

1. Write relation between common intention and common objectives according to section 34 and 149 of penal code. Distinguish between them.

Sections:

34. When a criminal act is done by several persons, in furtherance of the common intention of all, each of such persons is liable for that act in the same manner as if it were done by him alone.

149. If an offence is committed by any member of an unlawful assembly in prosecution of the common object of that assembly, or such as the members of that assembly knew to be likely to be committed in prosecution of that object, every person who, at the time of the committing of that offence, is a member of the same assembly, is guilty of that offence.

Answer:

Sections 34 and 149 of the penal code address collective liability in the context of criminal acts. They differ in terms of the concepts of common intention and common object.

Section 34: Common Intention

When a criminal act is done by several persons in furtherance of the common intention of all, each person is held liable as if they had committed the act individually.

- Key elements:

- Presence of a pre-arranged plan.
- Participation of all individuals in the act.
- Shared intent to commit the crime.

Section 149: Common Object

If an offence is committed by any member of an unlawful assembly in prosecution of the common object of that assembly, or such as the members knew to be likely to be committed in prosecution of that object, every member is held guilty.

- Key elements:

- Formation of an unlawful assembly (five or more persons).
- Common object, not necessarily pre-arranged, but can develop on the spot.
- Liability extends to foreseeable crimes committed in pursuit of the common object.

Relation between Common Intention and Common Object:

Common Intention (Section 34): Requires a specific, pre-planned intention shared by all participants to commit a particular criminal act. Each person is equally liable for actions taken in furtherance of this shared intent.

Common Object (Section 149): Involves a broader and potentially spontaneous objective shared by an unlawful assembly. Members are liable for offences committed in pursuit of this common object, even if they did not directly participate in the act or plan it in advance.

In summary, while both sections deal with group liability, Section 34 focuses on a shared and specific intent to commit a crime, whereas Section 149 emphasizes a shared objective of an unlawful assembly, with liability extending to all foreseeable offences committed in pursuit of that objective.

Distinction between common intention (Section 34) and common object (Section 149) in a table format:

Aspect	Common Intention (Section 34)	Common Object (Section 149)
Definition	When a criminal act is done by several persons in furtherance of the common intention of all, each of them is liable as if it were done by him alone.	If an offence is committed by any member of an unlawful assembly in prosecution of the common object of that assembly, every member of that assembly is guilty of that offence.
Nature of Liability	Joint liability arises from a prearranged plan or meeting of minds to commit an act.	Liability arises from being a member of an unlawful assembly with a common object, regardless of prearrangement.
Scope of Application	Applies when there is a clear prior meeting of minds and shared intention to commit a specific act.	Applies to all members of an unlawful assembly acting in pursuit of a common object, even if not all members directly participate in the act.
Number of Persons Involved	Requires the involvement of at least two persons.	Requires an unlawful assembly, which must consist of five or more persons.
Requirement of Common Plan	Necessitates a premeditated common plan or intention among the participants.	No requirement for a premeditated plan; members must simply act towards a common object.
Type of Assembly	No requirement for an unlawful assembly; any group of people with a common intention suffices.	Involves an unlawful assembly with a common object.
Participation in	Each member must actively	Members may not need to actively

Aspect	Common Intention (Section 34)	Common Object (Section 149)
the Act	participate or share the common intention during the commission of the act.	participate in the act; being part of the assembly with a common object suffices.
Degree of Guilt	Equal degree of guilt for each participant, as if the act was done by each one individually.	Guilt is collective and extends to all members of the unlawful assembly for acts done in pursuit of the common object.
Example	Two or more persons plan and execute a robbery, sharing the intention to commit the crime.	Members of a group of five or more people gather to commit a specific offence, such as rioting, and someone in the group kills a person.

Summary

- **Common Intention (Section 34):** Requires a prearranged plan or meeting of minds, with joint liability for all participants in the criminal act.
- **Common Object (Section 149):** Involves an unlawful assembly acting towards a common object, with collective liability for offences committed in pursuit of that object.

2. What is offence and crime according to penal code? Essential part of offence and crime according to penal code.

Answer:

In the context of the penal code, the terms "offence" and "crime" are often used interchangeably. However, they have specific legal definitions and essential components.

Offence and Crime According to Penal Code

Offence:

An offence is an act or omission made punishable by law. It encompasses a wide range of illegal activities, from minor violations to serious crimes.

