

CONCEPTS OF CRIME AND CRIMINOLOGY

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INTRODUCTION

The concept of crime and criminology can be understood by going deep into the basic mind set or the state of mind of the person committing crime. This article also includes the reasons behind the crime committed and what are the factors which makes the person to commit the crime. It also includes the concept of crimes and various provisions which have been given for the commission of certain crimes. This article also includes various types of criminology concepts which have been categorised as per the MENS REA behind the crime. Apart from all such, the various types of crimes which have been recognised by the law is also being discussed in this article. The basic concept i:e what is crime? What are the factors which results into crime? What are the punishments which have been defined for different crimes? What are the various courts which plays role in criminal cases? What special provisions have been defined in the jurisdiction for criminal cases? All such discussions have been mentioned in this article. This article also includes the deep concepts of criminology and its various ingredients which plays crucial role in defining the concept of criminology. This article has divided the concept of criminology into two parts in which the one part tells about the factors by which a victim becomes a victim and the other part tells about the factors by which a person becomes an offender. Apart from crime and criminology this article contains the various roles and powers of criminal courts which play a crucial role in determining a crime and dealing with criminal cases.

What is a crime?

Crime can be defined as any act committed or any act done which is wrongful and which is considered as offences with the intention of committing that wrongful act or offence is known as crime. There are many wrongful act or many offences which have been categorised into crime by our jurisdiction. As per the type of offences committed or the quality of the crime which has been committed by the convict, an act of crime has been categorized into various categories.

Whenever a crime is committed, what is the MENS REA behind the commencement of the crime is observed. MENS REA of a person can be of many categories depending upon the quality of the crime which is committed. The MENS REA which is observed when a crime is committed can be observed in many ways like what was the reason for committing crime? What was the state of mind of the person? What was the state of mind of the person during the time when the crime was committed? Whether the person was in a state of intoxication? Whether the person is of insane mind? Whether the person is DEMENTIA NATURALIS or DEMENTIA ACCIDENTALIS? All such ingredients lead to the MENS REA of a person which is observed when a crime is committed by that person.

What are the types of crimes?

Depending upon the quality of the crime committed and the circumstances or the result of such acts or crime, there are various types of crime which have been categorized. Offences have been categorized mainly into two parts: Cognizable and non-cognizable offences.

Cognizable offences are those offences which are severe in nature and which results into a big loss. Cognizable offence can also be called as non-Bailable offences i.e the offences which are severe and for which bail cannot be easily granted for ex: murder, rape, culpable homicide. Non-cognizable offences are those offences which are not severe but are recognised as a crime by the law and for which bail can be granted for ex: theft, kidnapping, hurt.

So all such acts which have resulted into murder, culpable homicide, kidnapping, abduction, hurt, grievous hurt all such are considered as types of crime. For all crimes there are provisions which have been provided by the jurisdiction. So basically, the concept of crime can be categorised by going into the quality of the crime and the provisions for all such crimes.

What are the factors for crime?

When a crime is committed by a person, then instead of directly punishing or directly putting him/her into the bars, a benefit is given to the convict. So when a person commits a crime, then what was the actual mind set or an actual MENS REA behind the commencement of the crime is observed. What was the main MENS

REA and what was the state of mind of the person particularly at the time of committing crime? Whether the person was insane or not? Whether the person is DEMENTIA NATURALIS or DEMENTIA ACCIDENTALIS? Whether the person was in the state of intoxication at the time of commencement of crime? All such ingredients lead to the MENS REA of the person which is observed when a person commits some crime.

When a person commits a culpable homicide as per Section-299 of the Indian Penal Code, then the MENS REA of the person is observed i:e what was the exact reason behind committing culpable homicide. In case the death of the person took place accidentally or the convict doesn't had the MENS REA or the intention of killing person, then the convict is not punishable for murder under Section-302 of the Indian Penal Code. In case if the person had the MENS REA or the intention of killing a person then the convict will be punishable for murder under Section-302 of Indian penal Code.

