

Definition of the Concept of Crime

Crime is a wrongful act prohibited by law, considered an offense against the state or society, which is punishable under criminal law through penalties such as imprisonment, fines, or other sanctions, as defined by statutes like the Indian Penal Code, 1860 (IPC) in India.

Key Elements of the Concept of Crime

1. Wrongful Act (Actus Reus):

- A crime involves a voluntary act or omission that violates a legal prohibition. For example, **theft (IPC Section 378)** requires the act of taking someone's property without consent.

2. Mental Intent (Mens Rea):

- Most crimes require a guilty mind or intent, such as knowledge, recklessness, or purpose. For instance, **murder (IPC Section 300)** requires intent to cause death or **grievous harm**.

3. Offense Against the State:

- Unlike torts, which are civil wrongs against individuals, crimes are offenses against public order or the state, even if they harm individuals. The state **prosecutes crimes** to maintain societal order.

4. Punishable by Law:

- Crimes are addressed through penalties prescribed by statutes, such as imprisonment, fines, or community service, as opposed to torts, which primarily involve compensation (damages).
- In India, punishments are outlined in the IPC or other laws like the Bharatiya Nyaya Sanhita, 2023 (BNS), which has replaced the IPC in some contexts.

5. Defined by Statute:

- Crimes are codified in statutes (e.g., IPC, BNS) or other criminal laws, ensuring no act is a crime unless explicitly prohibited (principle of *nullum crimen sine lege*). **Nullum crimen sine lege is a Latin legal maxim that means "no crime without law"**. It is a foundational principle of modern criminal law, also known as the principle of legality
- **Bharatiya Nyaya Sanhita, 2023 (BNS)**: The BNS, effective from July 1, 2024, has replaced the IPC in India. It redefines crimes and punishments, emphasizing modern challenges like cybercrime and terrorism, but retains the core concept of crime as a state-prosecuted wrong.
- **Criminal Procedure Code, 1973 (CrPC)**: Governs the process for investigating and prosecuting crimes, outlining procedures for arrest, trial, and punishment.
- **Indian Constitution**:

Relevance to Winfield and Fraser's Definitions of Torts

- **Winfield**: Defines a tort as a breach of a duty fixed by law, owed to persons generally, redressable by unliquidated damages. This contrasts with crime, where the duty is owed to the state, and punishment (not just damages) is the remedy. Winfield's broad approach (allowing new torts) doesn't apply to crimes, which require statutory definition.
- **Fraser**: Defines a tort as an **infringement** of a right in rem, giving rise to compensation. Crimes, however, involve public wrongs, and their remedies (e.g., imprisonment) differ from torts' focus on

individual compensation. (**Infringement is a legal term for a violation, breach, or unauthorized act that goes against a rule, law, agreement, or a person's rights.**)

- **Section 2(m), Limitation Act, 1963:** Defines a tort as a civil wrong not exclusively a breach of contract or trust, explicitly distinguishing it from crimes, which are governed by criminal statutes like the IPC/BNS.
 - **Examples of Crimes in India:**
 - **Murder** (BNS Section 103, formerly IPC Section 302): Punishable by death or life imprisonment.
 - **Theft** (BNS Section 303, formerly IPC Section 378): Punishable by imprisonment or fine.
 - **Criminal Defamation** (Section 499): Can overlap with tort law but is prosecuted as a crime.
 - **Cybercrime** (e.g., under IT Act, 2000): Reflects modern crimes not covered by tort law.
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Indian Penal Code, 1860 (IPC) B N S 1-07-2024

WHAT IS CHEPTOR 20

Assuming you are referring to the Indian Constitution, there is no "Cheptor 20". However, there is a

Part XX, which is dedicated to the amendment of the Constitution. This part consists of a single, highly significant article: Article 368.

What Article 368 contains

Article 368 deals with the following:

- **Power to amend:** It grants Parliament the power to amend the Constitution and details the procedure for doing so.
 - **Procedure for amendment:** The process for amending the Constitution requires a special majority in both houses of Parliament, and in some cases, the ratification of at least half of the state legislatures.
 - **Constituent power:** It empowers Parliament to amend the Constitution by way of addition, variation, or repeal of any provision.
 - **Limitations:** The Supreme Court, in the landmark ***Kesavananda Bharati case (1973)***, used Article 368 to establish the "**basic structure doctrine**," holding that while Parliament can amend any part of the Constitution, it cannot alter its fundamental or "basic" features.
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WHAT IS IN SECTION 358 (EMERGENCY)