- Example: Theft, assault, and fraud are all considered offences.

Crime:

A crime is generally understood to be a more serious breach of law that is punishable by the state. Crimes are usually categorized under offences, but the term "crime" often implies a higher degree of severity.

- Example: Murder, rape, and armed robbery are considered crimes.

Essential Parts of Offence and Crime According to Penal Code

The essential parts of an offence or crime typically include the following components:

1. Actus Reus (Guilty Act):

- The physical act or unlawful omission that constitutes the crime.
- It must be a voluntary act or a legally significant omission.
- Example: In theft, the actus reus is the unlawful taking of someone else's property.

2. Mens Rea (Guilty Mind):

- The mental state or intent to commit the act.
- Different crimes require different levels of mens rea, such as intention, knowledge, recklessness, or negligence.
- Example: In murder, the mens rea is the intent to kill or cause grievous harm.

3. Concurrence:

- The actus reus and mens rea must occur simultaneously.
- The guilty mind must be present at the time the guilty act is committed.
- Example: If a person accidentally hits someone with their car without any intent to harm, concurrence of mens rea and actus reus is absent, making it not a criminal offence.

4. Causation:

- There must be a causal link between the defendant's act and the harm caused.
- The act must directly result in the offence.
- Example: In a case of assault, the causation is the link between the defendant's action (hitting) and the victim's injury.

5. Harm:

- The act must result in some form of harm or injury, which the law seeks to prevent.
- Harm can be physical, emotional, financial, or social.

- Example: In fraud, the harm is the financial loss suffered by the victim.

6. Legality:

- The act must be defined and punishable under law.
- There must be a legal provision that specifically criminalizes the act.
- Example: Specific laws defining and penalizing theft, assault, etc.

These components are essential in establishing the commission of an offence or crime under the penal code. The prosecution must prove each element beyond a reasonable doubt for a conviction.

3. According to penal code discuss various modes of punishment. Give details about Imprisonment for life.

Answer:

53. The punishments to which offenders are liable under the provisions of this Code are,
Firstly, Death;

- Secondly, Imprisonment for life
- Thirdly, Omitted by the Criminal Law
- Fourthly, -Imprisonment, which is of two descriptions, namely: (1) Rigorous, that is, with hard labor; (2) Simple;
- Fifthly, Forfeiture of property;
- Sixthly, Fine. 16 [Explanation.-In the punishment of imprisonment for life, the imprisonment shall be rigorous.]

From the above section 53 of penal code list various modes of punishment:

Section 53 of the penal code outlines various types of punishments that offenders may face. These punishments are:

1. Death
2. Imprisonment for Life
3. [Omitted]
4. Imprisonment, which is of two types:
 - Rigorous Imprisonment: Involves hard labour.
 - Simple Imprisonment: Does not involve hard labour.
5. Forfeiture of Property
6. Fine

Imprisonment for Life

Explanation of Imprisonment for Life:

- Imprisonment for life means that the convict is required to spend the remainder of their natural life in prison.
- According to the explanation provided in Section 53, imprisonment for life shall be rigorous, meaning the convict will be subjected to hard labor during their imprisonment.

Key Points about Imprisonment for Life:

1. Duration:

It lasts for the entirety of the convict's natural life unless commuted, remitted, or otherwise modified by the appropriate authority (such as through a presidential pardon or commutation of sentence).

2. Nature:

It is explicitly stated to be rigorous, meaning the convict will engage in hard labour as part of their punishment. This distinguishes life imprisonment from simple imprisonment, which does not involve hard labor.

3. Commutation and Remission:

The government or the president may commute a life sentence to a term of years or grant remission based on good behavior or other considerations. This means the actual time served can be reduced, but without such intervention, life imprisonment means the convict remains in prison for life.

4. Purpose:

It serves as a severe form of punishment intended for serious offences, providing a deterrent effect and ensuring the convict is removed from society to prevent further harm.

Understanding these aspects of life imprisonment helps in comprehending its severity and implications under the penal code.

4. What is solitary confinement? How many grounds or provisions? Give five objectives why solitary confinement is given? Describe solitary confinement rules and regulations.

