

Introduction to Criminal Laws

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Hi Friends!

I am Mr. Jagdish Khobragade, Faculty at School of Law, Dr. Harisingh Gour Vishwavidyalaya Sagar, Madhya Pradesh.

Today we are going to learn about the introduction of Criminal law. This lecture is for the B.A. IIInd year IIIrd Semester Students. But before we are going to start with this lecture we must keep in our mind that why criminal law is required? What are the essential elements of criminal law? Therefore, we will discuss the criminal law in the following modules.

Module I – Introduction

Module II- Nature and Concept of Crime

Module III – Characteristic of Criminal Law

Module IV- Sin and Crime; Tort and Crime

Module V- Conclusion

I. Introduction

Let us start with introduction to criminal law. The Concept of crime is essentially concerned with the social order. In every human civilization there is problem of crime and crimeless society is a dream for every human civilization. Therefore, we should know what is crime? How to control crime in civilized society? What are characteristics of crime? And what are stages of crime? Why there is need of strict laws to enforce criminal law in India.

Historically, the concept of crime seems to have always been changing with the variations in social conditions during the evolutionary stages of human society. Primitive societies do not recognize any distinctions between the law of crime and tort but they know only wrongs. Therefore, we should know **what is criminal law?** Criminal law means a system of law concerned with the punishment of offenders. *Criminal law* is the body of law that relates to *crime*. There are two important sources of criminal law, i.e., Indian Penal Code, 1860, which provides definition of various crimes and punishment for the crime and Code of Criminal Procedure, 1973 which provides procedures for investigation by police and trial of offences by the courts. However, later on it is considered that Indian Criminal Laws are divided into three major Acts i.e. [Indian Penal Code](#), 1860, [Code of Criminal Procedure](#), 1973 and [Indian Evidence Act](#), 1872 etc. Besides these there are special Criminal Laws are also passed by Indian Parliament i.e. NDPS, Prevention of Corruption Act, Food Adulteration Act, Dowry Prevention Act, the Defence of India Act, etc., and there are thousands of minor laws made in India.

II. Nature and Concept of Crime

Under Chapter II we are going to discuss nature and concept of crime. A man cannot live a life without community and communities consist of society and society consists of all kind of human behaviors. And to regulate their behavior there is law, the branch that closely touches and concerns a man in his day-to-day life is criminal law. Many attempts have been made to define crime, but they all fail to identify what kind of act or omission amounts to crime. Perhaps, this is because of the changing notions about crime from time to time and place to place. The very definition and concept of crime varies not only according to the values of a particular group and society, its ideals, faith, religious attitudes, customs, traditions, and taboos, but also according to the form of government, political and economic structure of the society and a number of other factors. For instance, what is an offence against property in a capitalist society may be lawful way of living in a socialist society.

What is permissible in free society may be offence under conservative society. An act, which is a crime today may not be a crime tomorrow, if the legislature so decides. For

example, polygamy, Satipratha, Devdasi system, dowry, untouchability are now crimes that were not so a few years ago. After prohibition laws are promulgated in a particular area, the sale and purchase of liquor becomes a crime which was not a crime in earlier situations. Similarly Parliament can scrap a crime from the statute book and make it lawful. For instance, POTA (Prevention of Terrorism Act, 2002) and TADA, Terrorists and Disruptive Activities (Prevention) Act, 1987, which provided for strict measures and stringent punishments to curb organized crimes and terrorist activities rampant in the country are no more in the statute book. Both the legislations are now non-existence.

In short, Crime is relative term, therefore, what is wrongful at one place may not be necessarily so in another place. Thus, adultery is a criminal offence in India but in England it is merely a civil wrong and redressible by payment of compensation. Again, in India consuming liquor is an offence in many states under their respective prohibition laws but it is not so in wet areas where there is no licensing on sale of liquor. This relativity of crime obviously reflects upon the varying social reactions to human conduct in different places.

What is Crime?

The word crime is derived from Latin word 'Krimos' which means 'to accuse'. It covers those acts which are against social order and deserve disapprobation and condemnation of society.

