



# INTERNATIONAL JOURNAL FOR LEGAL RESEARCH AND ANALYSIS

Open Access, Refereed Journal Multi Disciplinary  
Peer Reviewed Edition :

[www.ijlra.com](http://www.ijlra.com)

## **DISCLAIMER**

No part of this publication may be reproduced or copied in any form by any means without prior written permission of Managing Editor of IJLRA. The views expressed in this publication are purely personal opinions of the authors and do not reflect the views of the Editorial Team of IJLRA.

Though every effort has been made to ensure that the information in Volume 2 Issue 7 is accurate and appropriately cited/referenced, neither the Editorial Board nor IJLRA shall be held liable or responsible in any manner whatsoever for any consequences for any action taken by anyone on the basis of information in the Journal.

Copyright © International Journal for Legal Research & Analysis

IJLRA

## **EDITORIAL TEAM**

### **EDITORS**

#### **Megha Middha**



*Megha Middha, Assistant Professor of Law in Mody University of Science and Technology, Lakshmanagarh, Sikar*

*Megha Middha, is working as an Assistant Professor of Law in Mody University of Science and Technology, Lakshmanagarh, Sikar (Rajasthan). She has an experience in the teaching of almost 3 years. She has completed her graduation in BBA LL.B (H) from Amity University, Rajasthan (Gold Medalist) and did her post-graduation (LL.M in Business Laws) from NLSIU, Bengaluru. Currently, she is enrolled in a Ph.D. course in the Department of Law at Mohanlal Sukhadia University, Udaipur (Rajasthan). She wishes to excel in academics and research and contribute as much as she can to society. Through her interactions with the students, she tries to inculcate a sense of deep thinking power in her students and enlighten and guide them to the fact how they can bring a change to the society*

#### **Dr. Samrat Datta**

*Dr. Samrat Datta Seedling School of Law and Governance, Jaipur National University, Jaipur. Dr. Samrat Datta is currently associated with Seedling School of Law and Governance, Jaipur National University, Jaipur. Dr. Datta has completed his graduation i.e., B.A.LL.B. from Law College Dehradun, Hemvati Nandan Bahuguna Garhwal University, Srinagar, Uttarakhand. He is an alumnus of KIIT University, Bhubaneswar where he pursued his post-graduation (LL.M.) in Criminal Law and subsequently completed his Ph.D. in Police Law and Information Technology from the Pacific Academy of Higher Education and Research University, Udaipur in 2020. His area of interest and research is Criminal and Police Law. Dr. Datta has a teaching experience of 7 years in various law schools across North India and has held administrative positions like Academic Coordinator, Centre Superintendent for Examinations, Deputy Controller of Examinations, Member of the Proctorial Board*



## Dr. Namita Jain



*Head & Associate Professor*

*School of Law, JECRC University, Jaipur Ph.D. (Commercial Law) LL.M., UGC - NET Post Graduation Diploma in Taxation law and Practice, Bachelor of Commerce.*

*Teaching Experience: 12 years, AWARDS AND RECOGNITION of Dr. Namita Jain are - ICF Global Excellence Award 2020 in the category of educationalist by I Can Foundation, India. India Women Empowerment Award in the category of "Emerging Excellence in Academics by Prime Time & Utkrisht Bharat Foundation, New Delhi.(2020). Conferred in FL Book of Top 21 Record Holders in the category of education by Fashion Lifestyle Magazine, New Delhi. (2020). Certificate of Appreciation for organizing and managing the Professional Development Training Program on IPR in Collaboration with Trade Innovations Services, Jaipur on March 14th, 2019*

## Mrs.S.Kalpana

*Assistant professor of Law*

*Mrs.S.Kalpana, presently Assistant professor of Law, VelTech Rangarajan Dr. Sagunthala R & D Institute of Science and Technology, Avadi. Formerly Assistant professor of Law, Vels University in the year 2019 to 2020, Worked as Guest Faculty, Chennai Dr.Ambedkar Law College, Pudupakkam. Published one book. Published 8Articles in various reputed Law Journals. Conducted 1Moot court competition and participated in nearly 80 National and International seminars and webinars conducted on various subjects of Law. Did ML in Criminal Law and Criminal Justice Administration. 10 paper presentations in various National and International seminars. Attended more than 10 FDP programs. Ph.D. in Law pursuing.*