The basic thing which comes into play when a person commits any crime is whether he had an intention of doing it or not. Apart from this, there are some more provisions which have been categorised into the concept of MENS REA. Section-84 of the Indian Penal Code says about insane that is if an insane person commits a crime, then as per Section-84 of the Indian Penal Code the person is not liable for the act which he has done. The person committed crime is insane so due to insanity if he/she commits any crime, then that person is not liable for the acts which he/she has committed and he cannot be punished for the acts.

Moreover Section-84 of Indian Penal Code also gives two main

types of legal phrases “DEMENTIA NATURALIS” which means the person is insane from birth and “DEMENTIA ACCIDENTALIS” which means the person is insane after birth due to some accident. Section-85 of the Indian Penal Code which talks about Intoxication says that when a person commits a crime under the state of intoxication that he/she was intoxicated and were not there in a state of thinking and understanding the circumstances of the acts, then if such person commits a crime or does any act which unlawful then he/she is not punishable for the acts which he/she has done. The main crux behind Section-85 is that when a person is intoxicated, then that person is not capable of understanding the circumstances of the act and at the time of committing crime the person is of unsound mind, then such person is not liable for the acts and such person is not punishable for the acts which he/she has done.

Under the Indian penal Code, the state of mind of the person who has committed the crime have been observed and given importance. If a person has committed some crime which is punishable under Section-61 to Section-84 have been observed and is described the legal phrase “ACTUS NON FACIT REUM NISI MENS SIT REA” which means “an act is not wrong unless the mind is guilty”.

So basically the factors of the committing crime not only depends upon the ACTUS REUS of the person but it also depends upon the MENS REA of the person committed crime. If we link the relation of MENS REA and ACTUS REUS with the commencement of crime, then there can also be one factor which results into the commencement of crime, “Self-defence” is also one of the reason behind the commencement of crime. There are many circumstances in which the crime is committed as a part of self-defence by the

person. Though there is a provision for the protection of the acts which are crime as per the quality but are done in order to protect or it is a self-defence, but by the quality of the crime it is a sort of crime only. Section-100 of Indian Penal Code provides protection to the person who has committed crime as a result of self-defence.

ROLE OF COURTS IN CRIME

Various courts magistrate court, session court, district court, high court and Supreme Court play a crucial role in the criminal cases. Various courts have been provided various roles and powers by jurisdiction on the basis of which they can exercise that power and can play a crucial role in dealing with criminal cases and controlling crimes.

Section-6 of the Code of criminal procedure says about the classes of criminal courts. The criminal cases are filed and are exercised in the courts which have the jurisdiction of the crime which has been committed. In the lower level or the 1st level of the class of criminal courts comes Chief Judicial Magistrate 3rd class which has the least jurisdiction and least power. Just above the Chief Judicial Magistrate 3rd class comes the Chief Judicial magistrate 2nd class which has much more jurisdictions and more powers as compared to Chief Judicial Magistrate 3rd class. After the Chief Judicial Magistrate 2nd class comes the Chief Judicial Magistrate 1st which has much more powers and much wider jurisdictions as compared to Chief Judicial Magistrate 2nd class. After the Chief Judicial

Magistrate 1st class comes the Chief Judicial Magistrate which has much more wider jurisdictions and much more powers as compared to CJM 1st class. Above the Chief Judicial Magistrate comes the Sessions courts which has much more powers and much wider jurisdiction as compared to CJM. In the wider jurisdiction and much more power just above the CJM is the High Court which can exercise any power and which can give any judgement and can deal with any criminal cases in its state. Above all comes the Supreme Court of India which has supreme power of exercising any jurisdiction.

Supreme Court of India

High Court

Session court

Chief Judicial Magistrate

Chief Judicial Magistrate 1st class

Chief Judicial Magistrate 2nd class

Chief Judicial Magistrate 3rd class

Once a case has come and case has been registered in the police station then depending upon the nature and quality of the crime, it is decided that whether the case will be filed in which court.

Depending upon the nature of the crime, the case will be filed in the courts which has the jurisdiction and has power to deal with that case and give judgement.

