# **PROJECT ON**

# **THE CONSTITUENT ELEMENTS OF CRIME IN THE INDIAN PENAL CODE**

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# **ABBREVIATIONS USED:**

* IPC – Indian Penal Code
* v. – Versus
* Sec. – Section
* Prof. – Professor
* AIR – All India Reporter
* SC – Supreme Court
* Edn. – Edition
* TADA –
* Ltd. – Limited
* e.g. – Example
* M.P. – Madhya Pradesh
* A.P. – Andhra Pradesh
* LJ – Law Journal

# **INTRODUCTION**:

* 1. Introduction to Criminal Law:

Criminal law is a body of rules and statutes that defines conduct prohibited by the state because it threatens and harms public safety and welfare and that establishes punishment to be imposed for the commission of such acts. Criminal law differs from civil law, whose emphasis is more on dispute resolution than in punishment. The term criminal law generally refers to substantive criminal laws. Substantive criminal laws define crimes and prescribe punishments. In contrast, Criminal Procedure describes the process through which the criminal laws are enforced. Personal safety, particularly security of life, liberty and property, is of utmost importance to any individual. Maintenance of peace and order is absolutely essential in any society for human beings to live peacefully and without fear of injury to their lives and property. This is possible only in states where the penal law is effective and strong enough to deal with the violators of law. Any state, whatever be its ideology of form of government, in order to be designated as a state, should certainly have an efficient system of penal laws in order to discharge its primary function of keeping peace in the land by maintaining law and order. The instrument by which this paramount duty of the government is maintained, is undoubtedly the penal law of the land. Thus, the prime object of criminal law is the protection of the pubic by the maintenance of law and order. Prof. Wechsler has rightly said thus, “Whatever views are held about the penal law, no one will question its importance in the society. This is the law on which men place their ultimate reliance for protection against all the deepest injuries that human conduct can inflict on individuals and institutions. By the same token, penal law governs the strongest force that we permit official agencies to bring to bear on individuals. Its promise as an instrument of safety is matched only by its power to destroy. If penal law is weak or ineffective, basic human interests are in jeopardy”. Every person in a society is interested in the maintenance of law and order, and is anxious to have security of life and property. Criminal law has been mainly concerned with the protection of the elementary social interest in the integrity of life, liberty and property. Criminal offences dealing with the protection of life and liberty have essentially remained unchanged throughout the ages all over the world. Viewed in this light, it will be difficult to deny the great importance of this branch of law for the security of life, property and maintenance of law and order in the state. People in a state can afford to be without a highly developed system of constitutional law, or property law, but they could ill afford to remain even a day without the system of penal law.

* 1. Crime : Nature and Concept of Crime

Of all the branches of law, the branch that closely touches and concerns a man in his day-to-day life is criminal law. Many attempts have been made to define crime, but they all fail to identify what kind of act or omission amounts to a crime. Perhaps, this is because of the changing notions about crime from time to time and place to place. The very definition and concept of crime varies not only according to the values of a particular group and society, its ideals, faith, religious attitudes, customs, traditions, and taboos, but also according to the form of the government, political and economic structure of the society and a number of other factors. For instance, what is an offence against property in a capitalist culture may be a lawful way of living in a socialist society. What is permissible in a free and an affluent society may be a pernicious vice in a conservative set up.[[1]](#footnote-2) An act, which is a crime today, may not be a crime tomorrow, if the legislature so decides. For instance, polygamy[[2]](#footnote-3), dowry[[3]](#footnote-4), untouchability[[4]](#footnote-5) are now crimes that were not so a few years ago.

Criminal law is narrower than morality. In no age or nation, has the attempt been made to treat every moral defect as a crime. The idea of crime involves the idea of some definite, gross, undeniable injury to someone, where some definite overt act is necessary. No one is punished for ingratitude, hard-heartedness, absence of natural affection, habitual idleness, avarice, sensuality and pride. Sinful thoughts and dispositions of mind might be the subject of confession and of penance, but not of criminal proceedings. Criminal law then, must be confined within narrow limits, and can be applied only to definite overt acts of omissions definite evils, either on specific persons or on the community at large. It is within these limits only, that there can be any relation at all between criminal law and morality.