It is very difficult to give a correct and precise definition of crime. Many jurists have defined crime in their own ways. However, there are some important definitions which are as follows; According to Cross and Jones, "crime as a legal wrong the remedy for which is punishment of the offender at the instance of the State." Oxford Dictionary defines "crime as an act punishable by law as forbidden by statute or injurious to the public welfare." Halsbury defines "crime as an unlawful act which is an offence against the public and the perpetrator of that act is liable to legal punishment." Blackstone defined "crime as an act committed or omitted in violation of a public law either forbidding or commanding it." Stephen observed "a crime is a violation of a right

considered in reference to the evil tendency of such violation as regards the community at large.”

Classification of Crimes

The existence of crime in a society is a challenge to its members due to its direct effect on the social growth. In fact, it leads to huge waste of human energy and an economic loss. Therefore, with the advancement in the field of criminology and behavioral sciences, efforts are being made to work out a commonly acceptable classification of crimes and criminals for providing a rational basis of punishment for various categories of offenders.

There are a variety of crimes such as violent personal crimes, property crimes, occupational crimes, political crimes, public order crimes, conventional crimes, organized crimes, white collar crimes, sexual crimes, crimes against person, property, decency, public order etc. Therefore, these may be categorized into three main heads, namely, i) offences falling under the Code of Criminal Procedure; ii) offences under the Indian Penal Code; and iii) offences under local or special laws or enactments.

Now recently, new kind of crime has emerged that is known as cyber crime. As a result of development of computer science and information technology during last quarter of 20th century, this new kind of crime has emerged. These are crimes either computer generated crime or where computer software is itself a target of crime. A special Act called the Information Technology Act, 2000 has been enacted to tackle these offences and it has been amended in 2008 to introduce some new kind of crimes under this Act.

Objective of criminal law

In criminal law, specific objectives exist to enforce different degrees of crime. Criminal law, in fact, provides punishment for offenders who fail to abide by the laws of their jurisdiction.

However, there are four stages crime, i.e. intention, preparation, attempt and commission. The first two stages are not merely punishable in certain cases. .

For example, 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. But in certain cases only preparation is punishable when the offences are related to the national security. Under criminal law attempt and commission of an offence is punishable under certain circumstances.

Modern consequences in criminal law commonly involve confinement in jail or prison, government supervision or house arrest, fines, seizure of property or money from an offender. Physical punishment is prohibited in most of the jurisdictions around the world.

Criminal Justice refers to the agencies of government charged with enforcing law, adjudicating crime, and correcting criminal conduct. The criminal justice system is essentially an instrument of social control: society considers some behaviours so dangerous and destructive that it either strictly controls their occurrence or outlaws them outright.

Jurisdictions around the world follow five objectives to enforce criminal law punishment: retribution, rehabilitation, restoration, incapacitation and lastly deterrence. The value of each varies between different jurisdictions. In criminal law, specific objectives exist to enforce different degrees of crime. Criminal law, in fact, provides punishment for offenders who fail to abide by the laws of their jurisdiction. The objective of criminal law is to combat crime in the following way, to prevent the occurrence of crime, to punish the criminals, to rehabilitate, to compensate, to deter the offender from committing any criminal act in the future.

III. Characteristics of Criminal law

The fundamental principle of criminal liability is that there must be a wrongful act i.e. actus reus, combined with a wrongful intention i.e. mens-rea. This principle embodied in the maxim, “actus non facit reum nisi mens sit rea”, which means “an act does not make one guilty unless there is criminal intent in mind.” This principle was developed by common law courts. A mere criminal intention not followed by a prohibited act cannot constitute a crime. Similarly, mere actus reus ceases to be a crime as it lacks mens rea. No act is per se criminal; it becomes criminal only when the actor does it with guilty mind. Apart from this there are certain characteristics of a crime which make an unlawful act or omission punishable under the law of the land. The main characteristics of a crime are as follows:

1. External Consequences:- Crime always have a harmful impact on society and human being, may it be social, personal, emotional or mental. The harm must have been actually caused. Mere intention to cause harm does not constitute a crime.
2. Must be forbidden by law:- Any immoral behavior is not a crime unless it has been forbidden in advance. For instance, live-in-relation is not a criminal conduct as there is no outlaw it.
3. Mens-rea or guilty mind:- Mens-rea is one of the essential ingredients of a crime. It may, however, be direct or implied. The implied mens-rea is otherwise termed as constructive mens-rea. In simple, there should be guilty mind or guilty intention to commit a crime.
4. An act (Actus-reus):- There should be an act or omission to constitute a crime. Intention alone shall not constitute a crime unless it is followed by some external or overt act. Omission means not doing anything where he is bound to do something. For example, a police officer may have a duty to act to prevent an assault and if he does not, he will be liable to be punished under the law.

