished

with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

462. Punishment for same offence when committed by person entrusted with custody.—
Whoever, being entrusted with any closed receptacle which contains or which he believes to contain property, without having authority to open the same, dishonestly, or with intent to commit mischief, breaks open or unfastens that receptacle, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Appendix B

THE PENAL CODE, 1860 (of Bangladesh)

Available online: http://bdlaws.minlaw.gov.bd/act-details-11.html

Of Criminal Trespass

Criminal trespass

441. Whoever enters into or upon property in the possession of another with intent to commit an offence or to intimidate, insult or annoy any person in possession of such property, or, having lawfully entered into or upon such property, unlawfully remains there with intent thereby to intimidate, insult or annoy any such person, or with intent to commit an offence, is said to commit "criminal trespass".

House-trespass

442. Whoever commits criminal trespass by entering into or remaining in any building, tent or vessel used as a human dwelling or any building used as a place for worship, or as a place for the custody of property, is said to commit "house-trespass".

Explanation.-The introduction of any part of the criminal trespasser's body is entering sufficient to constitute house-trespass.

Lurking house-trespass

443. Whoever commits house-trespass having taken precautions to conceal such house-trespass from some person who has a right to exclude or eject the trespasser from the building, tent or vessel which is the subject of the trespass, is said to commit "lurking house-trespass".

Lurking house trespass by night

444.. Whoever commits lurking house-trespass after sunset and before sunrise, is said to commit "lurking house-trespass by night".

House-breaking

445. A person is said to commit “house-breaking" who commits house-trespass if he effects his entrance into the house or any part of it in any of the six ways hereinafter described; or if, being in the house or any part of it for the purpose of committing an offence, or, having committed an offence therein, he quits the house or any part of it in any of such six ways, that is to say:

Firstly.-If he enters or quits through a passage made by himself, or by any abettor of the house-trespass, in order to the committing of the house-trespass.

Secondly.-If he enters or quits through any passage not intended by any person, other than himself or an abettor of the offence, for human entrance; or through any passage to which he has obtained access by scaling or climbing over any wall or building.

Thirdly.-If he enters or quits through any passage which he or any abettor of the house-trespass has opened, in order to the committing of the house-trespass by any means by which that passage was not intended by the occupier of the house to be opened.

Fourthly.-If he enters or quits by opening any lock in order to the committing of the house-trespass, or in order to the quitting of the house after a house-trespass.

Fifthly.-If he effects his entrance or departure by using criminal force or committing an assault, or by threatening any person with assault. Sixthly.-If he enters or quits by any passage which he knows to have been fastened against such entrance or departure, and to have been unfastened by himself or by an abettor of the house-trespass.

Explanation.-Any out-house or building occupied with a house, and between which and such house there is an immediate internal communication, is part of the house within the meaning of this section.

Illustrations

(a) A commits house-trespass by making a hole through the wall of Z's house, and putting his hand through the aperture. This is house-breaking.

(b) A commits house-trespass by creeping into a ship at a port-hole between decks. This is house-breaking.

(c) A commits house-trespass by entering Z's house through a window. This is house-breaking.

(d) A commits house-trespass by entering Z's house through the door, having opened a door which was fastened. This is house-breaking.

(e) A commits house-trespass by entering Z's house through the door, having lifted a latch by putting a wire through a hole in the door. This is house-breaking.

(a) A finds the key of Z's house door, which Z had lost, and commits house-trespass by entering Z's house, having opened the door with that key. This is house-breaking.

(b) Z is standing in his doorway. A forces a passage by knocking Z down, and commits house-trespass by entering the house. This is house breaking.

(h) Z, the door-keeper of Y, is standing in Y's doorway. A commits house-trespass by entering the house, having deterred Z from opposing him by threatening to beat him. This is house-breaking.

House-breaking by night

446. Whoever commits house-breaking after sunset and before sunrise, is said to commit "house-breaking by night".

Punishment for criminal trespass

447. Whoever commits criminal trespass shall be punished with imprisonment of either description for a term which may extend to three months, or with fine which may extend to five hundred taka, or with both.

Punishment for house-trespass

448. Whoever commits house-trespass shall be punished with imprisonment of either description for a term which may extend to one year, or with fine which may extend to one thousand taka, or with both.