73. Whenever any person is convicted of an offence for which under this Code the Court has power to sentence him to rigorous imprisonment, the Court may, by its sentence, order that the offender shall be kept in solitary confinement for any portion or portions of the imprisonment to which he is sentenced, not exceeding three months in the whole, according to the following scale, that is to say a time not exceeding one month if the term of imprison-

ment shall not exceed six months: a time not exceeding two months if the term of imprisonment shall exceed six months and shall not exceed one year: a time not exceeding three months if the term of imprisonment shall exceed one year.

74. In executing a sentence of solitary confinement, such confinement shall in no case exceed fourteen days at a time, with intervals between the periods of solitary confinement of not less duration than such periods, and when the imprisonment awarded shall exceed three months, theW solitary confinement shall not exceed seven days in any one month of the whole imprisonment awarded, with intervals between the periods of solitary confinement of not less duration than such periods.

Answer

Solitary Confinement According to Sections 73 and 74 of the Penal Code

Definition of Solitary Confinement:

Solitary confinement is a form of imprisonment where the offender is isolated from all human contact, except for essential interactions with prison staff, for a specified period.

Grounds and Provisions for Solitary Confinement

Section 73:

- The court has the power to order solitary confinement when sentencing a person to rigorous imprisonment.
- The duration of solitary confinement must adhere to the following scale:
- Not exceeding one month if the term of imprisonment is six months or less.
- Not exceeding two months if the term of imprisonment exceeds six months but does not exceed one year.
- Not exceeding three months if the term of imprisonment exceeds one year.

Section 74:

- Solitary confinement cannot exceed fourteen days at a time.
- There must be intervals between periods of solitary confinement that are at least as long as the periods of confinement.
- When the total imprisonment exceeds three months, solitary confinement cannot exceed seven days in any one month, with similar intervals between periods.

Five Objectives of Solitary Confinement

1. Discipline and Control:

- Used as a disciplinary measure to maintain order and control within the prison environment.

2. Punishment:

- Serves as an additional punishment for serious offences committed by prisoners within the prison.

3. Deterrence:

- Aims to deter both the individual offender and other inmates from committing further offences.

4. Safety and Security:

- Protects the prison population and staff from potentially dangerous individuals.

5. Behavioral Correction:

- Intended to reform the behavior of the prisoner by providing time for reflection and correction of misconduct.

Rules and Regulations for Solitary Confinement

1. Maximum Duration:

- The maximum duration of solitary confinement for different terms of imprisonment is specified in Section 73.

2. Periods and Intervals:

- Solitary confinement must be limited to fourteen days at a time with equivalent intervals between periods.

- For imprisonment exceeding three months, solitary confinement is limited to seven days in any one month, with similar intervals between periods.

3. Court Order:

- Solitary confinement must be explicitly ordered by the court as part of the sentencing process.

4. Proportionality:

- The duration of solitary confinement must be proportional to the term of imprisonment.

5. Review and Oversight:

- There should be mechanisms for review and oversight to ensure that solitary confinement is administered fairly and humanely, though specific details might vary by jurisdiction.

Summary

Solitary confinement is a severe form of punishment used within the prison system to isolate offenders for disciplinary, deterrent, safety, and rehabilitative purposes. The penal code

specifies the maximum allowable durations and necessary intervals to regulate the humane administration of solitary confinement.

5. Write down the general section of private defense of penal code. When and in which situation right of private defence can cause death for protection of property and body? What is the general exceptions?

Here are simplified one-line summaries of Sections 96 to 106 regarding private defense in the penal code:

- Section 96: Acts done in self-defense are not offences.
- Section 97: Everyone has the right to defend themselves and others against certain crimes.
- Section 98: The right of self-defense is valid even against those incapable of committing a crime due to age, mental state, or other factors.
- Section 99: Self-defense does not apply against actions of public servants acting in good faith, unless there is no time to seek protection from public authorities.
- Section 100: Self-defense can justify causing death if faced with specific severe attacks, such as assault with the intent to murder, rape, or cause grievous harm.
- Section 101: In other attacks not covered by Section 100, self-defense justifies causing any harm except death.
- Section 102: The right to self-defense begins when there is a reasonable apprehension of danger and continues as long as the danger persists.
- Section 103: Property can be defended with any necessary force, including causing death, against severe crimes like robbery, house-breaking at night, and arson.
- Section 104: In less severe property offenses, self-defense justifies causing any harm except death.
- Section 105: The right to defend property begins when there is an attempt or threat of an offense and continues until the danger is over.
- Section 106: If defending oneself endangers an innocent person, the defense still holds, provided it was necessary to avert the harm.