5. Prohibited act: The conduct should be prohibited or forbidden under the existing penal law. An act, howsoever immoral, shall not be an offence unless it is prohibited by law of the land.
6. Punishment: The act in order to constitute a crime should not only be prohibited by law but should also be punishable by the state in terms of fine or imprisonment.

Module IV- Sin and Crime; Tort and Crime

Under chapter IV we are going to discuss sin and crime, tort and crime, which are basic concepts of criminal law. Generally, sin is referred to wrongdoing by an individual against the religion, God and morality of society. There is no punishment for committing sin because it has feeling of guiltiness to particular individual. And it is believed that sinner will be punished by the God or he will get punished through his own deeds. Whereas, crime is an offence against the state and punishable by the law because there is sanction behind law. Tort is civil wrong and under tort plaintiff get compensation for violations of tort law. Though there is some kind of similarity in sin and crime, the two radically differ in their content, scope and consequences.

Sin and Crime

The concept of sin emanates from religion like Hindu sin is offence against God and in Muslims sin is offence against Islamic ethics. Islam teaches that sin is an act and not a state of being. It is believed that Allah weighs an individual's good deeds and against his or her sins on the Day of Judgment and punishes those individuals whose evil deeds outweigh their good deeds.

Whereas, crime is a legal proposition and it is an offence against state and person. Sin is result in violation of rules of religion or morality while crime involves breach of law. A sinner is punished by God but a criminal is punished by the State. There is no direct injury or harm in case of a sin but a crime necessarily involves some kind of direct injury. The remedy for a sin is penance whereas a person who commits a crime is subjected to a term of sentence by the court of law.

Tort and Crime:

Torts: A tort is a wrongful act that injures or interferes with another's person or property. A tort case is a civil court proceeding. The accused is the "defendant" and the victim is a "plaintiff." The charges are brought by the plaintiff. If the defendant loses, the defendant has to pay damages to the plaintiff.

Crimes: A crime is a wrongful act that the state has identified as a crime. A criminal case is a criminal proceeding.

A tort is a private wrong, whereas a crime is a public wrong. A tort is an infringement or privation of the civil rights which belong to individuals, considered merely as individuals, while crime is a public wrong. **Crime** is a breach and violation of the public rights and duties due to the whole community, in its social group.

An offence, which is punishable as a crime, may also be treated as a tort if it is shown that it has caused special injury to an individual, and gives rise to a civil action, if the aggrieved individual proves that the injury suffered by him is different from the suffered by the general public.

Criminal law and Morality:

Crime is narrower than morality. There is no such society where attempt has been made to treat every moral defect as a crime. The idea of crime involves the idea of some definite offence under the society, whereas moral values differ according to society. Sinful thought and dispositions of mind might be the subject of confession and of penance, but not of criminal proceedings. Criminal law confined to certain acts or omission capable of being proved. Therefore, now a crime is defined as an act forbidden and punishable by law and it is immaterial whether such an act is moral or

immoral from the ethical point of view. No doubt, most of the immoral acts which were traditionally considered as crime are treated as crime even today. For example, callous disregard for suffering of others, hard-heartedness, ingratitude etc., are not regarded as crime though they are against morality.

V. Conclusion

The recent developments in the field of social science, psychology and other behavioural sciences have brought change in the criminal law. It has been generally accepted that crime is a product of various factors and therefore it requires remedy according to the notion of crime. It may be concluded that with the advancement of society, there is great danger to human being. The crime in India has been constantly increasing the offences against women and children, sexual offences, rape, murder, theft, dacoity etc., have grown in large proportions. With the emergence of information technology and computers, a new variety of crime called cyber crime are posing threat to the criminal law administrators. Therefore, to control all these kind of crimes a proper criminal law and criminal justice system is required. Since the making of Indian Penal Code, it has proved that it is the best law ever to control crime in India. It must, however, be emphasized that the crime and its related concepts of criminal law are the subject matter of criminology, and are essentially concerned with human behavior. Since, human behavior cannot be defined in exact terms; there is need of different treatment for different behavior of criminals. Lastly, crime is an offence against the state and person. In any civilized society commission of crime is not acceptable and

punishment in the form of fine or imprisonment for the offence is only the solution to prohibited criminal in furtherance of an act.