## Avinash Kumar



*Avinash Kumar has completed his Ph.D. in International Investment Law from the Dept. of Law & Governance, Central University of South Bihar. His research work is on "International Investment Agreement and State's right to regulate Foreign Investment." He qualified UGC-NET and has been selected for the prestigious ICSSR Doctoral Fellowship. He is an alumnus of the Faculty of Law, University of Delhi. Formerly he has been elected as Students Union President of Law Centre-1, University of Delhi. Moreover, he completed his LL.M. from the University of Delhi (2014-16), dissertation on "Cross-border Merger & Acquisition"; LL.B. from the University of Delhi (2011-14), and B.A. (Hons.) from Maharaja Agrasen College, University of Delhi. He has also obtained P.G. Diploma in IPR from the Indian Society of International Law, New Delhi. He has qualified UGC - NET examination and has been awarded ICSSR - Doctoral Fellowship. He has published six-plus articles and presented 9 plus papers in national and international seminars/conferences. He participated in several workshops on research methodology and teaching and*

*learning.*

## **ABOUT US**

INTERNATIONAL JOURNAL FOR LEGAL RESEARCH & ANALYSIS  
ISSN

2582-6433 is an Online Journal is Monthly, Peer Review, Academic Journal, Published online, that seeks to provide an interactive platform for the publication of Short Articles, Long Articles, Book Review, Case Comments, Research Papers, Essay in the field of Law & Multidisciplinary issue. Our aim is to upgrade the level of interaction and discourse about contemporary issues of law. We are eager to become a highly cited academic publication, through quality contributions from students, academics, professionals from the industry, the bar and the bench. INTERNATIONAL JOURNAL FOR LEGAL RESEARCH & ANALYSIS ISSN 2582-6433 welcomes contributions from all legal branches, as long as the work is original, unpublished and is in consonance with the submission guidelines.

# CRIME AND CRIMINALS

Authored By- Prachi Verma

Amity Law School, Amity University Patna

## Abstract

Law according to Black law Dictionary, states that law is “a body of rules of action or conduct prescribed by controlling authority and having binding legal force. That which must be obeyed and followed by citizens subject to sanctions or legal consequence is a law.”<sup>1</sup> Law and morality goes hand in hand and at sometimes it may overlap each other yet there are very different from each other. This paper aims to discuss “what is crime?”, ‘What are the elements of crime” and “What are the stages of crime”. This paper also aims to discuss the ideology of criminals, its types, followed with the situation of criminals in the Indian jails at the present stage.

**Key Words:** Crime, Criminal, Wrong, Morality, Offence, Moral wrong

## Introduction

According to Merriam Webster “wrong” is something which is: injurious, unfair, or an unjust act. It is an action or a conduct inflicting harm without due provocation or just cause.<sup>2</sup> Wrong is something which is unjustified or unethical in nature. Wrong in legal terminology means infringing the rights of others. In simple sense wrong means violation of one’s legal rights with respect to other party, therefore which leads to the violation of law. It is possible that wrong can be based on based or morality. Morality can be understood as a basic structure rather a framework through which a person addresses and expresses their values and believes to the whole world. Morality can be very much linked with personality of a person, morality differs from person to person, as it is possible that anything which is morally right according to one individual may be morally wrong for another individual. Morality is something which every person follows based on their believes system, it is not legally enforceable. Similarly, law is

---

<sup>1</sup>Black’s Law Dictionary, 6th ed., s.v. “law.”

[https://saylordotorg.github.io/text\\_law-for-entrepreneurs/s04-01-what-is-law.html#:~:text=Black's%20Law%20Dictionary%20says%20that,.%2C%20s.v.%20%E2%80%9C%20law.%E2%80%9D](https://saylordotorg.github.io/text_law-for-entrepreneurs/s04-01-what-is-law.html#:~:text=Black's%20Law%20Dictionary%20says%20that,.%2C%20s.v.%20%E2%80%9C%20law.%E2%80%9D)

<sup>2</sup> <https://www.merriam-webster.com/dictionary/wrong>

something which is also followed by every individual but are strictly based on certain rules and regulations.

