

Criminal Law Part A

Complete Concepts Overview

Weeks 1-6 Comprehensive Study Guide

■ **Exam Date:** January 21, 2026

■ **Textbook:** Keiler & Roef (eds.), Comparative Concepts of Criminal Law, 4th edition (2025)

✓ **Passing Score:** 22/40 points (Part A + Part B combined)

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WEEK 1: LEGALITY PRINCIPLE & THEORIES OF PUNISHMENT

THE LEGALITY PRINCIPLE

Core Principle: Nullum Crimen, Nulla Poena Sine Lege

Translation: 'No crime, no punishment without law'

Four Sub-Principles

1. Lex Praevia (No Retroactive Effect)

- Cannot punish acts that weren't criminal when committed
- Cannot retroactively increase punishments

Example: A doxes teacher's address online in 2020 (not illegal). Law criminalizing doxing passed in 2021. A cannot be punished.

2. Lex Scripta (Written Law)

- Criminal law must be written in statutes
- ✓ Parliamentary legislation, statutory codes
- ✗ Unwritten customary law, pure judicial precedent

3. Lex Certa (Certainty/Precision)

- Laws must be sufficiently clear and precise
- Citizens must understand what conduct is prohibited
- Vague terms like 'indecent behavior' or 'immoral conduct' are problematic

4. Lex Stricta (Strict Interpretation)

- Prohibition of analogy - cannot extend criminal provisions beyond wording
- Must interpret narrowly in case of doubt
- Principle: *In dubio pro reo* (when in doubt, for the accused)

THEORIES OF PUNISHMENT

Why Do We Punish?

1. RETRIBUTIVISM ('Because They Deserve It')

Core Idea: Punishment justified because offenders deserve to suffer for wrongdoing

Key Principles:

- Backward-looking: Focuses on past wrongdoing
- Desert-based: Punishment must be proportionate to crime

- Categorical imperative: Must punish regardless of consequences

Kant's Position: Even if society were dissolving, must still punish offenders

Strengths: Respects human dignity, provides clear proportionality

Weaknesses: Doesn't prevent future crime, expensive with no utilitarian benefit

2. UTILITARIANISM ('To Prevent Future Crime')

Core Idea: Punishment justified only if it produces better consequences

Key Principles:

- Forward-looking: Focuses on future prevention
- Consequentialist: Justified by results, not desert
- Bentham's Principle: 'The greatest happiness for the greatest number'

Four Utilitarian Goals:

A. General Deterrence: Discourage potential offenders in society

B. Specific Deterrence: Prevent THIS offender from reoffending

C. Incapacitation: Physically prevent offender from committing more crimes (prison)

D. Rehabilitation: Reform offender into law-abiding citizen (education, therapy, training)

Strengths: Practical, forward-looking, measurable outcomes

Weaknesses: Could justify punishing innocent, no inherent limits on severity

3. MIXED THEORIES (Balanced Approach)

Core Idea: Combine retributive and utilitarian principles

Framework:

- **Upper Limit:** Desert (Retributive) - Never punish more than offender deserves
- **Within Desert Limits:** Use utilitarian considerations (deterrence, rehabilitation)
- **Modern Consensus:** Most systems follow mixed theory approach

Feature	Retributivism	Utilitarianism	Mixed Theory
Focus	Past wrongdoing	Future prevention	Both
Justification	Desert	Consequences	Desert + Utility
Goal	Justice	Crime prevention	Balanced approach
Limit	Proportionate	Whatever works	Desert as ceiling

WEEK 2: OFFENSE STRUCTURE, ACTS & OMISSIONS, CAUSATION

THE TRIPARTITE FRAMEWORK

■■ THE MOST IMPORTANT CONCEPT IN CRIMINAL LAW PART A ■■

You should be able to recite this in your sleep!

The Three Stages (Analyze in Order!)

STAGE 1: LEGAL ELEMENTS (Tatbestand)

Question: Are all elements of the offense definition fulfilled?