General exceptions of private defense of penal code

General exceptions in the penal code from Sections 76 to 106:

- Section 76: No offence if done by mistake believing in good faith to be bound by law.
- Section 77: Judges acting judicially are not liable for actions within their legal power.
- Section 78: No offence if done by a person in obedience to a court order.
- Section 79: No offence if done by mistake believing in good faith to be justified by law.

- Section 80: Accidents occurring without criminal intent while doing lawful acts are not offences.
- Section 81: Acts done in good faith to prevent harm, without criminal intent, are not offences.
- Section 82: Children under seven years of age are not criminally responsible.
- Section 83: Children between seven and twelve, without sufficient maturity to understand their actions, are not criminally responsible.
- Section 84: Persons of unsound mind, incapable of understanding their actions, are not criminally responsible.
- Section 85: Acts done involuntarily under duress or threats are not offences.
- Section 86: Acts done under intoxication, when intoxicated without knowledge or against one's will, are not offences.
- Section 87: Acts not intended to cause death or serious harm, done with consent in trivial matters, are not offences.
- Section 88: Acts not intended to cause death or serious harm, done with consent for the person's benefit, are not offences.
- Section 89: Acts done in good faith for the benefit of children under twelve or insane persons, with or without guardian's consent, are not offences.
- Section 90: Consent given under fear, misconception, by unsound mind, or children under twelve is not valid consent.
- Section 91: Acts done independently of other acts which are offences, are not exempted under consent.
- Section 92: Acts done in good faith for the benefit of someone, without consent, in emergency situations, are not offences.
- Section 93: Communication made in good faith, even if it harms, for the benefit of the person receiving it, is not an offence.
- Sections 94-95: Acts done under compulsion of threats to life (except murder and offences against the state) or minor harm acts are not offences.
- Sections 96-106: Refer to the right of private defense against attacks on body and property (previously summarized).

The right of private defense that can cause death for the protection of property and body is covered under specific sections of the penal code:

Protection of Body (Section 100):

Under Section 100, the right of private defense of the body extends to causing death if the assault causes a reasonable apprehension of:

1. Death: An assault which causes the apprehension that death will otherwise be the consequence of such assault.

2. Grievous Hurt: An assault which causes the apprehension that grievous hurt will otherwise be the consequence of such assault.
3. Rape: An assault with the intention of committing rape.
4. Unnatural Lust: An assault with the intention of gratifying unnatural lust.
5. Kidnapping or Abduction: An assault with the intention of kidnapping or abducting.
6. Wrongful Confinement: An assault which causes the apprehension that wrongful confinement will be the consequence and the person cannot otherwise escape.
7. Acid Attack: An act of throwing or administering acid which causes the apprehension of grievous hurt by acid attack.

Protection of Property (Section 103):

Under Section 103, the right of private defense of property extends to causing death if the offence, which occasions the exercise of such right, is:

1. Robbery: When the property is under a robbery.
2. House-breaking by Night: When the property is under house-breaking by night.
3. Mischief by Fire: When the property is subject to mischief by fire, in the case of a human dwelling or as a place for the custody of property.
4. Theft: When theft, mischief, or house-trespass is attended with such risk of causing death or grievous hurt that the only way to prevent it is by causing death.

Summary with Sections:

Section 100: Right of private defense of the body extends to causing death under circumstances such as apprehension of death, grievous hurt, rape, unnatural lust, kidnapping or abduction, wrongful confinement, and acid attack.

Section 103: Right of private defense of property extends to causing death under circumstances such as robbery, house-breaking by night, mischief by fire, and severe theft with risk of causing death or grievous hurt.