Law according to *Black law Dictionary*, states that law is “a body of rules of action or conduct prescribed by controlling authority and having binding legal force. That which must be obeyed and followed by citizens subject to sanctions or legal consequence is a law.”<sup>3</sup> Law is something which cannot be summarized in limited words, as it is one of those topics which words can justify its authentic essence. Law and morality are two similar things yet are different at the same time and are often used interchangeably. Morality is something which governs a person’s own conduct in the society in other words it can be understood as, morality is something a set of principles and a sense of understanding which a person makes and follows to survive in the society. It is unwritten set of principles, Simultaneously, Law is also a set of rules which a person follows in the society, in a written format. Violation of law often lead to legal consequences. Law and Morality are different from each other but are interdependent on each other as there are laws which are based on moral grounds, later are interpreted based on different cases.

We all live in a society, a society made up of peoples, by peoples, and these people have created moral rules or norms to live in the society based on certain standards. It is possible that an act can be against these moral rules, therefore immoral in nature. It is said that something which is immoral in nature need not to be a crime. For example, lying, disrespecting, being ungrateful for anything is not a crime. However, theft, robbery, murder is considered as crimes and are punishable under the law.

### **Offence or crime?**

Offence and crime are two similar words and are often confused with its actual meaning. Offence is something when a person violates the norms of the society subjected its consequences. Similarly, a crime is also an offence which has been already committed and punished according to the law. Therefore, crime is subjected to evidence which are supporting a series of events which lead to an offence.

---

<sup>3</sup>*Black’s Law Dictionary*, 6th ed., s.v. “law.”

[https://saylordotorg.github.io/text\\_law-for-entrepreneurs/s04-01-what-is-law.html#:~:text=Black's%20Law%20Dictionary%20says%20that,.%2C%20s.v.%20%E2%80%9C%20law.%E2%80%9D](https://saylordotorg.github.io/text_law-for-entrepreneurs/s04-01-what-is-law.html#:~:text=Black's%20Law%20Dictionary%20says%20that,.%2C%20s.v.%20%E2%80%9C%20law.%E2%80%9D)

## What is Crime?

Any act or omission done by a person that is prohibited by law is known as crime. In other words crime is an act or omission committed by a person which is against the social norms of the society, therefore considering them wrong or may understood as prohibited by law.

## Elements of Crime

There are 4 ingredients of a crime, therefore these 4 ingredients are required to commit any crime under the eyes of law.

- **A Person:** A person becomes an essential element of the crime as without any individual there is no scope of commitment of crime. Here this definition is inclusive in nature, which means “a person” also includes a company, an association, or a body of persons (whether incorporated or not).
- **Mens Rea:** Mens Rea means a “guilty mind”. When a person commits any crime, his actions are considered followed by a “guilty mind” to commit those actions. Mens Rea and intention to commit a crime is two different things. Mens Rea is guilty mind whereas “intention” is the desire of any mind. Intention does not amount to any crime whereas, Mens Rea in any offence amounts to crime.
- **Actus Rea:** Actus Rea is made up of two words act- that means any action, and - which means any illegal omission. Together they are known as any forbidden act done by a person.

**REUM NISI MENS SIT REA:** it means that there can not be a guilty act without any guilty mind.

- **Injury:** Injury is the fourth essential ingredient of the crime. Any crime committed must lead to an injury to the person. The injury can be done to either to the body, mind, reputation or to the property.

## Stages of Crime

Stage of crime can be defined into 4 stages.

- **Intention:** Intention is the desire to do anything, there it is not punishable by the law.
- **Preparation:** Preparation means arrangements of commitment of any crime; therefore, general rule says that it is not punishable by the law.

- Attempt: Attempt is the third stage of crime, here there are actions taken in order to commit a crime, therefore it is punishable by the law.
- Accomplishment: Accomplishment is the fourth and final stage of crime, here the crime has already been committed, therefore it is punishable in nature.

## When moral wrong is not crime

Crime and Morality goes hand in hand. It is important to understand that crime and morality may at times overlap each other but it is not necessary that all things which are morally wrong need not to be crime. For example, people who gossip on any matter is considered morally wrong, but not considered as crime, or love marriage may be morally wrong in the eyes of some but is not considered as a crime.