A. Actus Reus (Objective Elements):

- Conduct (the act itself)
- Circumstances (context facts)
- Result/Consequence (for result crimes)
- Causation (link between act and result)

B. Mens Rea (Subjective Elements):

- Intention (dolus)
- Negligence (culpa)
- Knowledge, Recklessness

■■ CRITICAL RULE: ONLY proceed to Stage 2 if Stage 1 is FULLY fulfilled!

STAGE 2: WRONGFULNESS/UNLAWFULNESS (Rechtswidrigkeit)

Question: Was the act unlawful, or are there justifications?

Justifications (Act was RIGHT):

- Self-defense
- Necessity
- Legal authority/state order
- Consent (in some cases)

Effect: Act is NOT wrongful → No criminal liability → Analysis STOPS here

■■ RULE: ONLY proceed to Stage 3 if act is wrongful (no justification)!

STAGE 3: CULPABILITY/BLAMEWORTHINESS (Schuld)

Question: Can we blame the defendant for the wrongful act?

Excuses (Act was WRONG but not blameworthy):

- Insanity/mental disorder
- Duress

- Self-defense excess
- Provocation
- Mistake of law (limited circumstances)

Effect: Act WAS wrongful BUT defendant not blameworthy → No criminal liability

Critical Framework Rules

- ✓ NEVER skip stages - analyze in order
- ✓ STOP when a stage is not fulfilled
- ✓ Don't analyze Stage 3 if Stage 2 fails
- ✓ Justifications ≠ Excuses - they operate at different stages

ACTUS REUS: ACTS AND OMISSIONS

Commission: Positive Acts

Requirement: Voluntary bodily movement

NOT Voluntary: Reflexes, sleepwalking, being pushed/forced, convulsions

Examples: ✓ Pulling trigger, hitting someone | ✗ Pushed into someone

Omission: Failure to Act

General Rule: No liability for mere omissions

Exception - Omission liability when:

1. Legal duty to act exists

Sources of duty: Statute, status/relationship, contract, voluntary assumption, prior dangerous conduct
2. Had ability to act
3. Omission caused harm
4. Required mens rea

Examples:

- ✓ Parent sees child drowning in shallow pool, does nothing → Liability (duty from relationship)
- ✗ Stranger sees child drowning, walks away → Generally no liability (no duty to rescue strangers)
- ✓ Lifeguard sees person drowning, does nothing → Liability (contractual duty)

CAUSATION

Two Requirements (BOTH Must Be Met)

1. FACTUAL CAUSATION ('But-For' Test)

Test: But for the defendant's act, would the result have occurred when and as it did?

Simple Formula:

Remove defendant's act → Would result still happen?

- YES → No factual causation
- NO → Factual causation established ✓

Important: Factual causation is necessary but NOT sufficient for liability

2. LEGAL CAUSATION (Reasonableness/Imputation)

Test: Is it reasonable/just to attribute the result to the defendant's act?

Why Needed? Factual causation alone is too broad (e.g., 'but for' A's parents conceiving A, no murder by A 30 years later - but we don't blame parents!)

Eight Concepts for Legal Causation Analysis

Use these to determine if attribution is reasonable:

1. Culpability of Perpetrator

- Higher culpability → Broader causal responsibility
- Intent: Causal chain rarely broken
- Key Rule: 'If there is intent, consequences can never be too remote'
- Negligence: Narrower responsibility, more easily broken

2. Probability of Result

- Highly improbable results may break causal chain
- Test: Was result foreseeable/probable?
- Foreseeable: Punching → broken nose ✓
- Unforeseeable: Punching → victim struck by lightning ✗

3. Responsive Intervening Cause

- Third party/victim acts in response to defendant's conduct
- Types: Medical treatment, victim's reaction, rescuer's action
- General Rule: If intervention is reasonable response, chain NOT broken
- Example: A stabs B → B hospitalized → Surgery → B dies during surgery = ✓ Causation maintained

