

ANALYTICAL STUDY AND STAGES OF CRIME UNDER THE INDIAN PENAL CODE 1860

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Abstract: Every person in India is required to follow the law in order to survive the classification of people in society according to factors such as language, birthplace, age, caste, and religion. One of the few ancient civilizations in history is that of India. In terms of culture, philosophy, religion, society, people, and languages, India is incredibly rich. It is obvious that a peaceful society is necessary, and in order to achieve this, crime must be under control, which means that illegal activity must be stopped for the good of society. Although it may not always be attainable, we constantly strive to live in a society where there is less crime. Only when the state enforces law and order extremely firmly is it possible to live in peace without being afraid of or victimised by crime. The society is able to maintain peace and order thanks to an effective and strict penal code. Crime refers to a number of significant phases. The Indian Penal Code of 1860's stages of crime are well outlined in the article.

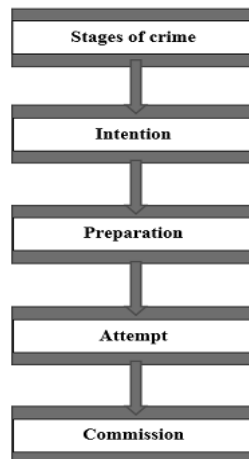
Keywords: Criminal Law, I.P.C. 1860, Law and Order, Stages of Crime, Analytical Study

1.0 Introduction

Prior to reading the article, we must first define the word "crime". Crime: What Is It? The job of defining the crime is tremendous. All crime is a form of disease, and it should be treated as such, according to Mahatma Gandhi Bapu. Violence-free India will achieve freedom, but there won't be any criminals. They won't face punishment. Like any other disease, crime is a symptom of the social structure that is already in place. So, all criminal activity, including murder, will be handled like an illness. Another debate is whether a country like India will ever exist. 2 Except in the two [Chapters] and sections listed in clauses 2 and 3 of this section, the word "offence" implies a thing made punishable by this Code, according to Section 2(4) of the Indian Penal Code of 1860.

The commission of a legally forbidden act or the failure to perform a legally required act are both considered crimes. In other words, breaking the law can be a definition of crime. The fact that a crime impacts the public interest rather than a single person's rights, which should be governed by civil law, is another crucial component of crime.

Criminal law in India is administered through both substantive and procedural law. The Indian Penal Code, 1860 (the Code) is part of the substantive law, and the Code of Criminal Procedure, 1973 is part of the procedural law (Cr.P.C.). There are four steps in the committing of a crime, according to these laws tacitly and in several court judgments. The discussion of the same forms the focus of the current article.



2.0 Levels of Crime:

Intention, planning, attempt, and accomplishment are the stages of a crime or its components. The components that make up a crime are all present. Even before the crime is actually committed, some of these factors may still be punished. The following details can be provided for each stage:

2.1 Intention: Mens rea and actus reus- the intention to commit a crime and the deed carried out in furtherance of that intention are the two essential components of a crime. Only when someone has a mala fide intention will their criminal liability be determined. After taking the motive into account, the behaviour toward the objects is what informs the decision. Since it is virtually impossible to know someone else's intentions, mere intention shall not be considered a crime. According to the proverb, "the devil himself knows not the aim of a man." At this point, it is impossible to determine a man's criminal liability because it is difficult to know his intentions.

2.1.1 Male rea: Mens rea is Latin for "guilty mind." This essentially implies that the criminal is aware of his or her actions and is aware that carrying them out would constitute a crime. To put it simply, a crime must be committed with malicious intent. Mens rea can also be divided into four categories based on how seriously someone intended to commit a crime. They are as follows:

2.1.2 Negligence: This is the least severe type of mens rea, where the person is careless in his or her conduct and does not use reasonable caution in doing so.

Recklessness: This is a little more extreme form of negligence than when someone acts carelessly despite knowing that they may commit a crime as a result of their actions or inaction.