LOR

1. What is crime?

Answer: The word crime is derived from Latin word 'Krimos' which means 'to accuse'. It covers those acts which are against social order and deserve disapprobation and condemnation of society. Oxford Dictionary defines "crime as an act punishable by law as forbidden by statute or injurious to the public welfare". According to Cross and Jones, "crime as a legal wrong the remedy for which is punishment of the offender at the instance of the State".

2. What is objective of criminal law?

Answer: In criminal law, specific objectives exist to enforce different degrees of crime. Criminal law, in fact, provides punishment for offenders who fail to abide by the laws of their jurisdiction. The objective of criminal law is to combat crime in the following way, to

prevent the occurrence of crime, to punish the criminals, to rehabilitate, to compensate, to deter the offender from committing any criminal act in the future.

FAQs

1. What are stages of crime?

Answer: There are four stages crime, i.e. intention, preparation, attempt and commission. The first two stages are not merely punishable in certain cases.

2. What is classification of crime?

Answer: There are a variety of crimes such as violent personal crimes, property crimes, occupational crimes, political crimes, public order crimes, conventional crimes, organized crimes, white collar crimes, sexual crimes, crimes against person, property, decency, public order etc. Therefore, these may be categorized into three main heads, namely, i) offences falling under the Code of Criminal Procedure; ii) offences under the Indian Penal Code; and iii) offences under local or special laws or enactments.

3. What is mens rea?

Answer: Mens-rea is one of the essential ingredients of a crime. It may, however, be direct or implied. The implied mens-rea is otherwise termed as constructive mens-rea. In simple, there should be guilty mind or guilty intention to commit a crime.

4. What is actus reus?

Answer: There should be an act or omission to constitute a crime. Intention alone shall not constitute a crime unless it is followed by some external or overt act. Omission means not doing anything where he is bound to do something. For

example, a police officer may have a duty to act to prevent an assault and if he does not, he will be liable to be punished under the law

5. What is the difference between sin and crime?

Answer: The concept of sin emanates from religion like Hindu sin is offence against God and in Muslims sin is offence against Islamic ethics. Whereas, crime is a legal proposition and it is an offence against state and person. Sin is result in violation of rules of religion or morality while crime involves breach of law. A sinner is punished by God but a criminal is punished by the State. There is no direct injury or harm in case of a sin but a crime necessarily involves some kind of direct injury. The remedy for a sin is penance whereas a person who commits a crime is subjected to a term of sentence by the court of law.

6. What is the difference between tort and crime?

Answer: A tort is a private wrong, whereas a crime is a public wrong. A tort is an infringement or privation of the civil rights which belong to individuals, considered merely as individuals, while crime is a public wrong. **Crime** is a breach and violation of the public rights and duties due to the whole community, in its social group. An offence, which is punishable as a crime, may also be treated as a tort if it is shown that it has caused special injury to an individual, and gives rise to a civil action, if the aggrieved individual proves that the injury suffered by him is different from the suffered by the general public.

7. What is the difference between crime and morality?

Answer: Crime is narrower than morality. The idea of crime involves the idea of some definite offence under the society, whereas moral values differ according to society. Sinful thought and dispositions of mind might be the subject of confession and of penance, but not of criminal proceedings. Criminal law

confined to certain acts or omission capable of being proved. Therefore, now a crime is defined as an act forbidden and punishable by law and it is immaterial whether such an act is moral or immoral from the ethical point of view.

8. Why criminal law must be forbidden by law?

Answer: Because, any immoral behavior is not a crime unless it has been forbidden in advance. For instance, live-in-relation is not a criminal conduct as there is no outlaw it.

9. Why criminal law must have external Consequences?

Answer: Crime always have a harmful impact on society, may it be social, personal, emotional or mental. The harm must have been actually caused. Mere intention to cause harm does not constitute a crime.

10. What is criminal justice system?

Answer: Criminal Justice refers to the agencies of government charged with enforcing law, adjudicating crime, and correcting criminal conduct. The criminal justice system is essentially an instrument of social control: society considers some behaviours so dangerous and destructive that it either strictly controls their occurrence or outlaws them outright.