Article 358 of the Indian Constitution, which deals with the suspension of fundamental rights during an emergency. **Here's a breakdown of what Article 358 contains:**

Suspension of Article 19 during an external emergency

- **Automatic suspension:** When a **proclamation of National Emergency** is declared due to war or external aggression, Article 358 automatically and immediately suspends the six fundamental freedoms guaranteed by Article 19.
- **Not for internal emergency:** The 44th Amendment Act of 1978 changed Article 358 so that Article 19 cannot be suspended during an emergency declared on the grounds of "**armed rebellion**" (which

replaced the earlier ground of "internal disturbance"). An "armed rebellion" is a violent, organized uprising by a group of people against their government or ruling authority, using weapons and force.

- State power expanded: During this time, the state has the power to make laws or take executive actions that go against the rights in Article 19, and these actions cannot be challenged in court. अनुच्छेद 358 के अनुसार, जब राष्ट्रीय आपातकाल की घोषणा की जाती है, तो राज्य को कानून बनाने या कार्यकारी कार्रवाई करने का अधिकार मिल जाता है जो अनुच्छेद 19 में दिए गए अधिकारों के खिलाफ हो। ऐसे किसी भी कानून या कार्यकारी कार्रवाई को अदालत में चुनौती नहीं दी जा सकती।
- Temporary effect: Any law made under Article 358 becomes invalid as soon as the emergency ceases to operate. However, executive actions taken during the emergency remain valid. अनुच्छेद 358 के तहत बनाया गया कोई भी कानून, आपातकाल समाप्त होते ही, उस सीमा तक अमान्य हो जाता है, जिस सीमा तक वह अनुच्छेद 19 के अधिकारों के साथ असंगत था।
- Recital requirement: Any law made that suspends Article 19 rights must explicitly state that it is in relation to the Proclamation of Emergency. जिस कानून के द्वारा अनुच्छेद 19 के अधिकारों को निलंबित किया जाता है, उसमें स्पष्ट रूप से यह उल्लेख होना चाहिए कि वह कानून आपातकाल की उद्घोषणा से संबंधित है।

Comparison with Article 359

It's important to distinguish Article 358 from Article 359, which also deals with the suspension of fundamental rights during an emergency.

- Article 358: Automatically suspends the rights under Article 19 during an external emergency.
- Article 359: Allows the President, by an order, to suspend the right to move any court for the enforcement of specific fundamental rights (except for Articles 20 and 21), during both external and internal emergencies.

- **INDIAN CONSTITUTION DEVIDED IN PARTS ?**
- Yes, the Indian Constitution is divided into parts
- . Originally, it contained 22 parts, but through various amendments, it has been expanded to 25 parts. These parts group together articles on similar subjects to provide a clear and organized structure for the document.
- For instance, Part I of the Constitution covers the Union and its Territories (Articles 1–4).

Part II of the Indian Constitution, which includes Articles 5 to 11, deals with Citizenship. It defines who was a citizen at the time the Constitution came into effect and empowers Parliament to regulate the right of citizenship by law.

Part III of the Indian Constitution, covering Articles 12 to 35, contains the Fundamental Rights. These are a set of essential liberties and entitlements guaranteed to every citizen, and in some cases, to all persons, that are considered essential for the development of the individual and to preserve human dignity

The term you are referring to is the **Commission of Sati (Prevention) Act, 1987**. This law was enacted by the Parliament of India to prevent the practice of *sati* and to prohibit its glorification.

The Act was a direct response to the highly publicized case of **Roop Kanwar, an 18-year-old widow who was burned alive on her husband's funeral pyre in Rajasthan in 1987. THE LAST SATI.**

Who will fight against this sati pratha?

- **Raja Ram Mohan Roy:** The most prominent Indian social reformer who vociferously campaigned against sati in the early 19th century. After witnessing his own sister-in-law's forced immolation, he published tracts and founded the Brahmo Samaj to oppose the practice, arguing it had no sanction in ancient Hindu scriptures.
- **Lord William Bentinck:** The Governor-General of British India who passed the **Bengal Sati Regulation in 1829**, which made the practice illegal and punishable by law. He acted on the persistent campaigning of Raja Ram Mohan Roy.
- **Akbar:** The Mughal emperor who, in 1582, ordered his officials to stop the immolation of women if they were being forced. He offered pensions and other aid to widows as an alternative.
- **Afonso de Albuquerque:** The Portuguese general who **abolished the practice of sati in Goa in 1510**.
- **William Carey and Christian Missionaries:** Christian missionaries in India also campaigned against the practice on humanitarian grounds.
- **Grassroots Activists:** In the modern era, particularly after the **Roop Kanwar incident in 1987**, women's rights organizations and civil society groups fiercely campaigned for stronger laws to prevent and punish the practice and its glorification.