4. Naturally Occurring Intervening Cause

- Natural events (weather, disease, etc.) intervene

- Principle: If natural event is foreseeable, usually doesn't break chain
- Unforeseeable: A stabs B → Sudden rainstorm → B drowns in puddle = ✗ Breaks chain

5. Culpable Human Intervention

- Highly culpable independent acts by third parties often break chain
- Test: Is act independent (not responsive)? Highly culpable? Unforeseeable?
- Example: A stabs B → Nurse deliberately overdoses B for insurance → B dies = ✗ Breaks chain

6. Culpability of Victim

- Victim's highly culpable conduct rarely breaks chain
- Why? Defendant 'takes victim as found' (thin skull rule)

7. Unforeseeable Conduct of Victim

- Only completely unforeseeable victim conduct breaks chain
- English 'Daft' Test: Reasonable reaction → Chain continues; Totally bizarre → Chain broken

8. Predispositions of Victim ('Thin Skull Rule')

- Principle: 'Take your victim as you find them'
- Victim's vulnerabilities do NOT break causal chain
- Examples: Hemophilia, egg-shell skull, heart condition, religious beliefs
- Why? Criminal law doesn't let defendants pick healthy victims

Legal Causation Analysis Approach

Think of it like a SCALE:

Supporting Causation: High culpability, foreseeable result, responsive intervention, victim predispositions

Against Causation: Low culpability, highly improbable result, independent culpable third party acts, bizarre victim reactions

→ Weigh all applicable concepts → Determine if attribution is reasonable

WEEK 3: MENS REA (MENTAL STATE)

FORMS OF MENS REA

The Fault Hierarchy (Most to Least Serious)

1. Direct Intent (Dolus Directus)
2. Indirect Intent (Dolus Indirectus)
3. Conditional Intent (Dolus Eventualis)
4. Recklessness (Conscious Negligence)
5. Negligence (Unconscious Negligence)

INTENTION (DOLUS)

Core Elements: Cognitive (knowledge/awareness) + Volitional (will/desire)

1. DIRECT INTENT (Dolus Directus)

Definition: Acting with the purpose/aim of causing the result

Test of Failure: Would the act have been a failure if the result hadn't occurred?

- YES → Direct intent
- NO → Not direct intent

Characteristics:

- Volitional component dominates
- Want the result as goal or necessary means
- Includes intermediate goals

Examples:

- ✓ A wants to kill B to inherit money → Direct intent (killing is the goal)
- ✓ A wants to rob bank, knows must kill guard → Direct intent (killing is necessary intermediate goal)
- ✓ A bombs airplane to kill one passenger, knows all will die → Direct intent to kill all (unavoidable means)

2. INDIRECT INTENT (Dolus Indirectus)

Definition: Acting while being virtually certain (90%+) the result will occur, even though not desired

Characteristics:

- Cognitive component dominates
- Don't want result, but know it's certain
- Act despite certainty

Example:

A wants to kill B in apartment. A bombs apartment. Knows neighbor C will certainly die too. Doesn't want C dead, but proceeds anyway. → Indirect intent to kill C (90%+ certain C will die, not desired)

Distinction from Direct: Direct = result is goal/necessary means | Indirect = result is foreseen side effect, not goal

3. CONDITIONAL INTENT (Dolus Eventualis)

Definition: Consciously accepting a considerable/substantial chance the result will occur

Two Elements (BOTH Required):

A. Cognitive (Awareness):

- Must be conscious of the risk
- Risk must be considerable/substantial
- Not just theoretical possibility

B. Volitional (Acceptance):

- Must accept/approve of the risk
- Takes the risk anyway
- Risk reconciled with willingness to proceed

Examples:

- ✓ A plays Russian roulette with B (1 in 6 chance of death) → Conditional intent
- ✓ A drives extremely drunk, knows significant risk of hitting someone, proceeds anyway → Conditional intent
- ✗ A aware of risk but sincerely hopes it won't materialize, takes all precautions → NO conditional intent

■■ CRITICAL DISTINCTION: INTENTION vs. KNOWLEDGE

Knowledge (NOT Sufficient):