Assignment:

- 1. Write down the various classifications of crimes?**
- 2. What are essential elements of crime?**
- 3. What is the nature and concept of crime?**

Quiz

- 1. The Fundamental principle of criminal liability is embodied in the maxim "actus non facit reum nisi mens sit rea". The maxim was developed by:**
 - A) Equity Courts**
 - B) Common Law Courts**

- C) Sadar Nizamat Court
- D) None of the above.

2. Which of the following is not essential element of crime?

- A) mens-rea
- B) actus-reus
- C) Both A and B
- D) None of the above

3. Which of the following is not objective of criminal law?

- A) Retribution
- B) Rehabilitation
- C) Deterrence
- D) None of the Above

4. Which of the following is not tort?

- A) Private wrong
- B) Nuisance
- C) negligence
- D) grievous hurt

5. Which of the following law is not criminal law?

- A) The Indian Contract Act,1872
- B) The Indian Evidence Act,1872
- C) Indian Penal Code,1860
- D) Code of Criminal Procedure,1973

6. Which of the following is not essential for an offence?

- A) Intention
- B) Motive
- C) Prohibited act
- D) Punishment for act

7. Common intention means-

- A) Similar intention

- B) Same intention
- C) Sharing of intention by all person
- D) Common plans

8. Mens-rea means-

- A) guilty mind
- B) good mind
- C) positive mind
- D) negative act

9. Actus-rea means-

- A) guilty act or omission
- B) not guilty act
- C) moral act
- D) none of the above

10. Sin is an offence against –

- A) the State
- B) the God
- C) the law of land
- D) none of the above

11. Crime is an offence against-

- A) the State
- B) the person
- C) the property
- D) All of the above

Answers: 1. B, 2. D, 3. D, 4.D, 5. A, 6. B, 7. C, 8. A, 9. A, 10. B, 11. D.

Objective:

The nature and concept of Crime is very important to understand the objective of crime and to punish the offender according to the law of land. The objective of criminal law is to combat crime in the following way, to prevent the occurrence of crime, to punish the criminals, to rehabilitate, to compensate, to deter the offender from committing any criminal act in the future. There are many characteristics of crime which show the existence of criminal activity in particular actions of the human mind. There is also a difference between sin and crime, tort and crime, though sometimes it creates confusion while interpreting crime.

Summary:

The Criminal law in India has immense importance. Criminal law means a system of law concerned with the punishment of offenders. *Criminal law* is the body of law that relates to *crime*. There are two important sources of criminal law: the Indian Penal Code, 1860, which provides the definition of various crimes and punishment for that crime, and the Code of Criminal Procedure, 1973, which provides procedures for investigation by police and trial of offences by courts. However, later on it is considered that Indian Criminal Laws are divided into three major Acts, i.e. [Indian Penal Code](#), 1860, [Code of Criminal Procedure](#), 1973 and [Indian Evidence Act](#), 1872. Apart from these, there are many special Acts and enactments for the prevention of crime in India.

Glossary:

Attempt: make an effort to achieve or complete (something difficult)

Intention: a thing intended; an aim or plan.

Omission: a failure to fulfill a moral or legal obligation.

Motive: a reason for doing something.

Preparation: the action or process of preparing or being prepared for use or consideration.

Accomplishment: something that has been achieved successfully.

Mens rea: the intention or knowledge of wrongdoing that constitutes part of a crime, as opposed to the action or conduct of the accused.

Actus Reus: action or conduct which is a constituent element of a crime, as opposed to the mental state of the accused.

NDPS: The Narcotic Drugs and Psychotropic Substances Act, 1985,

Evidence: the available body of facts or information indicating whether a belief or proposition is true or valid

Retribution: punishment inflicted on someone as vengeance for a wrong or criminal act.

Rehabilitation: the action of restoring someone to health or normal life through training and therapy after imprisonment, addiction, or illness.

Restoration: the action of returning something to a former owner, place, or condition.

Incapacitation: Incapacitation in the context of sentencing philosophy is the effect of a sentence in positively preventing (rather than merely deterring) future offending

Deterrence: the action of discouraging an action or event through instilling doubt or fear of the consequences.

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