2. Those who challenged the Sati (Prevention) Act, 1987 (hindus was against this law)

At the time of the law's passage and earlier attempts to ban sati, there was opposition from orthodox and conservative sections of the Hindu community.

A new crime is added in BNS that is cyber crime And also add mob inching in BNS

Definition of Crime

A crime is an act or omission, intentionally or recklessly committed, which violates a legal duty established by statute, causing harm to society or individuals and is punishable by the state through penalties such as imprisonment or fines.

If we don't perform our moral duty that is not a crime.

Like if we don't pay anything to beggar that is not a crime.

If anybody fall into a lake and after we know swimming we cannot save his life that is not a crime.

What is element of crime?

Person sect 2(26)

Mens rea guilty mind or wrong intention.

Actus reus execute physical act performance must be happened.

Tnjury sec 2 (14) it means any type of injuries.

Difference between sect 2 (14) in bns and sect 44 ipc.?

Section 2(14) of BNS

This section provides a definition of the term "injury".

- It states that "injury" means any harm, of any kind, that is caused illegally to any person.

- This harm can be to a person's body, mind, reputation, or property.
- **The definition in BNS Section 2(14) is identical in meaning to the definition of "injury" that was previously given in Section 44 of the IPC, although the word "denotes" was changed to "means".**

Section 44 of IPC (Now replaced)

This section of the IPC did not deal with "injury" but with the right of private defence.

- It covered the right of private defence against a deadly assault, especially in a situation where exercising that right could risk harming an innocent person.
- The provision extended the right of private defence to cover that risk when a person reasonably fears death from an attack and cannot defend themselves without it.
- This provision, formerly Section 106 of the IPC, has been moved to Section 44 in the new Bharatiya Nyaya Sanhita.

Summary of comparison

Feature	Section 2(14) of BNS	Section 44 of the new BNS (formerly IPC)
Topic	Defines "injury" as any illegally caused harm to a person's body, mind, reputation, or property.	Defines the right of private defence in situations where saving oneself from a deadly assault might risk harm to an innocent bystander.
Old Law Equivalent	This section is the new version of the definition of "injury," which was found in the old IPC Section 44.	This section replaces IPC Section 106.
Legal Role	A definitional provision that lays the foundation for offenses involving harm.	A provision that defines a general exception to criminal liability under the right of self-defence.

A person is like a individual person

A company treated as a artificial person

Question: - how a crime creates?

Answer: - The underlying legal principle

The key to all these crimes is the guilty mind, or *mens rea*. The phrases "knowingly" and "fraudulently" establish the intent required for a crime to occur, distinguishing it from an accident. The "adding" of something, such as a false statement, a forged signature, or falsified information, serves as the "guilty act, or *actus reus*"

Case **John Rylands vs Thomas Fletcher.**

The original case

- Defendant: John Rylands, a mill owner, built a reservoir on his land to supply water for his mill.
 - Plaintiff: Thomas Fletcher, who operated an adjacent coal mine.
 - Incident: Water from Rylands' reservoir escaped through old, unsealed mine shafts beneath his land and flooded Fletcher's mine, causing extensive damage.
 - Ruling: The court held Rylands strictly liable for the damage, despite him not being negligent himself (he had hired competent contractors). The court found that the storage of a large quantity of water was a "non-natural" use of the land and that Rylands was responsible for the consequences of its escape.
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Type of punishment in bns?

It is mention in

The types of punishment for offenders under the Bharatiya Nyaya Sanhita (BNS) are mentioned in **Section 4**. This section is part of **Chapter II**, which deals with general explanations of punishments.

Types of punishments under Section 4, BNS and it was in sect 53 in ipc.

