

CLAT 2019



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Law of Crimes

Session 1 : Introduction to Crime

Law of Crimes

A What do we understand by Crime?

- The term 'Crime' denotes an unlawful act and this unlawful act is punishable by a state. Crime as a concept is so broad that there is no single, universally accepted definition to it. But, for the sake of convenience, several countries provide statutory definitions of various kinds of unlawful activities, which can be identified as crimes.

A What do we understand by Crime?

- A common principle about Criminal Law is that, unless an activity is prohibited by law, it does not qualify as a crime. Incidents of crime hurt not only the individual, but also the state. Therefore, such acts are forbidden and punishable by law. The body of laws which deals with imposing punishments on crimes is known as Criminal Law.

Categories of Crime:

- **Crimes against Persons:** Crimes against persons (also called personal crimes) include murder, aggravated assault, rape, and robbery.



Categories of Crime:

- **Crimes against Property:** Property crimes involve theft of property without bodily harm, such as burglary, larceny, auto theft and arson.



Categories of Crime:

- **Crimes against Morality:** There are several crimes where there is no bodily harm or any kind of harm to the property as well. Yet, these Crimes are deemed as immoral activities and hence are unacceptable. *Prostitution, illegal gambling, and illegal drug use are all examples of such crimes.* Also, **Crimes against morality are also called victimless** crimes because more than often there is no complainant or victim and it is generally the **State which takes suo motu cognizance of these offences.**

- **White-Collar Crime:** White-collar crimes are generally economic offences that are committed by people of high social status. They commit these crimes in their respective occupations. Examples are **embezzling (stealing money from one's employer), insider trading, and tax evasion and other violations of income tax laws. Instance of corruption, bribery and large-scale scams fall in the category of white collar crimes.**

White Collar Crimes

When discussing a white collar crime, it contains a various amount of crimes, generally all crimes that are committed through deception and persuaded by financial gain. Here you can find some white collar crime examples:

Fraud

Fraud is what makes up the majority of the white collar crimes. Fraud is generally to serve the purpose of deceiving an individual for monetary advantage. One of the familiar types of white collar fraud is securities fraud.

Securities Fraud

There are a various amounts of securities fraud, but one of the more familiar types is known as insider trading. Insider trading is when an individual with inside information about investment or a company exchanges the information in infringement of a duty or agreement.

Embezzlement

Embezzlement is the act of inappropriately taking money from an individual to whom you owe a type of obligation. There are many types of embezzlement, however, there are lawyers in which use the funds of the client inappropriately.

Tax Evasion

Criminal tax evasion is a crime in which the individual attempts to bypass paying taxes which he or she would otherwise be obligated to pay.

Money Laundering

Money laundering is the illegal action of obtaining illegal acquired money, also known as dirty money. This is done through a sequence of transactions that serve the purpose of making the money be seen as if it was made by the company.



Information Shared by: <http://snlgllc.com>

- **Organized Crime:** Organized crime is crime committed by structured groups typically involving the distribution of illegal goods and services to others.
- Organized crime is just not restricted to Mafias, as is shown in various movies and television series, but the term can refer to any group that exercises control over large illegal enterprises (such as the drug trade, illegal gambling, prostitution, weapons smuggling, or money laundering). Betting on sports, illegal sale of firearms and *Hawala* transactions are all examples of Organized Crime.



1**Stages of Crime**

- Ordinarily, the first two stages (intention and preparation) do not give rise to any form of criminal liability. This implies that merely having an intention to commit a criminal act is not punishable, nor is making preparation for the same.
- **Liability in criminal law arises when one goes beyond the stage of preparation and attempts to do the forbidden act.**

- Intention
- Preparation
- Attempt
- Commission

1**Stages of Crime**

➤ What constitutes attempt is again a tricky and complicated question which is an area of intense study. However, it can be stated that save in some exceptional circumstances, criminal liability arises only when the crime has reached the stage which is gone beyond preparation and has entered into the domain of attempt.