6. Write the sections of abetment of penal code. Write the sections of criminal conspiracy in details of penal code.

Answer:

Here are simplified one-line summaries of the sections related to abetment in the penal code:

- Section 107: Abetment involves instigating, conspiring, or aiding someone to commit an offence.
- Section 108: A person abets an offence if they help someone commit it, even if the person committing it is incapable of doing so due to age, insanity, or other reasons.
- Section 108A: Abetting an offence in India while being outside India is punishable.
- Section 109: If no specific provision exists, the punishment for abetment is the same as for the offence abetted.
- Section 110: Abetment with a different intention or knowledge from the actual offence committed still leads to punishment.
- Section 111: If an abetted act is committed differently than intended, the abettor is liable for both the abetted and committed acts if foreseeable.
- Section 112: If an additional act is committed while committing the abetted act, the abettor is liable for both.
- Section 113: If the outcome of an abetted act is different due to the abetted person's actions, the abettor is still liable for the resulting act.
- Section 114: If the abettor is present at the crime scene, they are punished as if they committed the offence.
- Section 115: Abetting an offence that results in harm, even if unsuccessful, is punishable, especially if it leads to death.
- Section 116: Abetting an offence not committed due to prevention is punishable, with a higher penalty if the offence is serious.
- Section 117: Abetting an offence involving more than ten people is punishable.
- Section 118: Concealing the intention to commit an offence punishable by death or life imprisonment is punishable if a crime is committed.
- Section 119: Public servants concealing the intention to commit an offence related to their duties are punishable, especially if a crime is committed.
- Section 120: Concealing the intention to commit an offence punishable with imprisonment, when no crime is committed, is punishable.

Sections of criminal conspiracy in details of penal code

Section 120A: A criminal conspiracy occurs when two or more people agree to do an illegal act or a legal act by illegal means.

Section 120B: Punishment for criminal conspiracy varies:

- For conspiracies to commit serious offences (punishable with death, life imprisonment, or rigorous imprisonment of two years or more), the punishment is the same as if the offender had abetted the crime.
- For other conspiracies, the punishment can be up to six months of imprisonment, a fine, or both.

7. What is culpable homicide and murder according to penal code section? Five ground when culpable homicide is not murder? All murder is culpable homicide but all culpable homicide is not murder. Give difference between culpable homicide and murder. Write the exceptions

Answer:

Definitions According to Penal Code

Culpable Homicide (Section 299):

Culpable homicide is causing death by doing an act with:

1. The intention of causing death.
2. The intention of causing such bodily injury as is likely to cause death.
3. Knowledge that the act is likely to cause death.

Murder (Section 300):

Murder is a form of culpable homicide with specific conditions:

1. The act causing death is done with the intention of causing death.
2. The act is done with the intention of causing bodily injury that the offender knows is likely to cause death.
3. The act is done with the intention of causing bodily injury sufficient in the ordinary course of nature to cause death.
4. The act is done with the knowledge that it is so imminently dangerous that it must, in all probability, cause death or such bodily injury as is likely to cause death.

Grounds When Culpable Homicide is Not Murder (Section 300 Exceptions)

Culpable homicide is not considered murder if it falls under any of the following five exceptions:

1. Grave and Sudden Provocation:

The offender was deprived of self-control by grave and sudden provocation, causing the death of the person who gave the provocation or another person by mistake.

2. Exceeding the Right of Private Defense:

The offender causes death while exercising the right of private defense, but exceeds the power given by law without premeditation and without any intention of doing more harm than necessary.

3. Public Servant or Aiding Public Servant:

The act causing death is done by a public servant or someone aiding a public servant acting in good faith under color of their office, believing themselves bound by law to do it, and causing death by mistake.

4. Sudden Fight:

The act causing death is done in the heat of the moment during a sudden fight, without premeditation and without undue advantage or cruel manner.

5. Consent:

The person whose death is caused consented to take the risk of death or injury, and the act is done in good faith for that person's benefit.

Difference between Culpable Homicide and Murder

Aspect	Culpable Homicide (Section 299)	Murder (Section 300)
Definition	Causing death by an act with the intention to cause death, or with the intention to cause bodily injury likely to cause death, or with the knowledge that the act is likely to cause death.	A form of culpable homicide where the act is done with a higher degree of intention or knowledge, making the act more severe under specific circumstances.
Intention	- Intent to cause death. - Intent to cause bodily injury likely to cause death. - Knowledge that the act is likely to cause death.	- Intent to cause death. - Intent to cause bodily injury known to likely cause death. - Intent to cause bodily injury sufficient to cause death in the ordinary course of nature. - Knowledge that the act is imminently dangerous and likely to cause death.
Severity	Less severe; may have mitigating circumstances.	More severe; involves higher intention or recklessness, often with premeditation.
Punishment	Imprisonment for life, or up to ten years, and a fine.	Death penalty, or imprisonment for life, and a fine.
Premeditation	Generally, no premeditation required.	Often involves premeditation and a greater degree of planning.
Example	A person strikes another in a fit of rage, leading to death.	A person plans and executes a murder with the clear intention to kill.
Exceptions	Not applicable.	Exceptions under Section 300 (Grave and Sudden Provocation, Exceeding Right of Private Defense, Public Servant Acting in Good Faith, Sudden Fight, Consent) can