The BNS introduces community service as a new form of punishment, expanding on the five types listed in the older Indian Penal Code. The six punishments are:

1. Death penalty: Reserved for the most serious offenses, typically in the "rarest of rare" cases.
 2. Imprisonment for life: This means imprisonment for the remainder of a person's natural life, though it can be commuted. For calculation purposes in certain contexts, it may be treated as 20 years.
 3. Imprisonment: This is of two types:
 - A Rigorous: Involves hard labor, such as mining or construction.
 - B Simple: Does not involve hard labor and is for lesser offenses.
 4. Forfeiture of property: The state confiscates the offender's assets.
 5. Fine: A monetary penalty.
 6. Community service: A new, reformatory punishment requiring the offender to perform unpaid work for public benefit, such as maintaining a library or cleaning public areas.
- Section 8: Describes the amount of fines and rules for imprisonment in default of payment.
 - Sections 11 and 12: Cover the rules and limits of solitary confinement as part of rigorous imprisonment.
 - Section 13: Provides for enhanced punishment for certain repeat offenders.
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In article 141 details are given below.

Article 141 of the Indian Constitution states that the law declared by the Supreme Court is binding on all courts within the territory of India. This provision is the constitutional basis for the **doctrine** (सिद्धांत, मत, विचारधारा या शिक्षा है।) of judicial precedent in India, known as *stare decisis*.

Key implications of Article 141

Article 141 establishes the Supreme Court as the highest judicial authority in India, creating a **hierarchy** that requires lower courts to follow its legal interpretations. This principle promotes consistency and

uniformity in how laws are applied throughout the nation. The binding portion of a Supreme Court ruling is its ***ratio decidendi***, ("निर्णय का कारण") while ***obiter dicta*** ("वैसे ही कहा गया") are not legally binding but can hold persuasive influence. There are exceptions, such as decisions made *per incuriam* or when a larger bench of the Supreme Court overturns a previous ruling. While the Supreme Court's pronouncements are binding on other courts, Parliament retains the power to alter precedent through new legislation, provided it stays within constitutional boundaries

Question :- What is the doctrine of *stare decisis*?

Stare decisis is a Latin term that means "**to stand by things decided**". It is a legal doctrine that obligates courts to follow judicial precedents—the legal principles and rules established in previous, similar cases—when making decisions.

This doctrine is a cornerstone of common law systems, including India's, and it serves several key purposes.

Key objectives of *stare decisis*

- **Consistency:** It ensures that similar cases are treated and decided in a similar manner, reinforcing public confidence in the judicial system.
- **Predictability:** It provides individuals and businesses with a reliable basis to predict legal outcomes, allowing them to plan their actions accordingly.
- **Judicial Efficiency:** It reduces the burden on courts by minimizing the need to re-litigate legal principles that have already been settled.
- **Judicial Integrity:** It promotes a sense of fairness and stability, discouraging judges from making arbitrary decisions.

The doctrine in India

In India, the principle of *stare decisis* is enshrined in Article 141 of the Constitution.

- **Binding precedent:** Article 141 states that the "**law declared by the Supreme Court shall be binding on all courts within the territory of India**". This means that lower courts must follow the legal reasoning (*ratio decidendi*) of a Supreme Court ruling.
 - **Flexibility for higher courts:** While lower courts are bound by precedent from higher courts, the **Supreme Court is not rigidly bound by its own previous decisions**. It can and has departed from its past rulings in special circumstances, especially when they are found to be erroneous or no longer suitable for a changed society.
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BNS

Mens rea is missing so court declare no guilty. Ref case Nathu lal vs state of mp air 1966

The landmark Indian Supreme Court case of ***Nathulal v. State of Madhya Pradesh (AIR 1966 SC 43)*** established that a guilty mind (*mens rea*) is an essential ingredient of a criminal offense unless the statute explicitly or by necessary implication excludes it.

Facts of the case

Nathulal, a foodgrain dealer, was prosecuted under the Essential Commodities Act, 1955, for stocking wheat for sale without a license. He had applied for a license, paid the fee, and believed a license would be issued, especially after receiving assurances from an Inspector. The trial court acquitted him based on lack of criminal

intent, but the High Court reversed this, stating *mens rea* was not required. Nathulal then appealed to the Supreme Court.

Case example for the stage of crime

Ram Narain popli vs cbi 2003

The case of *Ram Narain Popli v. Central Bureau of Investigation* (2003) 3 SCC 641 was a significant Supreme Court of India judgment related to the 1992 securities scam orchestrated by stockbroker Harshad Mehta. The case dealt with the criminal conspiracy and fraud involved in diverting public funds from public sector undertakings to Harshad Mehta's account.

What is article 129

Article 129 of the Indian Constitution declares that the

Supreme Court shall be a court of record. This grants the Court specific powers and authority that are vital to the Indian judicial system.