Law is concerned with relationships between individuals, rather than with the individual excellence of their characters. Ethics is a study of the supreme good, which concentrates on an individual. Law comes in only when ethics and morality fail. Ethics deal with absolute ideal, whereas positive morality deals with current public opinion. The distinction between law and morality can be understood clearly by the following examples. *A*’s neighbour is dying of starvation. *A*’s granary is full. There is no law that requires *A* to help him; *B* is standing on the bank of a tank. A woman is filling her pitcher. All of a sudden she gets an epileptic fit. *B* may, with a clean legal conscience, allow her to die.

* 1. Definitions of Crime :

It is very difficult to give a correct and precise definition of crime. Glanwille Williams rights points out that “the definition of crime is one of the thorny intellectual problems of law. Over the time, many jurists have come up in an attempt to define what ‘crime’ is according to them, but settling at a precise definition hasn’t yet been done. Some definitions are given as under-

1. Blackstone – Blackstone defined crime defined crime as an act committed or omitted in violation of a public law either forbidding or commanding it. A crime is a violation of the public rights and duties due to the whole community considered as a community.
2. Stephen – Stephen observed a crime is a violation of a right considered in reference to the evil tendency of such violation as regards the community at large.
3. Austin – According to Austin, crime is any act or omission which the law punishes. A wrong which is pursued at the discretion of the injured party and his representatives is acivil injury: a wrong which is pursued by the sovereign or his subordinates is a crime.
4. Prof. S. W. Keeton – According to Prof. Keeton, “A crime today would seem to be any undesirable act, which the state finds most convenient to correct by the institution of proceedings for the infliction of a penalty, instead of leaving the remedy to the direction of some injured person”.
5. Oxford Dictionary –Oxford Dictionary defines crime as an act punishable by law as forbidden by statute or injurious to the public welfare.

Some jurists define crime as those legal wrongs which violently offend our moral feelings.Some jurists define crime according to the interference by the state in such acts. In civil cases the state does not interfere until actual wrong has been committed, and even then itdoes not interpose unless proceedings are initiated by the person actually affected by it. Incriminal matters the state maintains an elaborate police staff to prevent offences and if one iscommitted an action may be instituted by the state without the cooperation of the partyinjured.

Thus we see that an attempt to define the word ‘crime’ has been made by profound jurists and thinkers over the time but because of its ever-changing nature from time to time, society to society, circumstances to circumstances and cases to case, it is a difficult task to give a definition of ‘crime’ which would be precise and applicable in every case.

# ELEMENTS OF CRIME:

* 1. Brief Overview :

The fundamental principle of criminal liability is that there must be a wrongful act, actusreus[[5]](#footnote-6),combined with a wrongful intention, mensrea. This principle is embodied in the maxim, *actus non facitreum, nisi mens sit rea*, meaning, ‘an act does not make one guilty unless the mind is also blameworthy’. A mere criminal intention not followed by a prohibited act does not constitute a crime. Similarly, mere actusreus ceases to be a crime as it lacks mensrea. Not act is per se criminal; it becomes criminal only when the actor does it with guilty mind. No external conduct, howsoever serious in its consequences, is generally punished unless the prohibited consequence is produced by some wrongful intent, fault or mensrea[[6]](#footnote-7). In juristic concept, actusreus represents the physical aspect of crime and mensrea, its mental aspect, which must be criminal and cooperate with the former. Apart from these two elements that go to make up a crime, there are two more indispensable elements, namely, first, “ahuman being under a legal obligation to act in a particular way and a fit subject for theinfliction of appropriate punishment,” and secondly, “an injury to another human being or tothe society at large.” Thus the four elements that go to constitute a crime are as follows: first,a human being under a legal obligation to act in a particular way and a fit subject for theinfliction of appropriate punishment: secondly, an evil intent or mensrea on the part of suchhuman being; thirdly, actusreus, i.e., act committed or omitted in furtherance of such anintent; and fourthly, an injury to another human being or to society at large by such an act.