- Intention
- Preparation
- Attempt
- Commission

1

Distinction between Preparation to commit crime and Attempt to commit crime:**Preparation**

- Preparation consists in devising or arranging the means or measures for the commission of the offence.
- After preparation ends, the attempt starts.
- In the preparation stage, the person, still has the time to change his intention, and to withdraw from the scene of offence.
- A preparation is generally not punished, except under few demarcated offences.

Attempt

- Attempt is the direct movement towards the commission after preparation is made.
- Attempt begins, where preparation ends.
- Every attempt to do a criminal act defined in the Indian Penal Code is punishable.
- An attempt is made punishable because every attempt, although it fails to achieve the result, must create alarm, which in itself is an injury and the moral guilt of the offender is the same as it would have been had he succeeded.

Ex-A

Principle - 1: Preparation to commit an offence is not an offence

Principle - 2: After one has finished preparation to commit an offence, any act done towards committing the offence with intention to commit, is an attempt to commit the offence which is by itself an offence.

Fact: A wants to kill B. He buys a gun and cartridges for committing the murder. He then sets out searching B and when he sees B, loads his gun and takes aim at B and pulls the trigger. The gun did not fire.

Which of the answer you will feel is more appropriate?

- (a) A is guilty of attempt to murder B from the time he sets out in search of B.
- (b) A is guilty of attempt to murder from the time he loads his gun
- (c) A is guilty of attempt to murder from the moment he takes aim at B.
- (d) A is guilty of attempt to murder the moment he pulls the trigger

Ex-A Answer: (D)

➤ ***Explanation:***

The options (a), (b) and (c) clearly indicate towards the preparation of the crime but the moment he pulls the trigger the preparation stage ends and A is left with no time to change his intention and to withdraw from committing the offence and therefore he will be liable for attempt to murder.

Ex-B

Principle: 1. Preparation to commit an offence is not an offence.

Principle: 2. After one has finished preparation to commit an offence, any act done towards committing the offence with the intention to commit it, is an attempt to commit the offence which is by itself an offence.

Facts: Manish wanted to kill Nandini and had therefore gone to the market to buy explosives to plant in her house. Manish kept those explosives in his godown as he planned to plant them early next morning. But as the explosives were stolen in the night he could not plant them in Nandini's house. However, Nandini came to know about Manish's plan and therefore wants to file a complaint against him. Will she succeed?

- (a) Yes, because he has done something more than mere preparation.
- (b) No, because Nandini did not die.
- (c) Yes, because there existed a mala fide intention.
- (d) No, because mere preparation is no offence.

Ex-B Answer: (D)**➤ Explanation:**

In this case, the Principle implies that there has to be something more than just mere preparation, for an act to be called an offence. There has to be an act towards committing the offence after preparation and that act is punishable. As per the facts, Manish had only made the preparations to plant the explosives. He could not plant the explosives as they were stolen and there was hence no attempt by Manish to do so. Hence, option (d) is the most appropriate answer. Options (b) and (c) are not relevant as death and mala fide intention were not stated as required conditions in the Principle.

Ex-C

Legal Principle: Attempt is an act done with an intent to commit crime, and forming part of the series of acts which would constitute actual commission of the crime, if not interrupted.

Factual Situation: A intending to murder B by poison, purchases poison and mixes the same with a glass of water. He gave to the bearer to serve B. The bearer while approaching B, loses the balance and the glass drops out of his tray.

Decide Whether:

- (a) A has not committed any offence.
- (b) A has committed the offence of murder.
- (c) A has committed the offence of attempt to murder.
- (d) A has not committed an offence of attempt to murder because nothing happened to B.

Ex-C Answer: (C)**➤ Explanation:**

In this case, A had the intention to commit the crime of murder. There was an attempt, which was a part of a series of acts whose final product would have been the murder of Mr. B if it had not been interrupted. The act was interrupted as the glass, that contained the poison, was accidentally dropped and, hence, the actual commission of offence got limited to an attempt. The principle nowhere states that the crime should actually happen. Hence, A's actions would amount to the offence of attempt to murder.

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PROTALENT TEAM

Nitin Parmar
Namrata Parmar

Vishal Bhakhar
Shehzad Vesuna
Chirag Kamani

M 401, Shiv Shakti Complex, Ram Chowk, Ghod Dod Road, Surat

9904788422 | 9374716149

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