Key implications of Article 129

1. Permanent record of proceedings: A court of record maintains permanent, authoritative records of its proceedings, judgments, and rulings.
 1. These records serve as conclusive evidence in all courts and cannot be challenged when presented.
 2. The decisions of the Supreme Court become binding legal precedents for all lower courts throughout the country.
 2. Power to punish for contempt: As a court of record, the Supreme Court has the **inherent** (अंतर्निहित, स्वाभाविक, निहित, या जन्मजात) power to punish individuals for contempt of itself.
 1. Civil contempt involves wilful disobedience of a court order.
 2. Criminal contempt includes acts that scandalize or lower the authority of the court, or interfere with the administration of justice.
 3. The Supreme Court can initiate contempt proceedings on its own motion (**suo motu**).
 3. Jurisdiction over subordinate courts: Through judicial interpretation, the Supreme Court's power to punish for contempt also extends to contempt committed against subordinate courts, including High Courts. This enhances the Supreme Court's supervisory jurisdiction over the entire Indian judiciary.
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what is the mean of (suo motu).

The term

suo motu is a Latin legal phrase that means "on its own motion". It refers to an action taken by a court or government authority on its own initiative, without being prompted by a formal petition or complaint from any external party.

Key aspects of *suo motu* action

Proactive role

Suo motu power allows the judiciary to act proactively in the interest of justice. It is a vital tool for judicial activism, empowering courts to address urgent matters of public importance or systemic injustices that may have otherwise gone unaddressed.

Courts can take *suo motu* notice of a matter based on various sources of information, including:

- Media reports: A high-profile news story about a violation of human rights or a systemic failure.

Key aspects of Article 141

- Binding precedent: The "law declared" by the Supreme Court serves as a binding precedent for all other courts, including High Courts and subordinate courts. This principle is known as **stare decisis**, which means "**to stand by things decided**".
- What is binding: Not every word in a Supreme Court judgment is binding. The binding part is the *ratio decidendi*, which is the legal principle or rationale on which the case was decided. Any passing observations or comments are known as **obiter dictum** "वैसे ही कहा गया" या "प्रासंगिक टिप्पणियाँ" and are not binding.
- Supreme Court is not bound by its own decisions: While its rulings bind all lower courts, the Supreme Court is not bound by its own previous decisions. It has the power to overrule its own judgments, especially when it believes an earlier decision was made in error or is no longer relevant due to changing times.
- Objective: The main objective of Article 141 is to ensure certainty and stability in the law. It guarantees that a legal issue, once settled by the highest court, will be applied uniformly across the nation.

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Affray meaning danga in hindi

Affray is a criminal offense involving a public disturbance caused by fighting. It is defined and punished under specific laws depending on the jurisdiction.

Affray under Indian Law

Under the Bharatiya Nyaya Sanhita (BNS), 2023, the offense of affray is defined in **Section 194**, which is the successor to **Section 159 of the now-repealed Indian Penal Code (IPC)**.

Legal definition (Section 194, BNS)

When two or more persons, by fighting in a public place, disturb the public peace, they are said to commit an affray.

Punishment (Section 194(2), BNS)

Whoever commits an affray shall be punished with imprisonment for a term which may extend to one month, or with a fine which may extend to one thousand rupees, or with both.

The Latin legal maxim *Actus non facit reum nisi mens sit rea* translates to:

"An act does not make a person guilty unless the mind is also guilty". It is a foundational principle of criminal law in common law jurisdictions, including India.

Ref case

Case example for the stage of crime

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Rule of strict liability

The rule of

strict liability, also known as "no-fault liability," is a legal principle that holds a party responsible for damages or injuries caused by their actions or activities, regardless of their intent or negligence. Unlike negligence, which requires proof of a breach of duty of care, strict liability focuses on the consequences of the act itself, especially when the activity is inherently dangerous.

The origin of strict liability

The rule of strict liability originated in the landmark English case of *Rylands v. Fletcher* (1868). In this case, the defendant (Rylands) had constructed a reservoir on his land, which was built over old mine shafts that were not properly sealed. The water escaped through these shafts, flooding the plaintiff's (Fletcher's) coal mines. Even though Rylands was not negligent and had hired independent contractors, the House of Lords held him liable for the damage.

The court established that a person who brings and keeps something dangerous on their land for their own purposes is responsible if it escapes and causes damage, even without negligence.