CONCEPT OF CRIMINOLOGY

The concept of criminology has very deep concept about how a crime is done and the basic factor and basic set of thinking which causes a crime. Criminology has many divisions which play a crucial role in getting the concept of criminology. The divisions or parts on which the study of criminology has been divided are as follows:

. Victimisation is the first part which says about the ways and factors in which a person becomes a victim. Victimisation tells about how a person becomes a victim and it also tells about the categories of the person and part of the society which can easily become a victim. The study and the concept of victimisation is mainly depend upon two factors which are: Victim centric and State punishment. Victim centric and the state punishment are the two main ways of providing punishment to an offender which links the way of past ways to the present way of punishing an offender.

Earlier, when law was not made and when there was no systematisation of law then the concept of EYE FOR AN EYE was followed. The method of EYE FOR AN EYE is a past concept of punishing an offender which says that an offender should get a treatment or punishment on the basis of the crime which he has done. That means if a person has committed a murder then the person gets the punishment of death because his acts has also resulted into death. If a person has grievously hurt someone, then the victim had a right to grievously hurt an offender too, earlier there

was no concept of looking into the MENS REA of the person that whether his/her intentions were right or wrong, if he/she has done murder then simply he/she was given death punishment.

There were many advantages of the method of victim centric like the process of victim centric was fast and in the eyes of some person it was the most effective method of punishing. The method of victim centric seemed to be a most effective method of justice. Another main advantage of this method was redemption. In the result, there was no feeling of not getting proper justice to the victim and there was no doubt of lack of punishing an offender.

Benjamin was the person who gave the concept of victimisation in 1947, according to him stigma is what the mind set of person which causes into such crimes and acts. Stigma also means what a person is thinking and what a person has intentions during the time of commencement of the crime.

After the concept of victim centric then the concept of state punishment came which is the present scenario of the judicial system. State punishment is the process of observing all the ingredients and all the factors and intentions of both the victim and an offender. State punishment can also be said as the more systematic form of using law which is in the modernised form. State punishment deals with all the provisions and all the laws which has been made specifically for a specific crime. The concept of state punishment is very different from the concept of victim centric which was the direct method. But state punishment method is modernised and it follows the concept of step by step proceedings. In state punishment if a crime is committed by a person then instead of giving him death punishment, the method of proper proceedings is followed. The person will be punished as per the law given in the

jurisdiction for that specific act or crime. The main quality of state punishment which differs it from the concept of victim centric is that, it looks on the MENS REA of both the victim and an offender. The method of state punishment does not directly give any kind of punishment to an offender, it looks on the MENS REA of a person that whether he/she had an intention of doing that or not. On the basis of the intention of an offender and taking the law into consideration, the punishment to a convict is given. The difference is that, this process of punishment can take long time and it can cause delay in providing justice to the victim.

The role victim in his/her victimisation can be broadly classified into three main categories:

- . Victim's precipitation
- . Victim's facilitation
- . Victim's provocation

In victim precipitation a victim actively participates in the activity, whereas in victim facilitation a situation is created for a person to participate in the activity. There are various categories of victim which were identified and all the categories were sub-divided into five main categories:

In the category of physical vulnerability & ignorance there are three types of victims that have been identified:

- . Child
- . Female
- . Old

In the category of lack of social status and inability to activate

assistance there are three types of victims:

- . Immigrants
- . Migrants
- . Dull nomads

In the category of inability identify danger and perceive threat there are five main categories:

- . Depressed
- . Acquisitive
- . Wanton
- . Lonesome & heart broken
- . Mentally deranged

Apart from all such categorisation there is a category which have provoked themselves for victimisation, such persons are called Tormentors.

The last category person includes the blocked/exempted or fighting victims.

Benjamin said that the victim's role can be recognised by recognising culpability of the victim. These includes:

- . Completely innocent
- . Victim with minor guilt
- . Voluntary victims
- . Victims more guilty than the offender
- . Most guilty victims
- . Simulative or imaginary victims.

