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Stages of Crime

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○ **Abstract:**

Criminal law is a body that defines the acts which are illegal and can affect the individual, property, society. Crime threatens and harms public welfare and safety. Moreover, criminal law is different from civil law as the latter emphasizes more on providing resolution rather than punishment. Whenever a crime happens and that too intentionally, there is a full-fledged process or stages behind it. In case of every crime, Firstly there is an intention to commit it, Secondly, preparation to commit it, Thirdly, attempt to commit it and Lastly the accomplishment. The law of crimes as old as the civilisation itself. The crime and the criminal in every society is looked with great hatred, but the study of the crimes and discovering the causes of crimes have remain the greatest attraction among the jurists of the jurisprudence. There always lies necessity of devising some ways and methods to curb such criminal tendencies among the section of the people living in the civilised society. The problem arises as to what acts should be forbidden, or what acts should be selected for punishment by the society or the State. The concept of the crime has been always been dependent on the public opinion

Bentham defined Crime as, “offences are whatever the legislature has banned/prohibited for good or for bad reasons. If the question relates to a theoretical research for the discovery of the best possible laws according to the principles of utility, we give the name of offence to every act which we think ought to be prohibited by reasons of some evil which it produces or tends to produce.” Blackstone in his commentaries on the Law of the England has defined Crime as “an act committed or omitted in violation of a Public Law either forbidding or commanding it.” Stephen has suggested a modification in the Blackstone’s version of definition on Crime and states that, “A crime is a violation of a right, considered in reference to the evil tendency of such violation as regards the community at large.” Austin posits that, “A wrong which is pursued at the discretion of the injured party and his representatives is a civil injury; a wrong which is pursued by the sovereign or his subordinates is a crime.”

○ **Key Words:**

Crime, intention, Indian Penal Code, attempt, offence.

○ **Elements of Crime:**

The Chief elements necessary to constitute a crime are:

- A human being under a legal obligation to act in a particular way and a fit subject for the infliction of appropriate punishment;
- An evil intent on the part of such a human being;
- An act committed or omitted in, furtherance of such an intent;
- An injury to another human being or to society at large by such act

The act must have been done by a human being before it can constitute a crime punishable at law. In the ancient legal institutions of punishment being inflicted on animals or inanimate objects for injury caused by them. It changed gradually with the mature thinking of the people. The right of punishment was taken away from the individuals and was transferred to the society. The society undertook to do everything for the individual what he far so far doing for himself. It is a matter of pride that the ancient Hindu criminal jurisprudence did not provide for the trial and punishment of animals and inanimate objects.

They presumed that the offender must be a human being who must have developed maturity of understanding to know the nature of the act of which he is held liable. Therefore, only a human being is under an obligation and capable of being punished can be the proper subject of criminal law. Corporations and other artificial persons known to modern jurisprudence are not capable of being punished, for appropriate punishment means both pecuniary and bodily punishment and the latter cannot be inflicted upon artificial persons.

○ **Mens Rea:**

It is one of the principles of the English criminal law that a crime is not committed if the mind of person doing the act in question is innocent. It is said that *actus non facit reum, nisi mens sit rea* (the intent and act must both concur to constitute the crime). Although, *prima facie* and as a general rule, there must be a mind at fault before there can be a crime, it is not an inflexible rule, and a statute may relate to such a subject-matter and may be so framed as to make an act

criminal whether there has been any intention to break the law or otherwise to do wrong or not. In *Sherras vs. De Rutzen* (1895), the doctrine followed by court states that mens rea is an essential ingredient of every offence, except in three cases:

- Cases not criminal in any real sense but which in the public interest are prohibited under a penalty, e.g. Revenue acts
- Public Nuisance
- Cases criminal in form but which are really only a summary mode of enforcing a civil right.