Essential elements of strict liability

To prove strict liability, a plaintiff must show three key elements:

1. A dangerous substance was brought onto the land.
 2. This substance escaped from the land.
 3. The use of the land was non-natural.
-

Ref in this case is (the person is responsible for his own action or work)

Based on your query regarding "roland vs" and strict liability, it is highly likely that you are thinking of the landmark English tort law case ***Rylands v. Fletcher* (1868)**, which established the rule of strict liability. The name "Roland" is a common misspelling of "Rylands."

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- Significance: *Rylands v. Fletcher* laid the foundation for the doctrine of strict liability in tort law, holding individuals responsible for damage caused by dangerous activities or substances escaping their property, regardless of fault or intent
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Ref case

Case history: *R v. Tolson* (1889)

- Facts: Ms. Tolson's husband disappeared after his ship was reported lost at sea. After waiting for six years, and believing him to be dead, she remarried. Her first husband later returned and charged her with bigamy under the Offences Against the Person Act, 1861.
- "***actus non facit reum nisi mens sit rea***" (an act does not make a person guilty unless the mind is also guilty).

Comparison with strict liability

The opposite of what happened in *R v. Tolson* is a strict liability case, where an honest and reasonable belief is not a defence.

Feature	<i>R v. Tolson</i> (1889)	Strict Liability
Core Principle	The defendant's <i>mens rea</i> (guilty mind) is essential. A reasonable mistake of fact is a valid defense.	The defendant is liable regardless of intent or negligence. A mistake of fact is generally not a defense.
Relevant Field	Criminal law (bigamy)	Tort law (e.g., <i>Rylands v. Fletcher</i>) or regulatory offenses
Focus	The accused's state of mind when they acted.	The act itself and the harm caused, not the intent behind it.

offences against the persons act 1861?

Offences Against the Person Act 1861 (OAPA) is an Act of the Parliament of the United Kingdom that consolidated and amended the law relating to offences against the person. While it was passed in the UK, many of its provisions were historically adopted by British colonies, including India, though they are no longer in force in India today.

Key provisions (as originally enacted in 1861)

The OAPA covered a wide range of offences, from minor to serious, and included both fatal and non-fatal crimes. Some of the most notable sections included:

- Sections 18 and 20 (Grievous Bodily Harm): These sections created offenses for unlawfully and maliciously wounding or inflicting grievous bodily harm (GBH). Section 18 required the specific intent to cause GBH, making it a more serious offense than Section 20, which only required malice.

- Section 47 (Actual Bodily Harm): This section criminalized any assault that caused "actual bodily harm" (ABH), which is defined as any hurt or injury that interferes with the victim's health or comfort.
- Section 57 (Bigamy): This section was used to prosecute individuals who illegally entered into a second marriage. The landmark case **R v. Tolson (1889)**, which you previously inquired about, involved a prosecution under this very section.
- Section 58 (Abortion): As originally drafted, this section made it a felony for a woman to unlawfully use an instrument or noxious substance to procure her own miscarriage.

OAPA in the context of India

- Historical influence: The Indian Penal Code (IPC) of 1860 was enacted just before the OAPA. However, because both statutes were part of a broader British imperial effort to consolidate and codify criminal law, they share similar principles and structures. Many of the concepts within the OAPA, particularly those regarding non-fatal offenses like assault and harm, are mirrored in the IPC.
 - No longer applicable: The OAPA is not legally in force in India today. Criminal offenses in India are governed by the Indian Penal Code (now the Bharatiya Nyaya Sanhita) and other specific statutes.
 - The case of *R v. Tolson*: As discussed, this case is important in Indian legal studies not because the OAPA is applicable, but because the principle it established—that a guilty mind is generally required for an offense—is a fundamental part of Indian criminal jurisprudence.
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What is IPC 304 ?

Section 304 of the Indian Penal Code (IPC) deals with punishment for culpable homicide not amounting to murder.

However, the IPC was replaced by the Bharatiya Nyaya Sanhita (BNS) on July 1, 2024. The corresponding offense is now covered under Section 105 of the BNS.

Punishment under IPC Section 304 (Now BNS Section 105)

The law divides the offense into two parts based on the offender's mental state:

The principle of concurrence is a fundamental concept in criminal law that requires the *actus reus* (the guilty act) and the *mens rea* (the guilty mind) to occur at the same time for a crime to be committed. This principle, derived from the maxim *actus non facit reum nisi mens sit rea* ("an act does not make a person guilty unless the mind is also guilty"), ensures that a person is not held criminally liable for an act unless they possessed the necessary criminal intent at the time of the act.