House-trespass in order to commit offence punishable with death

449. Whoever commits house-trespass in order to the committing of any offence punishable with death, shall be punished with [imprisonment] for life, or with rigorous imprisonment for a term not exceeding ten years, and shall also be liable to fine.

House-trespass in order to commit offence punishable with imprisonment for life

450. Whoever commits house-trespass in order to the committing of any offence punishable with [141][imprisonment] for life, shall be punished with imprisonment of either description for a term not exceeding ten years, and shall also be liable to fine.

House-trespass in order to commit offence punishable with imprisonment

451. Whoever commits house-trespass in order to the committing of any offence punishable with imprisonment, shall be punished with imprisonment of either description for a term which may extend to two years, and shall also be liable to fine; and if the offence intended to be committed is theft, the term of the imprisonment may be extended to seven years.

House-trespass after preparation for hurt, assault or wrongful restraint

452. Whoever commits house-trespass, having made preparation for causing hurt to any person or for assaulting any person, or for wrongfully restraining any person, or for putting any person in fear of hurt, or of assault, or of wrongful restraint, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Punishment for lurking house-trespass or house-breaking

453. Whoever commits lurking house-trespass or house-breaking, shall be punished with imprisonment of either description for a term which may extend to two years, and shall also be liable to fine.

Lurking house-trespass or house-breaking in order to commit offence punishable with imprisonment

454. Whoever commits lurking house-trespass or house-breaking, in order to the committing of any offence punishable with imprisonment, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine; and if the offence intended to be committed is theft, the term of the imprisonment may be extended to ten years.

Lurking house-trespass or house-breaking after preparation for hurt, assault or wrongful restraint

455. Whoever commits lurking house-trespass, or house-breaking, having made preparation for causing hurt to any person, or for assaulting any person, or for wrongfully restraining any person, or for putting any person in fear of hurt or of assault or of wrongful restraint, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Punishment for lurking house-trespass or house-breaking by night

456. Whoever commits lurking house-trespass by night, or house-breaking by night, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

Lurking house-trespass or house-breaking by night in order to commit offence punishable with imprisonment

457. Whoever commits lurking house-trespass by night, or house breaking by night, in order to the committing of any offence punishable with imprisonment, shall be punished with imprisonment of either description for a term which may extend to five years, and shall also be liable to fine; and, if the offence intended to be committed is theft, the term of the imprisonment may be extended to fourteen years.

Lurking house-trespass or house-breaking by night, after preparation for hurt, assault or wrongful restraint

458. Whoever commits lurking house-trespass by night or house breaking by night, having made preparation for causing hurt to any person or for assaulting any person, or for wrongfully restraining any person, or for putting any person in fear of hurt, or of assault, or wrongful restraint, shall be punished with imprisonment of either description for a term which may extend to fourteen years, and shall also be liable to fine.

Grievous hurt caused whilst committing lurking house-trespass or house-breaking

459. Whoever, whilst committing lurking house-trespass or house-breaking, causes grievous hurt to any person or attempts to cause death of grievous hurt to any person, shall be punished with [imprisonment] for life, or imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

All persons jointly concerned in lurking house-trespass or housebreaking by night punishable where death or grievous hurt caused by one of them

460. If, at the time of the committing of lurking house-trespass by night or house breaking by night, any person guilty of such offence shall voluntarily cause or attempt to cause death or grievous hurt to any person, every person jointly concerned in committing such lurking house-trespass by night or house breaking by night, shall be punished with [imprisonment] for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Dishonestly breaking open receptacle containing property

461. Whoever dishonestly or with intent to commit mischief breaks open or unfastens any closed receptacle which contains or which he believes to contain property, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Punishment for same offence when committed by person entrusted with custody

462. Whoever, being entrusted with any closed receptacle which contains or which he believes to contain property, without having authority to open the same, dishonestly, or with intent to commit mischief, breaks open or unfastens that receptacle, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Appendix C

THE PAKISTAN PENAL CODE, 1860

Available online: https://pakistancode.gov.pk/english/UY2FqaJw1-apaUY2Fqa-apaUY2NpZpg%3D-sg-jjjjjjjjjjjj.