* 1. Human being as an Element of Crime :

The first element requires that the wrongful act must be committed by a human being. In ancient times, when criminal law was largely dominated by the idea of retribution, punishments were inflicted on animals also for the injury caused by them, for example, a pig was burnt in Paris for having devoured a child, a horse was killed for having kicked a man. But now, if an animal causes an injury we hold not the animal liable but its owner liable for such injury. So the first element of crime is a human being who- must be under the legal obligation to act in a particular manner and should be a fit subject for awarding appropriate punishment.

Section 11 of the Indian Penal Code provides that word ‘person’ includes a company or association or body of persons whether incorporated or not. The word ‘person’ includes artificial or juridical persons.

The act should have been done by a human being before it can constitute a crime punishable at law. The human being must be “under a legal obligation to act, and capable of being punished.”

In case, the crime is committed by an animal, its owner is subject to Civil/Tortious liability.

* 1. Actus Reus as an Element of Crime :

Actus Reus: To constitute a crime the third element, which we have called actusreus orwhich Russell1 has termed as “physical event”, is necessary. Actusreusis a physical result of human conduct. When criminal policy regards such a conduct assufficiently harmful it is prohibited and the criminal policy provides a sanction or penalty forits commission. The actusreus may be defined in the words of Kenny to be “such result ofhuman conduct as the law seeks to prevent.”3 Such human conduct may consist of acts ofcommission as well as acts of omission. Section 32 of our Penal Code lays down: “Wordswhich refer to acts done extend also to illegal omissions.”

It is, of course, necessary that the act done or omitted to be done must be an act forbidden or commanded by some statute law, otherwise, it may not constitute a crime. Suppose, anexecutioner hangs a condemned prisoner with the intention of hanging him, here all the threeelements obviously are present, yet he would not be committing a crime because he is actingin accordance with a law enjoining him to act. So also if a surgeon in the course of anoperation, which he knew to be dangerous, with the best of his skill and care performs it andyet the death of the patient is caused, he would not be guilty of committing a crime becausehe had no mensrea to commit it.As regards acts of omission which make a man criminally responsible, the rule is that noone would be held liable for the lawful consequences of his omission unless it is proved thathe was under a legal obligation to act. In other words, some duty should have been imposedupon him by law, which he has omitted to discharge. Under the Penal Code, Section 43 laysdown that the word “illegal” is applicable to everything which is an offence or which isprohibited by law, or which furnishes a ground for a civil action; and a person is said to be“legally bound to do whatever it is illegal in him to omit.” Therefore, an illegal omissionwould apply to omissions of everything which he is legally bound to do. These indicateproblems of actusreus we have discussed in detail elsewhere. However, the two elementsactusreus and mensrea are distinct elements of a crime. They must always be distinguishedand must be present in order that a crime may be constituted. The mental element or mensreain modern times means that the person’s conduct must be voluntary and it must also be actuated by a guilty mind, while actusreus denotes the physical result of the conduct, namely, it should be a violation of some law, statutory or otherwise, prohibiting or commanding the conduct.

Section 39, Voluntarily – A person is said to cause an effect ‘voluntarily’ when he causes it by means whereby he intended to cause it, or by means which, at the time of employing those means , he knew or had reason to believe to be likely to cause it. Illustration – A sets fire, by night, to an inhabited house in a large town, for the purpose of facilitating a robbery and thus causes the death of a person. Here, A may not have intended to cause death, and may even be sorry that death has been caused by his act, yet, if he knew that he was likely to cause death, he has caused death voluntarily.

Concomitant Circumstances –

* Act to be prohibited by law – In order to create criminal liability, it is not sufficient that there is mensrea and an act, the actus must be reus. However harmful or painful an event may be it is not actusreus unless criminal law forbids it. In other words, the act must be prohibited or commanded by law.
* Act should result in harm – However, it is not all crimes which require the act should result in some harm. In homicide, the required result is a pre-requisite in order to constitute an offence. Offences like treason, forgery, perjury and inchoate or incomplete crimes are per se offences, irrespective of whether they actually result in harm or not.
* Act to be Direct cause of harm – Where the causing of harm is a requisite of an offence, then such harm should have a casual effect to the act. In other words, the harm caused must be a direct result of the act. It must be *cause causans,* the immediate cause, and it is not enough that it may be *causa sine qua non,* the proximate cause.