Core aspects of concurrence

- Simultaneity: For a conviction to be valid, the prosecution must prove that the defendant's mental state (intention, recklessness, etc.) existed at the same time as their physical act.
- Prevents retroactive intent: You cannot be held guilty of a crime by forming the criminal intent *after* the act is committed. The guilty mind cannot be retroactively applied to a guilty act.

Example of a lack of concurrence:

Imagine a scenario where a person accidentally hits a pedestrian while driving, causing injury. The driver then gets out and sees the victim is a person they hate. At that moment, they feel glad the person is injured.

- Actus reus: The physical act of hitting the pedestrian.

- **Mens rea:** The feeling of gladness for the injury.
- **Lack of concurrence:** The driver did not have the guilty mind (*mens rea*) at the time of the guilty act (*actus reus*). Therefore, they cannot be charged with intentional harm, only for the lesser offense of reckless driving

Concurrence means

'Concurrence' का हिंदी में अर्थ है समवर्ती, मेल, या सहमति।

कानूनी संदर्भ में, 'principle of concurrence' का अर्थ है समवर्ती का सिद्धांत। इसका मतलब है कि किसी अपराध के लिए, 'गलत कार्य' (*actus reus*) और 'गलत इरादा' (*mens rea*) दोनों एक ही समय पर होने चाहिए।

यह सुनिश्चित करता है कि किसी व्यक्ति को उसके किसी कार्य के लिए तब तक अपराधी नहीं माना जाता, जब तक कि उस कार्य को करते समय उसका इरादा भी गलत न हो।

उदाहरण के लिए:

अगर कोई व्यक्ति अनजाने में गाड़ी से किसी को टक्कर मार देता है, तो उस समय उसका इरादा गलत नहीं था। बाद में, अगर उसे पता चलता है कि वह उसका दुश्मन था और उसे चोट लगने पर खुशी होती है, तो यह 'समवर्ती' के सिद्धांत को पूरा नहीं करता। उसका गलत इरादा बाद में आया, न कि टक्कर के समय।

The case you are referring to is *R v. Cunningham (1957)*, a landmark English criminal law case that established the modern definition of subjective **recklessness**. Gas leakage.

Facts of the case

- The defendant, Roy Cunningham, was stealing money from a gas meter in a house. To get the money, he tore the meter from the wall, causing a gas leak. The gas seeped through a crack in the wall into the neighbouring house, partially asphyxiating his future mother-in-law while she was asleep. Cunningham was charged under Section 23 of the Offences Against the Person Act 1861, for "maliciously administering a noxious thing so as to endanger life".

Recklessness का हिंदी में अर्थ है लापरवाही या असावधानी।

कानून की भाषा में, खासकर आपराधिक कानून के संदर्भ में, इसका मतलब होता है कि किसी व्यक्ति को यह पता था कि उसके कार्य से किसी को नुकसान हो सकता है, लेकिन फिर भी उसने जान-बूझकर वह कार्य किया।

उदाहरण के लिए:

- अगर कोई व्यक्ति भीड़भाड़ वाली सड़क पर तेज रफ्तार से गाड़ी चलाता है, तो उसे पता है कि इससे दुर्घटना हो सकती है। यह लापरवाही का एक उदाहरण है।
- ***R v. Cunningham*** जैसे मामलों में, न्यायालय ने इसे स्पष्ट किया है। आरोपी ने गैस मीटर को तोड़ते हुए यह नहीं सोचा था कि गैस लीक होने से किसी को नुकसान होगा, इसलिए उसे लापरवाही का दोषी नहीं ठहराया गया था, क्योंकि उसने जोखिम का पहले से अनुमान नहीं लगाया था।

In BNS 106 AND IN IPC 304 A BASED ON STRICT LIABILITY

Comparison of IPC Section 34 and BNS Section 3(5)

Aspect	Indian Penal Code (IPC)	Bharatiya Nyaya Sanhita (BNS)
Section number	Section 34	Section 3(5)

Text	The text is identical to the BNS version, defining the liability of individuals in a criminal act done with common intention.	"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."
Legal status	Former criminal law of India, now repealed and not in force for new cases.	New criminal law of India, effective July 1, 2024, and the current law for common intention.
Judicial interpretation	Principle evolved through extensive judicial pronouncements over a century.	Adopts the established judicial interpretations from the IPC era, and courts will continue to rely on past precedents.
New additions	None, as it is a repealed law.	The BNS includes new provisions for modern crimes, applying the principle within this updated framework.
Significance	A cornerstone for attributing guilt in collective offenses, acting as a rule of evidence.	Represents the continuity and importance of this fundamental principle in the new legal system.