Knowledge: The third level of knowledge is when a person is aware of the hazards involved with his actions but still chooses to take them. He or she is not being careless here.

The highest amplitude is when someone consciously does something or leaves something out in order to commit a crime.

2.1.3 In Actus Reus

The act or omission of a person that results in a crime and requires some bodily activity is known as an actus reus. It is crucial to remember that a crime might consist of both an act and an omission. For instance, it is illegal to fail to pay upkeep or taxes.

2.2 Preparation

Preparation is the following stage in a crime. It could be interpreted as an action taken to further someone's malicious intent. It is an act that can be used to attempt and complete a crime. In the previous example, if A legally purchases a weapon and carries it with him, that constitutes planning the crime.

2.2.1 The Justifications for not Punishing Preparation

The general rule of the law is that the act of planning a crime is not criminally responsible. The general rule was established because it is incredibly difficult to demonstrate that the accused planned to commit the crime. In addition, the locus penitential test is used when the culpability of preparation is in doubt. The test gives a person the chance to back out of their planned crime before they actually carry it out. The sections that follow have more details about the test.

Examples where criminal responsibility may be imposed

Under the Code, there are some exceptions to the general rule that one cannot be charged with a crime for planning an act. These exclusions consist of:

War preparations against the Government of India - Section 122 of the Code states that gathering weapons, ammunition, or forming ties with individuals with the intent to wage war against the State is a crime punishable by a term of imprisonment not to exceed ten years, as well as a fine.

Coin forgery is punishable under Sections 233, 234 and 235 of the Penal Code, including the possession of any counterfeit coins. This includes forging Indian coins. These regulations also outline penalties for planning to create or use a fake coin.

Manipulation of coin weight: According to Sections 244, 246 and 247 of the Code, modifying or reducing the weight of any coin is punishable by law. In these situations, even the planning of such actions is illegal.

Falsifying government stamps - According to Section 255 of the Code, “Whoever falsifies, or knowingly performs any part of the process of falsifying, any stamp issued by the Government for the purpose of revenue 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.” In addition, the clause makes it unlawful to have (Section 256) and sell (Section 257) counterfeit government stamps.

Making preparations to commit a dacoity is punishable by rigorous imprisonment for a term that may last up to ten years and is also subject to a fine, according to Section 399 of the Code.

Possession of false documents carries a sentence of up to one year in prison under Section 474 of the Code. The purpose of the clause is to stop any fraud that might be committed using such counterfeit documents.

Due to the seriousness of the consequences of the crime, if it were to be committed, these offences are punishable at the planning stage.

3.0 Attempt

The line separating preparation for a crime from an attempt to commit one is extremely thin. It could be described as an action that furthers someone’s preparation and intention to commit a crime. As a result, “preliminary crime” is often used to describe an attempt to commit a crime. According to the Code, making an attempt to commit a crime is illegal. It has been made available under a number of clauses for particular crimes. However, Section 511 of the Code comes into play when there is no penalty for an attempt to commit a specific crime. Following is a list of some of the particular Code provisions under which an attempt to commit a crime is prohibited:

Section 121 – Attempt to wage a war;

Section 131 – Attempt to seduce a soldier, sailor or airman from his duty;

Section 307 – Attempt to murder;

Section 308 – Attempt to culpable homicide;

Section 309 – Attempt to suicide;

Section 326B – Attempt to throw suicide;

Section 356 – Attempt to commit theft;

Section 357 – Attempt to wrongfully confine a person;

Section 393 – Attempt to commit robbery;

Section 397 – Robbery or dacoity with an attempt to cause death or grievous hurt;

3.1 Conditions in Which Failure to Attempt Occurs:

An attempt to do an impossible act is not punished, according to 19th-century English law. The idea that an attempt cannot be made on a crime that cannot be committed was used to decide cases in the early 19th century. Therefore, even if a pickpocket reaches into a victim’s empty pocket, he will not be held accountable.