According to Glanville Williams, “When we use the technical term actusreus, we include all the external circumstances and consequences specified in the rule of law as constituting the forbidden situation. Reus must be taken as indicating the situation specified in theactusreus as on that, given any necessary mental element, is forbidden by law”.[[7]](#footnote-8)

Actusreus includes negative as well as positive elements. The requirements of actusreus varies depending upon the definition of the crime. Actusreus may be with reference to place, fact, time, person, consent, the state of mind of the victim, possession or even mere preparation.

Principle of Ordinary Hazard – According to this principle, the attacker or the wrongdoer would be liable for anything which happens to the victim, only if the consequence was directly caused by the act of the attacker. Example – if the victim of an attack dies in a traffic accident, when he is being conveyed by an ambulance to the hospital, or dies as a result of a fever which is spread in the hospital, the attacker is not guilty of it, because the effect of the attack was merely to place the victim in a geographical position, where another agency produced his death. Another example is where the victim died of hospital fever, but a contributory factor was the weakness caused by his injuries, so that he would not have died if it had not been for his weakness. Probably, the attacker, may then be liable the death caused, a criminal homicide.

Principle of Reasonable Foresight – this principle is built into the IPC in the *thirdly* and *fourthly* of Sec. 300. As per *thirdly*, a person who causes such bodily injury as is sufficient in the ordinary course of nature to cause death, is guilty of murder. *Fourthy* of Sec. 300, IPC, states that if a man does an act which is imminently dangerous that in all probability it must cause death (and commits such act without any excuse for incurring the risk), and if death is caused, then he is guilty of murder.

Unexpected Interventions – Unexpected interventions, or twists in the acts, which cause the result, can create complications while fixing causation. But, it may have effect on the degree or gravity of culpability, depending upon the facts and circumstances of the case.

* Intervention of an innocent person –A person will be held fully responsible if he had made use of an innocent agent to commit a crime.
* Intervention of another person – In cases, where another person has intervened and the latter’s action was the immediate and direct cause of the crime, the original wrongdoer whose act had merely given rise to the occasion of the act of the criminal, will be absolved from liability.
  1. Mens Rea as an Element of Crime :

One of the main characteristic of our legal system is that the individual's liability to punishment for crimes depends, among other things, on certain mental conditions. The liability of conviction of an individual depends not only on his having done some outward acts which the law forbids, but on his having done them in a certain frame of mind or with a certain will. The third element, which is an important essential of a crime, is mensrea or guilty mind. In the entire field of criminal law there is no important doctrine than that of mensrea. The fundamental principle of Indian Criminal jurisprudence, to use a maxim which hasbeen familiar to lawyers following the common law for several centuries, is “actus non facitreum nisi mens sit rea”. Mensrea is the state of mind indicating culpability, which is requiredby statute as an element of a crime. It is commonly taken to mean some blameworthy mentalcondition, whether constituted by intention or knowledge or otherwise, the absence of whichon any particular occasion negatives the intention of a crime. The term ‘mensrea’ has beengiven to volition, which is the motive force behind the criminal act.There can be no crime of any nature without mensrea or an evil mind. Every crime requires a mental element and that is considered as the fundamental principle of criminal liability. The basic requirement of the principle mensrea is that the accused must have been aware of those elements in his act which make the crime with which he is charged.

Intention -To intend is to have in mind a fixed purpose to reach a desired objective; it is used to denote the state of mind of a man who not only foresees but also desires the possible consequences of his conduct. The idea foresees but also desires the possible consequences of his conduct. The idea of ‘intention’ in law is not always expressed by the words ‘intention’, ‘intentionally’ or ‘with intent to’. It is expressed also by words such as ‘voluntarily’, ‘wilfully’ or ‘deliberately’ etc. Section 298 IPC makes the uttering of words or making gestures with deliberate intent to wound the religious feelings punishable under the Act. ON a plain reading of the section, the words ‘deliberate’ and ‘intent’ seem synonymous. An act is intentional if, and in so far as it exists in idea before it exists in fact, the idea realizing itself in the fact because of the desire by which it is accompanied. Intention does not mean ultimate aim and object. Nor is it a synonym for motive.