The maxim *actus non facit reum, nisi mens sit rea* has, however, no application to the offences under the penal code in its purely technical sense, because the definitions of various offences contain expressly propositions as to the state of mind of the accused. The definitions state whether the act must have been done “intentionally”, “voluntarily”, “knowingly”, “dishonestly”, or “fraudulently”, or the like. Every ingredient of the offence is stated in the definitions. So, mens rea will mean one thing or another according to the particular offence. The guilty mind may thus be a fraudulent mind, dishonest mind, negligent or rash mind. Every offence under the code virtually imports the idea of criminal intent or mens rea in some form or other. If, in any case, the Indian legislature has omitted to prescribe a particular mental condition, the presumption is that the omission is intentional. In such, the doctrine of mens rea is not applicable.

○ **Actus Rea:**

Actus Reus is the Latin term used to describe a criminal act. Actus Reus is commonly defined as a criminal act that was the result of voluntary bodily movement. This describes a physical activity that harms another person or damages property. Anything from a physical assault or murder to the destruction of public property would qualify as an actus Reus.

The exception to actus Reus is when the criminal actions are involuntary. This includes acts that occur as a result of a spasm or convulsion, any movement made while a person is asleep or unconscious, or activities participated in while an individual is under a hypnotic trance. In these scenarios a criminal deed may be done, but it is not intentional and the responsible person

will not even know about it until after the fact.

- **Stages of Crime:**

Crime is a human conduct that is believed to be inimical to the social interest. According to Blackstone a crime is an act committed or omitted in violation of a public law either forbidding or commanding it. The purpose of criminal law is to express a formal social condemnation of forbidden conduct, buttressed by sanctions calculated to prevent it. Indian Penal Code (IPC) does not define crime. Section 40 of IPC states that an offence denotes a thing made punishable by the Code. Broadly in every crime there are four stages in the commission of an offence. The first stage exists when the culprit first entertains the idea or intention to commit an offence. In the second stage he makes preparations to commit it. The third stage is when he attempts to commit it. If the third stage is successful then finally the actual commission of the offence takes place.

a. Intension

The first stage exists when the culprit first entertains the idea or intention to commit an offence. In this stage, the motive and plan to commit the crime is facilitated. However, at this stage, no offence is punishable because the intention is a mental concept which is very difficult to prove with certainty. Intent is more complex. Oblique intent can be said to exist where the defendant embarks on a course of conduct to bring about a desired result, knowing that the consequence of his actions will also bring about another result. Eg - D intends to kill his wife. He knows she is going to be on a particular airplane and places a bomb on that airplane. He knows that his actions will result in, the death of the other passengers and crew of the airplane even though that may not be part of his desire. In carrying out the action in this situation D is no less culpable in killing the passengers and crew than in killing his wife as he knows that the deaths will happen as a result of his actions.

b. Preparation-

In the second stage, the culprit makes the preparation to commit the crime. Necessary resources required to commit the offence are gathered at this stage. Preparation and intention alone are not punishable under IPC as there is a possibility that the accused can retract from committing the offence. However, the offences of waging war, dacoity, counterfeiting coins and depredation on territories of Power at peace with Government are punishable at the preparation stage as even preparation of such acts is considered as a crime against the society. As this stage, the intention to cause harms starts manifesting itself in the form of physical actions. Preparation consists of arranging or building things that are needed to commit the crime. For example purchasing poison. In general, preparation is not considered a crime because it cannot be proved beyond.

For example, purchasing knife with an intention to kill someone is not a crime because it cannot be determined whether the knife was bought to kill someone or to chop vegetables and therefore preparation means to arrange the necessary measures for the commission of the intended criminal act. Intention alone or the intention followed by a preparation is not enough to constitute the crime. Preparation has not been made punishable because in most of the cases the prosecution has failed to prove that the preparations in the question were made for the commission of the particular crime.

illustration If A purchases a pistol and keeps the same in his pocket duly loaded in order to kill his bitter enemy B, but does nothing more. A has not committed any offence as Still he is at the stage of preparation and it will be impossible for the prosecution to prove that A was carrying the loaded pistol only for the purpose of killing B.

c. Attempt:

It means an act towards the commission of the offence which fails due to circumstances independent of the attempter's will. It fails owing to the external factors which are beyond the control of the attempter A person commits the offence of 'attempt to commit a particular offence' when

1. He intends to commit a particular offence.
2. He makes preparation for it.
3. Does any act towards its commission

An attempt to commit an offence begins when the preparation ends and a step towards the commission of an offence is taken however such step should be indicative of the intention to commit an actual crime there must be a proximate relation between the two i.e. if the interruption was not caused due to external factor, crime would have been the only result.