However, in the latter part of the 19th century, the courts overturned the judgements because they believed the idea to be illogical and unreasonable. It was the first time an impossible act was attempted to be punished.

Particularly stated in Section 511 of the Code, any attempt to commit an impossibility is punishable. The examples given in the provision are representative of the same. Thus, trying to commit an impossibility is illegal according to the Indian Penal Code.

3.2 The Distinction between Planning and Trying

The distinction between planning and attempting to commit a crime is very important. It can establish a person’s criminal responsibility. The main distinction between the two is whether or not the victim is affected by an act that has already been completed during the course of the crime. It is regarded as an attempt if it has an effect; otherwise, it is regarded as merely preparation. The Courts have attempted to distinguish between the two in a number of cases using a variety of tests, which will be covered in the following paragraphs.

3.3 Tests to Identify Attempts to Commit Crimes

3.3.1 Proximity Rule - According to the proximity rule, in situations where the accused completes a string of activities in furtherance of his intention to commit a crime, the responsibility will be determined by how close those acts were to being completed when the crime was actually committed.

3.3.2 Poenitentiae Locus - According to the locus poenitentiae doctrine, if a person abstains from committing the crime, it would only count as preparation. After considering that a person had a plausible opportunity to stop committing the crime, the doctrine was developed.

The equivocality test holds that an act should be considered an attempt to perform the crime rather than merely preparation if it can demonstrate beyond a reasonable doubt how likely it is to be done.

Accomplishment

When a crime is effectively committed, it has been successfully attempted. Everyone is responsible for the act, offence, or crime that they complete or commit. The Code's clauses outline particular penalties for numerous offences committed in the nation.

4.0 The Point at Which Liability Arises

The discussion above demonstrates how these four stages of crime determine an accused person's criminal responsibility. Undoubtedly, a person will become criminally liable depending on their level of achievement. However, the description above shows how the liability might start even at the attempt and, in some situations, even at the planning stage. Typically, when this happens, a severe crime has been committed that threatens society. Therefore, determining liability at such a stage primarily serves to have a deterrent effect on people and stop them from committing such heinous crimes.

Judiciary Decisions/Judgement

King v. Asgarali Pradhania

In this case, the Calcutta High Court, while distinguishing between an attempt to commit an offence and its preparation, was of the opinion that not every act done by the accused can constitute an attempt to commit the said offence. The facts of the case included the accusation of an attempt to cause a miscarriage of his ex-wife. The Court held that if the accused, with an intention to administer a drug which shall cause a miscarriage, administers any harmless substance instead, he shall not be liable for the attempt to cause miscarriage. However, if the failure of the accused is caused by someone else, it shall result in the contrary.

4.1 Madan Lal v. State of Rajasthan (1986)

In this case, the convict was sentenced to rigorous imprisonment for two years when found guilty of attempting to commit rape of the victim under Section 376 read with Section 511 of the Code. The facts of the case included three prime witnesses, who found the convict laid down naked on the victim, who was also found naked, and the mouth of the victim was covered by the convict's hand. It was established the convict himself removed his clothes and that of the victim and had an intention to rape the victim.

The Court, while analysing the stage of attempt, held that "It is the stage beyond preparation and it precedes the actual commission of the offence. An attempt to commit an offence is not meant to cover only the penultimate act towards the completion of an offence but it also covers all those acts or series of acts which travel beyond the scope of preparation and exhibit a definite intention and determination to commit a particular offence. It need not be an act which just precedes the last act on the happening of which the offence itself is committed but it covers all those acts or series of acts which may precede the penultimate act towards the commission of that offence."

4.2 Madhya Pradesh State v. Narayan Singh (1989)

The Hon'ble Supreme Court ruled in this case that there are four steps to the commission of an offence: intention, preparation, attempt, and commission. These offences' first two phases would not be considered culpable, but their final two phases would. In this instance, the respondents attempted to export fertilisers from Madhya Pradesh to Maharashtra without a licence. As a result, the conduct was viewed as an effort at the crime rather than merely preparation.