Wolfgang did studies of homicide between 1948-52. He found some of the ingredients of victim precipitation which are:

- . 26% male and victim perpetration
- . Victim had a violent history
- . Victim and offender know each other
- . Alcohol involvement

While there was a philosopher who studied the concept of rape and on the basis of his study he founded some of the important ingredients of rape:

- . Offender used alcohol
- . Victim could have used unwomanly language
- . Women was wearing other type of clothes.
- . Women was indulged in gestures which provoked perpetrator

Moreover rape shielding laws has been adopted by many countries, in India it took time to be implemented but in many other countries it was adopted.

Later for the victim many things have changed as new age came and new theories, concepts and philosophies came things for the victim changed like:

- . Civil rights movement
- . Feminist movement or women empowerment
- . Feminist movement mainly concentrated on two things:
 - . Sexual offence
 - . Domestic violence

There was a philosopher Lawrence Sherman who studied on the

concept of victimisation and gave some concepts about the social structure and process. Lawrence Sherman focused on certain neighbourhoods such as they are like or they act like a burden or a threat. For ex: slums is the neighbourhood which has been discussed in this process. In some areas like the slum area many people are not socially forward or they are not socially developed and they don't have much exposure to increase and develop their social thinking thoughts, so such areas are more prone or more effected in the case of increasing the domestic violence as the family involved in domestic violence are more influenced by their slum neighbours. Because of such neighbours, the family members gets effected and they start behaving in the manner in which they are not supposed to behave or act.

A philosopher Richard in 1992 gave the concept of social interactionist perspective (SIP) and said that distress and stress leads to lack of social interaction which can results into victimisation or criminal mentality. Social interaction plays a crucial role in developing and exercising the mind of a person that whether the person behaves in a normal manner or behaves like a criminal. Social interaction plays a crucial role because it tells that whether an individual lives or interacts with good persons or he involves himself/herself and interacts with a person who is socially behaves in an improper manner and criminals. Sometimes social interaction with socially wrong persons and persons who have criminal mind and criminal mentality can cause to development of criminal mentality and criminal behaviour, as a person gets influenced by a people with whom he/she lives and interacts.

Apart from the concept of victimisation and theories made for the victims, there are some theories and concepts which are made for

the person to be punished or an offender. This concept can be called as tenants of retribution. There are some of the tenants retribution which have been given for the person who is punished:

- . Person to be punished if and only he has voluntarily done something wrong.
- . The punishment for the wrong done should be commensurate with respect to the weakness of the offence.
- . Justification for punishing is that, the return suffering for the moral evil voluntarily done is in itself just for morally good.
- . Judicial punishment must at all times be inflicted on criminals for no other reason other than because he has acted criminally.

In the concept of criminology, there are some changes or there are some advancements which have been adopted in the concept of criminology. The recent trends in crime have been broadly classified into four main categories:

. Gender and crime

This concept says that every state has SCRB and it mainly concentrates on the two basic concepts that: gender with regard to perpetrators and gender with regard with regard to victims. In the category of victim there are broadly five main categories:

- . Child sexual abuse
- . Domestic violence
- . Sexual harassment at work place
- . Rape
- . Eve teasing

. Economy and crime

This concept says mainly about the perpetrator and in that concept the crime done by perpetrator is mainly divided into two main classes:

. Blue collar crime

. White collar crime

. Age and crime

In this concept the term demography was introduced and it was defined that demography is a science that deals with the study of population and factors effecting its growth decline and movement.

In this concept the concept of demography was linked with the age and crime concept. In the comparison to this concept and in the relation to this there is an another concept of migration which means the movement from one place to another and this concept of migration is mainly depending upon three main factors:

. Push

. Natural calamities

. Pull

. Family and crime

In this last category of recent trends being implemented family and crime comes to the last which links the concept of crime with the family. It basically tells that the family also plays a role in the crime scenario, in a family the members live together and share same

home with each other, so there is a probability that the crime can happen and it can be done by any of the family members itself. Family means it is a group of people which are tied to each other by blood, marriage and adoption. Since in a family there are many relations and with all such relations there must be a conflict of thoughts which can be clashed anytime and sometimes it may take a violent form and it can result into a crime.