Recently in Tripuri, Khap Panchayat fined a girl's family for love marriage of their child, outside their community. Khap Panchayat charged 25,000 rupees from girl's family for marrying their daughter outside their community.<sup>4</sup> Therefore it can be understood from this is that a girl's family may marry their daughter to a person who is suitable for her, but this action is considered as morally wrong in the eyes of Khap Panchayat but socially not considered as a crime. Similarly, cases of cheating, where one person lies to another person (at a low gravity) will be considered as morally wrong but not crime. Here in the case of cheating, when a person lies to another person for "x" purposes, which has a very low gravity of the lie, therefore it will not amount to a crime but will definitely be considered a wrong morally.

## Criminals

### Who is a Criminal?

Criminals or criminal are people who have committed or on a verge of committing a crime. It is one of the most basic ideas of a criminal that every individual has, but this definition does not give a complete picture of what criminal actually is. According to law, a person cannot be addressed as a criminal unless and until the person has been proven guilty before the honourable court of justice. A legal maxim *audi alteram partem* is a principle of natural justice, which gives a right to every individual to be heard, and no judgement can be delivered without hearing both

---

<sup>4</sup> <https://www.deccanchronicle.com/nation/in-other-news/181022/khap-panchayat-fines-girl-for-love-marriage-attacks-her.html>

the parties. This maxim gives a right to every individual to be heard and given a chance to prove himself innocent of the charges.

In India, Article 14 and Article 21 of the Indian Constitution talks about the principal of natural justice. Article 14 talks about “Equality before Law”, stating that the state shall not deny any person equality before law or the equal protection of the laws within the territory of India. It means that every person is equal in the eyes of law, and it is the duty of the state that rights that state does not discriminate in any manner or hinder their rights. Therefore, even an alleged accused has a right to stand in the court and demand for the ultimate justice. Similarly, Article 21 talks about “Right to life and personal liberty” stating no person shall be deprived of his life or personal liberty except according to procedure established by law.

## Types of criminals

There are various types of criminals that exists in the society. Here we are narrowing the broad concept into 3 types:

### 1. social criminal

Social criminals are those people who commit any crime based upon the social pressure of the society. Here individuals are influenced by the events that had happened in the society, in their past. One such example can be any social group. A child may get influenced by his friend to steal something from the shop, this act later develops into a regular habit, therefore this action makes them influenced to become a social criminal.

*According to a survey, it was reported that there was an increase of juvenile cases by 5.9% in the year 2015.*<sup>5</sup> From then the number of juvenile cases has taken an exponential rise with every progressing year. From the above news it can be understood that more and more children are getting influenced to commit crime either knowingly or unknowingly. It can also be understood that there is requirement of good, structured education to shape the future of these children.

---

<sup>5</sup> <https://timesofindia.indiatimes.com/city/pune/peer-pressure-and-boredom-lead-to-spurt-in-juvenile-cases/articleshow/55675006.cms>

## 2. economic criminal

Money plays an important role in every individual's life, for children it can either make or break their career. A child who is financial issues throughout his childhood can either motivate him to work hard to earn his lively hood or plant a seed of unlimited wants which can only be cured by making money unethically. *Recently in research it was found out that lack of education and poor economic structure is the common reason that drives minor to a life of crime.*<sup>6</sup> From this it can be understood that, because of the lack of education and poor financial background, children often take the road to the world of criminals. This action can be either to fulfil the basic need or to satisfy the hunger of unlimited material wants.

In an interview, it was reported by Additional Director General of Police that based upon the records of 2015 it was assumed that children who have been caught doing any crime, out of which 34.7 % were not educated beyond primary level and out of which 5.91% of the children were literate.<sup>7</sup>

## 3. habitual criminal

Habitual criminals are those criminals who have a habit of committing a crime. Here there is no fixed requirement of committing any crime, but it is in the nature of the individuals to commit any crime. Crime here can have different gravity, ranging from high to low. One such example can be a serial killer. Serial killers may or may not have any motive to kill people, but they kill to satisfy their own ego. Habitual criminals with low gravity can be people who have a habit of stealing things, not because they are in need, just to satisfy their ego. Here the crime is dependent upon the psychology of the criminal, therefore the childhood background of that persons plays an important role.

Habitual criminals are criminals who have history of past episodes. They commit crime on a repetitive to satisfy their wants. Here the "wants" can be anything. The level of seriousness can only be understood by examining the behaviour of that particular individual. From stealing small things to becoming a serial killer.