4.3 Senior Superintendent of Police v. Nasim (2002)

According to the UP Prevention of Cow Slaughter Act, 1955, this case involves cow slaughter, which is punishable by law. In this instance, it was discovered that the petitioner was sitting on top of a cow with all of its legs tied, carrying a 38 cm-long knife. A FIR that had been registered under Sections 3 and 8 of the contested Act was the subject of the present petition. The Hon'ble Allahabad High Court found that preparation had been made by the petitioner and that he would have progressed to the third stage, i.e. attempt, had he not been prevented, citing the

Narayan Singh case (1989) as described above. He therefore had criminal accountability because under the stated Act, both the attempt and the completion of a crime would have resulted in liability.

4.4 State of Tamil Nadu v. Mathivanan (2021)

In this instance, the Madras High Court reaffirmed that while the third and fourth stages (attempt and achievement) are normally guilty, the first and second stages (intention and preparation) are generally not. The offences under Sections 122 and 399 of the Code are exceptions to this general rule, nevertheless.

The Court stated in its analysis of Section 122 of the Code that “waging war would entail multiple phases and crossing of stages. Both the mobilisation of men and the stockpiling of weapons and ammunition are necessary. A concerted effort would be necessary for it. Each member of the conspiracy to wage war may be given a specific assignment. A mission may be given to one to gather men, another to gather weapons, and a third to gather ammo. In this situation, the phrase “else prepares” should not be interpreted under the ‘ejusdem generis’ principle. One might be involved in fund raising. The person who provides reinforcements can be someone else. Some people might be working on the logistics. Some people might be active in the intellectual sphere. There might be a number of dimensions. They are all included in the definition of “otherwise prepares.” However, courts will set a higher bar when it comes to applying the clause to specific facts, as already held.

4.5 State of Punjab v. Satvir Singh (2001)

In this instance, the appellants were charged with encouraging the wife of the chief appellant to attempt suicide. The question before the court was whether the person bothering the victim would be responsible for aiding in the commission of suicide in the event that the victim attempted suicide as a result of the harassment. The Court responded negatively, holding that attempting to abet an offence will only result in punishment if the offence has already been committed, proving effective abetment. The abettor will not be held responsible if the alleged crime is not actually committed.

4.6 State of Bihar v. Abhayanand Mishra (1961)

In this instance, the appellant was a candidate for the M.A. in English programme at Patna University who was taking the admission exam. The appellant said on his application form that he possessed a degree and had begun teaching in several institutions after receiving it. However, the University didn’t discover the information was false until after sending him his exam admit card. Under Section 420 of the Code read with Section 511 of the Code, both the lower court and the High Court found him guilty. The appellant said that there was no attempt to commit fraud and that it was just preparation in the appeal before the Honourable Supreme Court. The Court disagreed, concluding that the appellant’s submission of the fake information constituted preparation for fraud and that the delivery of the forged documents amounted to an attempt. The court reaffirmed that an attempt could refer to any conduct that advances the preparation rather than only the penultimate act.

5.0 Conclusion

The judicial system has long recognised and used the four stages of a crime. To determine the degree of guilt for a crime at each level, these stages must be classified. As the courts cannot ignore the legal principle of locus poenitentiae, culpability typically arises during the actual conduct of the crime as well as any attempts to commit the crime. Differentiating between criminal preparation and criminal attempt is a frequent issue that courts must deal with. The courts have rendered decisions in a number of cases where an effort has been made to draw a distinction between an attempt and the planning of a crime. An attempt should not merely be viewed as the predicate act of a crime, according to the courts. Instead, a succession of actions will constitute an effort to commit the crime, and each case’s facts and circumstances will determine how to distinguish between preparation and attempt.

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