Of Criminal Trespass

441. Criminal trespass. Whoever enters into or upon property in the possession of another with intent to commit an offence or to intimidate, insult or annoy any person in possession of such property,

or, having lawfully entered into or upon such property, unlawfully remains therewith intent thereby to intimidate, insult or annoy any such person, or with intent to commit an offence, is said to commit "criminal trespass".

442. House-trespass. Whoever commits criminal trespass by entering into or remaining in any building, tent or vessel used as a human dwelling or any building used as a place for worship, or as a place for the custody of property, is said to commit "house-trespass".

Explanation.— The introduction of any part of the criminal trespasser's body is entering sufficient to constitute house-trespass.

443. Lurking house-trespass. Whoever commits house-trespass having taken precautions to conceal such house-trespass from some person who has a right to exclude or eject the trespasser from the building, tent or vessel which is the subject of the trespass, is said to commit "lurking house-trespass".

444. Lurking house-trespass by night.— Whoever commits lurking house-trespass after sunset and before sunrise, is said to commit "lurking house-trespass by night".

445. House-breaking. A person is said to commit "house-breaking" who commits house-trespass if he effects his entrance into the house or any part of it in any of the six ways hereinafter described; or if, being in the house or any part of it for the purpose of committing an offence, or, having committed an offence threin, he quits the house or any part of it in any of such six ways, that is to say:—

Firstly.— If he enters or quits through a passage made by himself, or by any abettor of the house-trespass, in order to the committing of the house-trespass.

Secondly.— If he enters or quits through any passage not intended by any person, other than himself or an abettor of the offence, for human entrance ; or through any passage to which he has obtained access by scaling or climbing over any wall or building.

Thirdly.— If he enters or quits through any passage which he or any abettor of the house-trespass has opened, in order to the committing of the house-trespass by any means by which that pas sage was not intended by the occupier of the house to be opened.

Fourthly.— If he enters or quits by opening any lock in order to the committing of the house-trespass, or in order to the quitting of the house after a house-trespass.

Fifthly.— If he effects his entrance or departure by using criminal force or committing an assault, or by threatening any person with assault.

Sixthly.— If he enters or quits by any passage which he knows to have been fastened against such entrance or departure, and to have been unfastened by himself or by an abettor of the house trespass.

Explanation.— Any outhouse or building occupied with a house, and between which and such house there is an immediate internal communication, is part of the house within the meaning of this section.

Illustrations

(a) A commits house-trespass by making a hole through the wall of Z's house, and putting his hand through the apperture. This is house-breaking.

(b) A commits house-trespass by creeping into a ship at a porthole between decks. This is house-breaking.

(c) A commits house-trespass by entering Z's house, through a window. This is house-breaking.

(d) A commits house-trespass by entering Z's house through the door, having opened a door which was fastened. This is house-breaking.

(e) A commits house-trespass by entering Z's house through the door having lifted a latch by putting a wire through a hole in the door. This is house-breaking.

(f) A finds the key of Z's house door, which Z had lost, and commits house-trespass by entering Z's house, having opened the door with that key. This is house-breaking.

(g) Z is standing in his doorway. A forces a passage by knocking Z down, and commits house-trespass by entering the house. This is house-breaking.

(h) Z, the doorkeeper of Y, is standing in Y's doorway. A commits house-trespass by entering the house, having deterred Z from opposing him by threatening to beat him. This is house-breaking.

446. House-breaking by night. Whoever commits house-breaking after sunset and before sunrise, is said to commit "house-breaking by night".

447. Punishment for criminal trespass. Whoever commits criminal trespass shall be punished with imprisonment of either description for a term which may extend to three months, or with fine which may extend to 1[one thousand five hundred rupees], or with both.

448. Punishment for house-trespass. Whoever commits house-trespass shall be punished with imprisonment of either description for a term which may extend to one year, or with fine which may extend to 1[three thousand rupees], or with both.

449. House trespass in order to commit offence punishable with death. Whoever commits house-trespass in order to the committing of any offence punishable with death, shall be punished with 2[imprisonment for life], or with rigorous imprisonment for a term not exceeding ten years, and shall also be liable to fine.