* Intention and motive – Intention and motive are often confused as being one and the same. The two, however, are distinct and have to be distinguished. The mental element of a crime ordinarily involves no reference to motive. A bad motive cannot be a reason for convicting a person. Similarly, a good motive cannot be an excuse for acquitting him. Austin defined motive as ‘the spring of action’. In criminal law, motive may be defined as that which leads or tempts the mind to indulge in a criminal act or as the moving power which impels to act for a definite result.[[8]](#footnote-9)
* Intention and Consequence - The intention to commit an act must be differentiated from the consequences of an act. In *Hitendra Vishnu Thakur v. State of Maharashtra*,*[[9]](#footnote-10)* the court emphasized that for an offence under TADA, an act must be committed with the intention and motive to create terror as contemplated under the Act. Where the causing of the terror is only the consequence of the criminal act, but was not the intention, an accused cannot be convicted for an offence under TADA.
* Intention and Knowledge - The terms ‘intention’ and ‘knowledge’ which denote *mensrea*appear in Sections 299 and 300, having different consequences. Intention and knowledgeare used as alternate ingredients to constitute the offence of culpable homicide. However,intention and knowledge are two different things. Intention is the desire to achieve a certainpurpose while knowledge is awareness on the part of the person concerned of theconsequence of his act of omission or commission, indicating his state of mind. Thedemarcating line between knowledge and intention is no doubt thin, but it is not difficult toperceive that they connote different things. There may be knowledge of the likelyconsequences without any intention to cause the consequences. For example, a mother jumpsinto a well along with her child in her arms to save herself and her child from the cruelty ofher husband. The child dies but the mother survives. The act of the mother is culpablehomicide. She might not have intended to cause death of the child but, as a person havingprudent mind, which law assumes every person to have, she ought to have known thatjumping into the well along with the child was likely to cause the death of the child. Sheought to have known as prudent member of the society that her act was likely to cause death even when she may not have intended to cause the death of the child.

Knowledge as Mens Rea – Knowledge is awareness on the part of the person concerned, indicating his mind. A person can be supposed to know when there is a direct appeal to his senses.[[10]](#footnote-11) Knowledge is an awareness of the consequences of the act. It is the state of mind entertained by a person with regard to existing facts which he has himself observed or the existence of which has been communicated to him by persons whose veracity he has no reason to doubt. Knowledge is essentially subjective. The demarcating line between knowledge and intention is no doubt thin, but it is not difficult to perceive that they connote different things. [[11]](#footnote-12)

Negligence as Mens Rea - If anything is done without any advertence to the consequent event or result,the mental state in such situation signifies negligence. The event may be harmless or harmful;if harmful the question arises whether there is legal liability for it. In civil law (common law) it is decided by considering whether or not a reasonable man in the same circumstances would have realized the prospect of harm and would have stopped or changed his course so as to avoid it. If a reasonable man would not, then there is no liability and the harm must lie where it falls. The word ‘negligence’, therefore, is used to denote blameworthy inadvertence. It should be recognized that at common law there is no criminal liability for harm thus caused by inadvertence. Strictly speaking, negligence may not be a form of mensrea. It is more in the nature of a legal fault. However, it is made punishable for a utilitarian purpose of hoping to improve people’s standards of behaviour. Criminal liability for negligence is exceptional at common law; manslaughter appears to be the only common law crime, which may result fromnegligence.