- ✗ Merely knowing result might happen
- ✗ Foreseeing possibility
- ✗ Being aware of risk

Intention (REQUIRED):

- ✓ Wanting the result
- ✓ Purpose/aim for result
- ✓ Accepting/reconciling with result

Example: Gun shop owner suspects customer will commit murder, sells gun anyway but doesn't want murder → Knowledge ✓, Intention ✗ → NO accomplice liability

NEGLIGENCE (CULPA)

Two-Stage Test

STAGE 1: Objective Test (Conduct)

Question: Did defendant's conduct grossly deviate from reasonable person standard?

Factors to Consider:

- A. Probability of Harm - Higher probability → Higher standard of care
- B. Severity of Potential Harm - Death/serious injury → Very high standard
- C. Social Utility - Justifiable risks may be reasonable
- D. Special Knowledge/Abilities - Compare to reasonable person with same abilities

STAGE 2: Subjective Test (Capacity)

Question: Could defendant have acted like reasonable person?

Factors Excusing:

- Acute physical/mental disabilities (sudden medical emergency, seizure, heart attack)
- Mental disease (severe mental illness, cognitive impairment)
- Chronic physical disabilities (if relevant - e.g., blind person can't see danger)
- Age (very young children, cognitive limitations)

■■ PRIOR FAULT DOCTRINE

Can't claim excuse if you caused the condition

- Intoxication: Can't claim drunk if you chose to drink
- Risk creation: Can't claim emergency if you created it
- Known disability: Can't ignore known risks

Conscious vs. Unconscious Negligence:

Conscious Negligence (Recklessness): Aware of risk, doesn't accept it, unreasonably disregards it

Unconscious Negligence: Should have been aware of risk, wasn't aware, reasonable person would have been

WEEK 4: DEFENSES (JUSTIFICATIONS & EXCUSES)

FUNDAMENTAL DISTINCTION

Justifications vs. Excuses

Justification (Stage 2 - Wrongfulness):

'I accept responsibility but deny it was bad'

→ The act was RIGHT/LAWFUL given circumstances

→ No wrongdoing occurred

Excuse (Stage 3 - Culpability):

'I admit it was bad but don't accept responsibility'

→ The act was WRONG but I'm not blameworthy

→ Wrongdoing occurred but can't blame defendant

SELF-DEFENSE (JUSTIFICATION)

Dutch Criminal Code Article 41(1)

'He who commits an act where this is necessary in the defense of his person or the person of another, his or another person's integrity or property, against an imminent unlawful attack, is not criminally liable.'

Seven Criteria (ALL Must Be Met)

#	Criterion	Key Points
1	Defense of legitimate interests	Life, bodily integrity, property, others
2	Imminent attack	Not too early, not too late
3	Unlawful attack	Attacker's conduct must be unlawful
4	Necessity 1	Had to defend, couldn't avoid
5	Proportionality	Force proportionate to threat
6	Necessity 2	Minimum force needed
7	Prior fault	Didn't cause situation

■■ THE GOLDEN RULE: PRIOR FAULT DEFEATS ALL DEFENSES

Both justifications AND excuses

If you caused the situation through your own wrongful behavior, you cannot claim any defense

Examples of Prior Fault:

✗ You insult and push someone → They attack back → You 'defend' = NO self-defense (you provoked)

✗ You're robbing a house → Homeowner attacks → You 'defend' = NO self-defense (criminal enterprise)

✗ You agree to street fight → During fight → Claim self-defense = NO (consented to mutual combat)

SELF-DEFENSE EXCESS (EXCUSE - Stage 3)

Dutch Criminal Code Article 41(2)

'Exceeding the limits of necessary defense, where such excess has been the result of a strong emotion brought about by the attack is not punishable'

Requirements: First 4 criteria fulfilled + Attack → Strong emotion → Excessive force

Three Types of Excess

1. Intensive Excess

- Using too much force from the start
- Violation of proportionality or necessity 2 at t■
- Example: A tries to steal B's apple → B shoots A in face