A person is said to commit an offence of attempt also in the cases in which he voluntarily desists i.e. repents before the attempt is completed from the actual commission of the crime.

An attempt is made punishable because every attempt though it fails, must create or cause alarm which of itself is an injury to the society. It is necessary to prove for an offence of attempt is that the accused had gone beyond the stage of preparation. An act will amount to mere preparation if the person on his accord, gives it up before the criminal act is carried out.

In order to determine whether a given set of acts constitute attempt or preparation, the test is that whether the overt acts already done are such that if the person changes his mind and does not proceed further the acts already done would be completely harmless.

If they would be so, it would amount to preparation only but where the thing done is such if not prevented by any extraneous cause would fructify into the commission of the offence, it would amount to an attempt to commit the offence.

An act which is impossible to commit cannot be attempted and so is not culpable. However such impossibility must be absolute and not relative. For example if a person shoots a shadow, it shall not be attempt because the commission of such act is impossible but if a person tries to steal from an empty pocket it is an attempt because it is an act towards the commission of the offence and failure of accused is not due to his own act.

Section 511. Punishment for attempting to commit offences punishable with imprisonment for life or other imprisonment-Whoever attempts to commit offence punishable by this Code with imprisonment for life or imprisonment, or to cause such an offence to be committed, and in such attempt does any act towards the commission of the offence, shall, where no express provision is made by thy Code for the punishment of such attempt, be

punished

with imprisonment of any description provided for the offence, for a term which may extend to one-half of the imprisonment for life or, as the case may be, one-half of the longest term imprisonment for that offence, or with such fine as is provided for the offence or with both.

Whoever attempts to commit suicide and does any act towards the commission of such offence shall be punished in IPC. In the case of *GIAN KAUR V. STATE OF PUNJAB* it was held that right to life under Article 21 of the Constitution does not include right to die or right to be killed.

d. **Accomplishment:**

This is the last stage of crime. At this stage, the offence is committed or is completed i.e. the accused succeeds his attempt and causes the injury. Finally, at this stage, the accused is held guilty for the commission of offence and is punished according to the provisions of the Indian Penal Code. If an act remains confined to the first two stages there is, in general, no criminal liability. If intention and preparation were made punishable it would be impossible to prove that the object of an accused was to commit an offence. It is in the third stage that the liability arises. Whether the act is in the second stage or it has entered the third stage is a matter of evidence.

o **Difference Between Attempt & Preparation:**

Attempt to commit crime is punishable, whereas preparation is not. This is because preparation would generally be a harmless act, e.g. attempt to commit murder creates a disturbance in the society and the sense of insecurity in an individual, while preparation may not create alarm in society. According to Indian penal Code an attempt is a continuous proceeding which at one stage assumes criminal character.

1. In **Sudhir kumar Mukharjee v. State of W.B** (12) , Supreme Court held that, attempt to commit an offence begins when the preparation are complete and the culprit commences to do something with the intention of committing the offence and which is a step forward toward the commission of the offence.

2. In **Abhyanand Mishra v. State of Bihar** (13) , Supreme court held that, the movement culprit commences to do an act With the necessary intention, he commences his attempt to commit an offence. Such an act need not be the penultimate act towards the commission of that offence but must be an act during the course of committing that offence.

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○ **Conclusion:**

Through this research and finding of my research project of on Stages of Commission of crime it is concluded that the each and every stage must be taken into account for charging someone as an offender or criminally liable and it is essential that all the stages are fulfilled or satisfied simultaneously and if even one stage is absent it will not amount to crime under IPC. For the commission of crime by person involves four stages viz, formation of the intention or mental element, preparation for commission of crime, acting on the basis of preparation, commission of the act resulting in an event proscribed by law.