Criminal Liability of a Corporation – Originally, the prevalent view was that a corporation or a body incorporate, which has a separate legal entity, cannot be charged of offences because of procedural difficulties. The obvious reasons were that a corporation could not be either arrested or compelled to remain present during criminal proceedings. It, owing to the absence of ‘mind’, could not form the required ‘intention’ to commit a crime. No bodily punishment could be inflicted on it. The evolution of corporate criminal responsibility is a striking instance of judicial change in law. The non-liability of a corporation soon gave way to the idea that it can be made liable for non-feasance, i.e. an omission to the act. If a statutory duty is cast upon a corporation or a body incorporate, and not performed, the corporation or body incorporate can be convicted of the statutory offence. In *State of Maharashtra v. Syndicate Transport Co. Ltd[[12]](#footnote-13).,*the Bombay High Court did not see any reason for exempting a corporate body from liability for crimes committed by its directors, agents or servants while acting for or on behalf of the corporation.However, a corporation cannot be convicted for the offence, which by nature cannot be committed by a corporation but can only be committed by an individual human being (e.g. sexual offences, bigamy, perjury etc.).

* 1. Injury to a Human Being as an Element of Crime :

The fourth element, as we have pointed out above, is an injuryto another human being or to society at large. This injury to another human being should beillegally caused to any person in body, mind, reputation or property. Therefore, it becomesclear that the consequences of harmful conduct may not only cause a bodily harm to anotherperson, it may cause harm to his mind or to his property or to his reputation. Sometimes, by aharmful conduct no injury is caused to another human being, yet the act may be held liable asa crime, because in such a case harm is caused to the society at large. All the public offences,especially offences against the state, e.g. treason, sedition, etc. are instances of such harms.They are treated to be very grave offences and punished very severely also.

1. **CASES ON THE ELEMENTS OF CRIME :**
   1. Cases on Human Being as an Element of Crime –

* R v. Prince - The appellant was charged with taking an unmarried girl under the age of 16 out of the possession of her father contrary to s.55 of the Offences Against the Person Act 1861. He knew that the girl was in the custody of her father but he believed on reasonable grounds that the girl was aged 18.

His conviction was upheld. The offence was one of strict liability as to age and therefore his reasonable belief was no defense.

* R v. Bishop
* R v. Wheat & Stocks
  1. Cases on Actus Reus as an Element of Crime –
* R v Quick [1973] - The defendant, a diabetic was charged with assaulting his victim. The assault occurred whilst the defendant was in a state of hypoglycaemia (low blood sugar level due to an excess of insulin). The court held that the defendant should have been acquitted on the ground of automatism. His unconscious state had been the result of external factors, ie the taking of insulin.
* R v Dytham (1979) - A uniformed police officer saw a man who was being kicked to death. He took no steps to intervene and drove away when it was over. He was convicted of the common law offence of misconduct in a public office as he had neglected to act to protect the victim or apprehend the victim.
* Om Prakash v. State of Punjab – The husband was attempting to kill his wife by deliberately failing to give her food. The High Court observed that,”the food was willfully and intentionally withheld to shorten the remaining span of her life. Law does not require an intention to cause death then and there. It is enough if the facts show that by withholding food to her, death would have resulted surely though gradually”.[[13]](#footnote-14)
* R v White [1910] - The defendant put potassium cyanide into a drink for his mother with intent to murder her. She was found dead shortly afterwards with the glass, three-quarters full, beside her. The medical evidence showed that she had died, not of poison, but of heart failure. The defendant was acquitted of murder and convicted of an attempt to murder. Although the consequence which the defendant intended occurred, he did not cause it to occur and there was no actusreus of murder.
  1. Cases on Mens Rea as an Element of Crime –
* KunalMajumdar v. State of Rajasthan, Criminal Appeal No. 407 of 2008, Supreme Court Judgement delivered on September 12, 2012: Mensrea is an important point to consider by the High Court when a case was sent for its reference for the confirmation of a death sentence under CrPC.
* SankaranSukumaran v. Krishnan Saraswathi[[14]](#footnote-15) - SC held thatMensrea is an essential ingredient of the offence under section 494 (bigamy), where the second marriage has been entered in a bona fide belief that the first marriage was not subsisting, no office under this section committed.
* C. Veerudu V/s State of Andhra Pradesh[[15]](#footnote-16) - Sc held that u/s 498 (A) cruelty means "willful conduct''. Willful conduct includes mensrea.
* BanvarilaAgarwal v/s Surya Narayan[[16]](#footnote-17)- SC held that.The intention of the accused must be dishonest and there must be mensrea.
* NathuLal v. State of M.P.[[17]](#footnote-18)&Kartar Singh v. State of Punjab[[18]](#footnote-19) - The court held that the element of mensrea must be read into statutory provisions unless a statute expressly or by necessary implication rules it out.