Five Exceptions for Culpable Homicide Not Amounting to Murder (Detailed):

1. Grave and Sudden Provocation (Exception 1):

- If the offender loses self-control due to a sudden and severe provocation and causes death in the heat of the moment.

2. Exceeding Right of Private Defense (Exception 2):

- If the offender, in defending themselves or others, exceeds the limit of self-defense without premeditation.

3. Public Servant Acting in Good Faith (Exception 3):

- If a public servant, acting in their duty and believing it necessary, causes death by mistake.

4. Sudden Fight (Exception 4):

- If the death occurs in a sudden fight without prior intention or undue advantage.

5. Consent (Exception 5):

- If the deceased consented to the risk, and the act was intended for their benefit in good faith.

Understanding these distinctions and exceptions is crucial for interpreting the law and determining the appropriate legal consequences for acts leading to death.

All murder is culpable homicide but all culpable homicide is not murder.

The statement "All murder is culpable homicide, but not all culpable homicide is murder" means that murder is a subset of culpable homicide. Here's a detailed explanation:

Definitions

Culpable Homicide (Section 299 of the Penal Code):

- Causing death by doing an act with:
- The intention of causing death.
- The intention of causing such bodily injury as is likely to cause death.
- The knowledge that the act is likely to cause death.

Murder (Section 300 of the Penal Code):

- A type of culpable homicide with specific aggravating factors, such as:
- The act is done with the intention of causing death.
- The act is done with the intention of causing bodily injury that the offender knows is likely to cause death.

- The act is done with the intention of causing bodily injury sufficient in the ordinary course of nature to cause death.
- The act is done with the knowledge that it is so imminently dangerous that it must, in all probability, cause death or such bodily injury as is likely to cause death.

Explanation

All Murder is Culpable Homicide:

- Murder is a more serious and aggravated form of culpable homicide.
- Every murder inherently involves the elements of culpable homicide, as it includes causing death with a higher degree of intention or knowledge.
- For example, if a person intentionally kills another person with a premeditated plan, it is both culpable homicide and murder.

Not All Culpable Homicide is Murder:

- Culpable homicide can exist without the specific aggravating factors that elevate it to murder.
- Situations that result in death but lack the severity or intention defined in Section 300 are considered culpable homicide but not murder.
- For example, if a person causes another's death without premeditation, under sudden and grave provocation, or without the intention of causing death or such bodily injury as is likely to cause death, it may be culpable homicide not amounting to murder.

8. What is wrongful restraint and wrongful confinement? What is the punishment of it? Illustrate the fact.

Answer:

Wrongful Restraint and Wrongful Confinement

Wrongful Restraint (Section 339):

- Definition: Wrongful restraint involves voluntarily obstructing someone so as to prevent that person from proceeding in any direction in which they have a right to proceed.
- Punishment (Section 341): Simple imprisonment for up to one month, or a fine of up to five hundred rupees, or both.

Illustration:

Example: A person blocks the path of another person, preventing them from leaving a room or a building.

Wrongful Confinement (Section 340):

- Definition: Wrongful confinement involves wrongfully restraining someone in such a manner as to prevent them from proceeding beyond certain circumscribing limits.
- Punishment (Section 342): Imprisonment of either description for up to one year, or a fine of up to one thousand rupees, or both.

Illustration:

Example: A person locks another person in a room without their consent, preventing them from leaving.

Summary of Punishments:

- Wrongful Restraint: Up to one month imprisonment, or a fine of up to five hundred taka, or both.
- Wrongful Confinement: Up to one year imprisonment, or a fine of up to one thousand taka, or both.

These definitions and punishments help protect individuals' freedom of movement and ensure that wrongful restraint and confinement are penalized under the law.