2. Extensive Excess of First Degree

- Continuing defense too long after threat ends
- Defense proper at t■, becomes excessive at t■
- Example: A hits B → B hits back → A becomes unconscious → B keeps hitting

3. Extensive Excess of Second Degree

- Starting 'defense' after attack is over
- Attack at t■, 'defense' at later t■
- Essentially revenge, not defense

OTHER DEFENSES

- **Necessity (Justification):** Balancing of interests, choose lesser evil
- **Duress (Excuse):** Acting under threats/coercion
- **Insanity (Excuse):** Mental disease prevents responsibility

WEEK 5: INCHOATE OFFENSES

STAGES OF LIABILITY

No Liability → Preparation → Attempt → Complete Offense

ATTEMPT: TWO PHILOSOPHICAL APPROACHES

1. SUBJECTIVIST APPROACH (Culpability-Centered)

Focus: Defendant's dangerous character/intent

Threshold: Attempt constituted EARLY in the process

Test: 'What has already been done' (past steps)

Question: Is act clear evidence of defendant's intent?

Example: American Model Penal Code - Substantial Step Test

- Lying in wait, reconnaissance, unlawful entry, possession of crime-specific materials

2. OBJECTIVIST APPROACH (Harm-Centered)

Focus: Danger to legal interests

Threshold: Attempt constituted LATE in the process

Test: 'What still remains to be done' (future steps)

Question: Is there manifest criminality? Does it look dangerous?

Examples: Dutch & English law

- English: 'More than merely preparatory to commission of offense'
- Dutch: 'Perpetrator manifests intention by initiating the crime'

Feature	Subjectivist	Objectivist
Focus	Defendant's intent	Danger to interests
Timing	Early threshold	Late threshold
Justification	Dangerous person	Dangerous act
Looks at	What's been done	What remains to be done
Example	MPC (US)	Dutch/English law

PREPARATION

Dutch Law - Article 46 DCC

Definition: Intentionally obtaining, manufacturing, importing, etc. objects/substances intended for commission of serious crime

Requirements:

1. Serious crime (carries 8+ years imprisonment)
2. Preparatory conduct (obtaining, manufacturing, importing/exporting, having at disposal)
3. Intended for crime (items must be intended for serious offense)
4. Intent (must intentionally prepare with intent regarding serious offense)

Punishment: Maximum reduced by half

CONSPIRACY (COMMON LAW)

English Criminal Law Act 1977

Definition: Agreement between persons to pursue course of conduct that will amount to commission of offense

Requirements:

1. Agreement (two or more persons to pursue course of conduct)
2. Object (agreement will necessarily amount to offense OR would but for impossibility)
3. Intent (parties intend agreement be carried out, crime committed by conspirators)

Key Feature: NO actus reus beyond the agreement itself

MENS REA OF ATTEMPTS

General Rule: Attempt almost always requires INTENTION to commit the full offense

- Must intend to kill (attempted murder)
- Must intend to steal (attempted theft)
- Recklessness/negligence generally NOT sufficient

WEEK 6: PARTICIPATION (COMPLICITY)

TWO THEORETICAL APPROACHES

1. Differentiation System (Hierarchical)

- Different roles deserve different punishments
- Distinct categories with specific requirements and different maximum punishments
- Example systems: Germany, Netherlands, France
- Categories (most to least serious): Direct perpetrator, Co-perpetrator, Indirect perpetrator, Instigator, Aider

2. Equivalence System (Unitary)

- All participants equally liable
- Everyone treated as 'principal'
- Same maximum punishment for all, judge has sentencing discretion
- Example systems: England, US, Common Law countries

■■ DERIVATIVE LIABILITY (FUNDAMENTAL PRINCIPLE)

Formula: No accomplice without principal crime

Accomplice's liability 'derives from' principal offender's crime

Requirements for Accomplice Liability:

1. ✓ Principal offender exists
2. ✓ Principal committed/attempted a crime
3. ✓ Principal's conduct was wrongful (Stage 2 fulfilled)