450. House-trespass in order to commit offence punishable with imprisonment for life. Whoever commits house-trespass in order to the committing of any offence punishable with 2[imprisonment for life], shall be punished with imprisonment of either description for a term not exceeding ten years, and shall also be liable to fine.

451. House-trespass in order to commit offence punishable with imprisonment. Whoever commits house-trespass in order to the committing of any offence punishable with imprisonment, shall be punished with imprisonment of either description for a term which may extend to two years, and shall also be liable to fine; and if the offence intended to be committed is theft, the term of the imprisonment may be extended to seven years.

452. House-trespass after preparation for hurt, assault or wrongful restraint. Whoever commits house-trespass, having made preparation for causing hurt to any person or for assaulting any person, or for wrongfully restraining any person, or for putting any person in fear of hurt, or of assault, or of wrongful restraint, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

453. Punishment for lurking house-trespass or house breaking. Whoever commits lurking house-trespass or house-breaking, shall be punished with imprisonment of either description for a term which may extend to two years, and shall also be liable to fine.

454. Lurking house-trespass or house breaking in order to commit offence punishable with imprisonment. Whoever commits lurking house-trespass or house-breaking, in order to the committing of any offence punishable with imprisonment, shall be punished with imprisonment :of either description for a term which may extend to three years, and shall also be liable to fine ; and if the offence intended to be committed is theft, the term of the imprisonment may be extended to ten years.

455. Lurking house-trespass or house-breaking after preparation for hurt, assault or wrongful restraint. Whoever commits lurking house-trespass, or house-breaking, having made preparation for causing hurt to any person, or for assaulting any person, or for wrongfully restraining any per son, or for putting any person in fear of hurt or of assault or of wrongful restraint, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

456. Punishment for lurking house-trespass or house breaking by night. Whoever commits lurking house-trespass by night, or house-breaking by night, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

457. Lurking house trespass or house-breaking by night in order to commit offence punishable with imprisonment. Whoever commits lurking house-trespass by night, or house-breaking by night, in order to the committing of any offence punishable with imprisonment, shall be punished with imprisonment of either description for a term which may extend to five years, and shall also be liable to fine ; and, if the offence intended to be committed is theft, the term of the imprisonment may be extended to fourteen years.

458. Lurking house-trespass or house breaking by night after preparation for hurt, assault or wrongful restraint. Whoever commits lurking

house-trespass by night or house-breaking by night, having made preparation for causing hurt to any person or for assaulting any person, or for wrongfully restraining any person, or for putting any person in fear of hurt, or of assault, or of wrongful restraint, shall be punished with imprisonment of either description for a term which may extend to fourteen years, and shall also be liable to fine.

1[**459. Hurt caused whilst committing lurking house-trespass or house-breaking.** Whoever, whilst committing lurking house-trespass or house-breaking, causes hurt to any person or attempts to commit *qatl* of, or hurt to, any person, shall be punished with imprisonment for life, or imprisonment of either description for a term which may extend to ten years, and shall also be liable to the same punishment for committing *qatl* or causing hurt or attempting to cause *Qatl* or hurt as is specified in Chapter XVI of this Code.]

1[**460. Persons jointly concerned in lurking house-trespass or house-breaking by night punishable for qatl or hurt caused by one of them.**— If, at the time of the committing of lurking house-trespass by night or house-breaking by night, any person guilty of such offence shall voluntarily cause or attempt to commit *qatl,* of or hurt to, any person, every person jointly concerned in committing such lurking house-trespass by night, or house-breaking by night, shall be punished with imprisonment for life or, with imprisonment of either description for a term which may extend to ten years and shall also be liable to the same punishment for committing *qatl* or causing hurt to attempting to cause *qatl* or hurt as is specified in Chapter XVI of this Code.]

461. Dishonestly breaking open receptacle containing property. Whoever dishonestly or with intent to commit mischief breaks open or unfastens any closed receptacle which contains or which he believes to contain property, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

462. Punishment for same offence when committed by person entrusted with custody. Whoever, being entrusted with any closed receptacle which contains or which he believes to contain property, without having authority to open the same, dishonestly, or with intent to commit mischief, breaks open or unfastens that receptacle, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.