1. **CONCLUSION:**

There are four essential elements that go to constitute a crime. First, the wrongdoer who must be a human being and must have the capacity to commit acrime, so that he may be a fit subject for the infliction of an appropriate punishment.Secondly, there should be an evil intent or mensrea on the part of such human being. This isalso known as the subjective element of a crime. Thirdly, there should be an actusreus, i.e. anact committed or omitted in furtherance of such evil intent or mensrea. This may be calledthe objective element of a crime. Lastly, as a result of the conduct of the human being actingwith an evil mind, an injury should have been caused to another human being or to the societyat large. Such an injury should have been caused to any other person in body, mind,reputation or property. If all these elements are present, generally, we would say that a crimehas been constituted. However, in some cases we find that a crime is constituted, althoughthere is no mensrea at all. These are known as cases of strict liability. Then again, in somecases a crime is constituted, although the actusreus has not consummated and no injury hasresulted to any person. Such cases are known as inchoate crimes, like attempt, abetment orconspiracy. So also, a crime may be constituted where only the first two elements are present.In other words, when there is intention alone or even in some cases there may be an assemblyalone of the persons without any intention at all. These are exceptional cases of very seriouscrimes which are taken notice of by the state in the larger interests of the peace andtranquility of the society.

These four elements of crime are necessary to be fulfilled to constitute a crime. It may not be wrong if the credit to form such effective and precise laws is given to the law-makers, for devising a system and proper framework to serve the people of the State and ensure peace and tranquility in the state. The most important function of a state is to take up the responsibility of maintaining peace and order in the society so that the members of the state feel safe regarding their lives and property. The Indian Penal Code, 1860, proves to be a foolproof mechanism to ensure justice in the society. If all laws were so efficient as the IPC, the country would’ve been a lot more safer place to live and to prosper.

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1. V.R. Krishna Iyer, Perspectives in Criminology, Law and Social change (Allied publishers, 1980) , pp. 7-8 [↑](#footnote-ref-2)
2. Hindu Marriage Act, 1995, secs. 5,17 [↑](#footnote-ref-3)
3. The Dowry Prohibition Act, 1961, secs. 3 and 4 [↑](#footnote-ref-4)
4. Protection of Civil Rights Act, 1955, sec. 3 [↑](#footnote-ref-5)
5. Coined by Prof. Kenny, 1st edition, *Outlines of Criminal Law,1902*  [↑](#footnote-ref-6)
6. Mahadeo Prasad v. State of West Bengal, AIR 1954 SC 724 [↑](#footnote-ref-7)
7. Glanville Williams, *Criminal Law: The General Part,* second edn., Stevens and Sons, 1961, p18 [↑](#footnote-ref-8)
8. State of West Bengal v. Mohammed Khalid, AIR 1995 SC 785 [↑](#footnote-ref-9)
9. AIR 1994 SC 2623 [↑](#footnote-ref-10)
10. Hari Singh Gour, The Penal Law of India, vol 1, 11thedn., Law Publishers, Allahabad, 1998, p240 [↑](#footnote-ref-11)
11. Basdev v. State of Pepsu AIR 1956 SC 488 [↑](#footnote-ref-12)
12. AIR 1964 Bom 195 [↑](#footnote-ref-13)
13. AIR 1959 Punj 134, para 45 [↑](#footnote-ref-14)
14. 1984 Cr Lj 317 [↑](#footnote-ref-15)
15. 1989 CRLJ 52 (AP) [↑](#footnote-ref-16)
16. 1994 Crlj 370 [↑](#footnote-ref-17)
17. AIR 1966 SC 43 [↑](#footnote-ref-18)
18. (1994) 3 SCC 569 [↑](#footnote-ref-19)