Minimum Threshold: Principal must reach Stage 2 (Wrongfulness)

How Defenses Affect Derivative Liability:

✗ Justifications (Stage 2): BREAK derivative link → NO accomplice liability possible

If principal justified, act NOT wrongful → No wrongful act to be accomplice to

✓ Excuses (Stage 3): Do NOT break derivative link → Accomplice liability still possible

If principal excused, act WAS wrongful → Accomplice still liable (act was wrongful even if principal not blameworthy)

■■ MENS REA: DOUBLE INTENTION (BOTH REQUIRED)

First Level: Intent Your Own Conduct

Did you intend to contribute?

- Your own act of assistance
- The contribution you're making
- That you're helping commit a crime

Second Level: Intent the Principal's Crime

Did you intend the offense be committed?

- Standard: Generally requires direct intent (dolus directus)
- That the specific crime occur
- The essential elements and result

■■ CRITICAL: INTENTION vs. KNOWLEDGE

Knowledge (NOT Sufficient): Merely knowing, foreseeing, being aware

Intention (REQUIRED): Wanting, purpose/aim, accepting/reconciling

Example: Gun shop owner suspects customer will commit murder, sells gun anyway but doesn't want murder → Knowledge ✓, Intention ✗ → NO accomplice liability

FIVE FORMS OF PARTICIPATION

Form	Timing	Causation?	Substantial?	Agent Liable?	Example
Direct Perpetration	During	N/A	N/A	N/A	You stab victim
Co-perpetration	Before/ During	NO	YES	Liable	Joint robbery
Perpetration by means	Before/ During	Yes (control)	N/A	NOT liable	Child delivers bomb
Instigation	Before	YES	N/A	Liable	Hiring hitman
Aiding	Before/ During	NO	NO	Liable	Getaway driver

1. Direct Perpetration

Personally performing the actus reus - you directly commit the crime yourself

2. Co-perpetration

Requirements:

- ✓ Derivative liability (all are liable)
- ✓ Substantial contribution (not just minor help)
- ✓ Complete cooperation
- ✓ Functional control over criminal enterprise
- ✓ Common purpose

Key Feature: Physical presence NOT required

Factors: Intensity of cooperation, division of tasks, role in preparatory/execution phases, equal sharing of proceeds, control over outcome

3. Perpetration by Means (Indirect Perpetration)

Definition: Using innocent agent to commit crime

Requirements:

- ✓ Agent is NOT liable (innocent)
- ✓ Agent lacks capacity, knowledge, or voluntariness
- ✓ You have control over act
- ✓ You have intent to commit offense

Key Point: YOU are principal perpetrator, not accomplice

Examples: Child delivers bomb (thinks it's toy), Tricked mailman delivers poison, Insane person used as instrument

4. Instigation

Definition: Causing another person to commit crime

Requirements:

- ✓ Derivative liability (principal must be liable)
- ✓ Psychological causation (you caused their decision)
- ✓ Authorized means used
- ✓ Intent to instigate
- ✓ Intent regarding specific offense

Authorized Means (EXHAUSTIVE List):

1. Gifts | 2. Promises | 3. Abuse of authority | 4. Use of violence | 5. Threat | 6. Deception | 7. Providing opportunity, means, or information

NOT Authorized: Begging, asking politely, emotional persuasion

Causation Requirement: Must CAUSE principal's decision ('but-for' test)

5. Aiding

Definition: Providing assistance that facilitates commission

Requirements:

- ✓ Derivative liability (principal must be liable)
- ✓ Some contribution (ANY amount, even small)
- ✓ NO causation required (major difference from instigation)
- ✓ Intent to aid
- ✓ Intent regarding offense

Key Feature: Even minor contribution sufficient | Reduced sentence (in differentiation systems)

CRITICAL DISTINCTIONS

Instigation vs. Aiding:

Feature	Instigation	Aiding
Timing	Must be before	Before OR during
Causation	REQUIRED	NOT required
Principal's prior intent	None (you create it)	Already exists
Your role	Cause decision	Facilitate execution
Authorized means	Must use one	Not required

Co-perpetration vs. Aiding:

Feature	Co-perpetration	Aiding
Contribution	Must be substantial	Can be minimal
Role	Joint perpetrator	Accessory
Control	Functional control required	No control required
Punishment	Full perpetrator penalty	Reduced (differentiation)
Equal partnership	Yes	No

SPECIAL RULES

Article 47(2) DCC - Intent Must Match Crime

'Only actions intentionally solicited are to be taken into consideration'

Wrong Crime: Instigate burglary → Principal commits arson = NOT liable for arson instigation

Lesser Crime: Instigate murder → Principal commits assault = NOT liable for assault instigation

Greater Crime: Instigate assault → Principal commits murder = NOT liable for murder instigation

Attempt to Instigate (Article 46a DCC)

When: Principal does NOT commit or attempt crime

- NO derivative liability required
- Used authorized means
- Had intent to instigate and intent regarding offense

Example: You hire hitman, hitman takes money but never attempts killing → You liable for attempt to instigate murder

■ QUICK REFERENCE TABLES

Tripartite Framework at a Glance

Stage	Question	If NOT Fulfilled	Defenses
1. Legal Elements	Actus reus + mens rea?	No liability (stop here)	N/A
2. Wrongfulness	Unlawful? Justifications?	No liability (justified)	Self-defense Necessity Legal authority
3. Culpability	Blameworthy? Excuses?	No liability (excused)	Insanity Duress Excess

Mens Rea Hierarchy

Level	Name	Cognitive	Volitional	Example
1	Direct Intent	Awareness	Goal/purpose	Wants victim dead
2	Indirect Intent	Virtual certainty (90%+)	Not desired but foreseen	Bombs plane, knows all die
3	Conditional Intent	Substantial risk	Acceptance of risk	Russian roulette
4	Recklessness	Awareness of risk	Doesn't accept	Drives drunk, hopes no accident
5	Negligence	Should be aware	N/A	Doesn't see obvious danger

Forms of Participation Quick Reference

Need Derivative Liability?	Need Causation?	Need Substantial?	Agent Liable?
✓ Instigation	✓ Instigation	✓ Co-perpetration	✓ Instigation
✓ Co-perpetration	✗ Aiding	✗ Aiding	✗ Perpetration by means
✓ Aiding	✗ Co-perpetration		
✗ Perpetration by means			
✗ Attempt to instigate			

■ EXAM STRATEGY ESSENTIALS

General Approach

1. **Always start with tripartite framework**
2. **Never skip stages**
3. **Only proceed if previous stage fulfilled**
4. **Use IRAC method** (Issue, Rule, Application, Conclusion)
5. **Be specific about which stage you're analyzing**

■■ COMMON EXAM TRAPS

- Forgetting to check derivative liability
- Confusing knowledge with intention
- Treating all participants as equal
- Not distinguishing substantial vs. minor contributions
- Forgetting causation requirement for instigation
- Requiring causation for aiding
- Mixing up justifications and excuses
- Not applying all self-defense criteria
- Forgetting prior fault defeats all defenses
- Skipping legal causation analysis

Key Phrases to Remember

- **'But for'** = factual causation
- **'Reasonably attribute'** = legal causation
- **'Derivative liability'** = accomplice needs principal crime
- **'Double intention'** = intent own conduct + intent offense
- **'Knowledge ≠ intention'** = crucial distinction
- **'Substantial contribution'** = co-perpetration requirement
- **'Authorized means'** = instigation requirement
- **'Prior fault defeats all defenses'**

■ EXAM: January 21, 2026

- ✓ Format: Essay questions with IRAC method
- ✓ Passing: 22/40 points (Part A + Part B combined)

✓ Key to success: Master the tripartite framework!

■ Good luck with your exam preparation!

Master these concepts and you'll excel in Criminal Law Part A.