---

<sup>6</sup> <https://timesofindia.indiatimes.com/city/pune/peer-pressure-and-boredom-lead-to-spurt-in-juvenile-cases/articleshow/55675006.cms>

<sup>7</sup> <https://timesofindia.indiatimes.com/city/pune/peer-pressure-and-boredom-lead-to-spurt-in-juvenile-cases/articleshow/55675006.cms>

## Present situations of criminals in the Indian Jails

Indian Judiciary has a codified procedure to address sentences based upon the gravity of the crime. Despite of the advancement made in the Indian Legal system, it is believed that when a person is sentenced for a period of time it believed that- the person spending time in prison will take time out from his regular activity and will think upon the acts committed by him and how they are wrong and prohibited by law. It is also believed that when a person is sentenced it gives a second chance to that person to think over and be a better a better person, after he spends time in prison. This defiantly put a burden to Indian judiciary to keep criminals in the Jails. There is huge problem of overcrowding the Jails.

One of the reasons that Indian Judiciary take time to give any judgement in a case is because it believes that “an innocent person should never be punished for the crime he has not committed” , in order to ensure the actual accused person Indian Judiciary takes time to give any judgement in any case therefore to ensure the person they are punishing is the person who is responsible for the crime. Therefore, it takes years to punish a criminal for his crime. It can be taken in both good as well as in bad sense. Good sense- that the correct person is being punished for his crimes. Bad sense- That delays the process of justice and therefore puts a huge load in the Indian Judiciary.

## Problems of Indian Jails

Indian Judiciary believes in the concept of “second chance”, a person who has committed any crime must think about his action and therefore in order to that he is put under sentence based upon the gravity of the crime he has committed. Though this process is tough for Indian Judicial system to take charge of every criminal but does it best to change the mindset of the criminal. Indian judicial system faces many problems with the criminals inside the Indian jails. Some of them can be:

- **Overcrowding inside the jail:** With the increase in the population, there is increase in crime rates, which ultimately leads to increased numbers of criminals inside the jail. The space inside the jails is getting smaller day by day, leading to overcrowding of criminals inside the jails.
- **Unnatural Deaths of criminals:** Unnatural deaths are one of the most serious issues face by criminals inside the jail. This could be because of any internal disputes with other

criminals or may be because of internal politics.

- Hygienic issues inside jail: Hygiene is one of the serious issues faced by the criminals living inside the jail. Living on a strict timetable there are often cases where there is issue of hygiene faced by the criminals living inside the cell.
- Neglect of mental health facilities inside the jail: In today's modern world, mental health is one of the major concerns for everybody, either a normal person or a person fulfilling his time in sentence. It is believed that due to a large number of criminals inside the jails it becomes impossible for the management to keep a track of every criminal's mental health condition.

## Conclusion

This research paper dives deep into the concept of crime and criminals. This Research paper is divided into two parts, first which deals with the concept of crime. The ideology of crime, according to the research, it can be said that crime is an act or omission done by a person that is prohibited by law is known as crime. In other words, crime is an act or omission committed by a person which is against the social norms of the society, therefore considering them wrong or may understood as prohibited by law.

This research paper also deals with the difference between crime, offence and moral wrongs that happens in our society. From the above research it can be concluded that crime, offence, and moral wrongs are very similar to each other, may overlap each other but yet are very different from each other. There is a thin line difference between all the three concepts. This research paper also states the situation when moral wrongs are not crime. This research paper also deals with the ingredients required in any crime along with the stage of crime.

The second part of this research paper deals with the concept of criminals. According to the research, criminals are the people who have committed or on a verge of committing a crime. It is one of the most basic ideas of a criminal that every individual has, but this definition does not give a complete picture of what criminal actually is. This research paper also deals with the types of criminals. According to the research, there are various kinds of criminals that exists into the society, but here in this paper the classification of criminals is don on three basis- First, Social criminals: they are the people who have been influenced or motivated to committee crime by the societal pressure. They are influenced by the society to committee crime. Second, economical

criminal: they are the people who commit crime in order to fulfil their material wants, this may be due to lack of financial structure in the family or by poverty. The main reason to commit crime here is money. Thirdly, habitual criminals: They are the people who develop the habit of committing crime.

This research paper also deals with the current situation of criminals in the Indian jail, the ideology of Indian Judiciary, the “purpose” of putting a person behind the bars. This research paper also deals with the problems faced by the criminals in the Indian jails.