Section 320 of the Code of Criminal Procedure (CrPC), which deals with the compounding of offenses, has been moved to Section 359 in the newly enacted Bharatiya Nagarik Suraksha Sanhita (BNSS)

दंड प्रक्रिया संहिता (CrPC) की धारा 320, "अपराधों के शमन" से संबंधित है। यह पीड़ित और आरोपी के बीच कुछ कम गंभीर आपराधिक मामलों में समझौता और निपटारे का प्रावधान करती है, जिसके परिणामस्वरूप आरोपी को बरी कर दिया जाता है।

इसका उद्देश्य है:

- आपस में शांति और सुलह को बढ़ावा देना।
- छोटे-मोटे अपराधों का निपटारा करके अदालतों पर बोझ कम करना।

शमनीय अपराधों के प्रकार

धारा 320 अपराधों को दो श्रेणियों में वर्गीकृत करती है:

1. न्यायालय की अनुमति के बिना शमनीय (धारा 320(1))

इस श्रेणी के अपराधों में, पीड़ित और आरोपी सीधे अदालत की मंजूरी लिए बिना समझौता कर सकते हैं। उदाहरण के लिए:

- स्वेच्छा से चोट पहुँचाना (आईपीसी धारा 323)
- गलत तरीके से रोकना या कैद करना (आईपीसी धारा 341, 342)
- आपराधिक अतिचार (आईपीसी धारा 447)

2. न्यायालय की अनुमति से शमनीय (धारा 320(2))

इन अपेक्षाकृत अधिक गंभीर, लेकिन फिर भी शमनीय अपराधों के लिए, समझौते के लिए अदालत की स्पष्ट सहमति की आवश्यकता होती है। उदाहरण के लिए:

- स्वेच्छा से गंभीर चोट पहुँचाना (आईपीसी धारा 325)
- आपराधिक विश्वासघात (आईपीसी धारा 406)
- धोखाधड़ी (आईपीसी धारा 420)
- पति या पत्नी के जीवित रहते दूसरी शादी करना (आईपीसी धारा 494)

समझौता कैसे होता है

1. आपसी समझौता: पीड़ित और आरोपी आपसी सहमति या समझौते पर पहुँचते हैं।
2. अदालत में आवेदन (यदि आवश्यक हो): धारा 320(2) के तहत मामलों के लिए, पार्टियों को समझौता करने के लिए अदालत की अनुमति मांगते हुए एक आवेदन दाखिल करना होगा।
3. दोषमुक्ति: एक बार जब अदालत समझौते को मंजूरी दे देती है, तो आरोपी को बरी कर दिया जाता है और आपराधिक कार्यवाही समाप्त हो जाती है।
4. दोषमुक्ति का प्रभाव: अपराध का शमन करने का प्रभाव पूर्ण दोषमुक्ति के समान होता है।

सीमाएँ और महत्वपूर्ण बातें

- अशमनीय अपराध: हत्या, बलात्कार और डकैती जैसे गंभीर अपराधों का इस धारा के तहत समझौता नहीं किया जा सकता, भले ही पीड़ित सहमत हो।
- दोषमुक्ति का प्रभाव: समझौता करने से केवल उसी आरोपी की दोषमुक्ति होती है जिसके साथ समझौता किया गया हो।
- उच्च न्यायालय की भूमिका: उच्च न्यायालय, CrPC की धारा 482 के तहत अपनी अंतर्निहित शक्तियों का उपयोग करके, कभी-कभी अशमनीय अपराधों को भी रद्द कर सकता है यदि पक्षों ने विवाद का निपटारा कर लिया हो।

Question :- what is Privy Council?

Answer :- it is a apex court in Germany.

Question :- what is the name of old time court?

- Answer :- सदर निज़ामत अदालत
- स्थापना (1772): इस अदालत को वारेन हेस्टिंग्स के न्यायिक सुधारों के तहत मुर्शिदाबाद में स्थापित किया गया था। शुरुआत में, इसकी अध्यक्षता नवाब का एक प्रतिनिधि करता था।
- स्थानांतरण और परिवर्तन (1772 के बाद):
 - कुछ समय (1772-1774) के लिए, इसकी अध्यक्षता कलकत्ता में गवर्नर (बंगाल के) और परिषद के सदस्य करते थे।
 - 1775 में, इसे कलकत्ता के नव स्थापित सुप्रीम कोर्ट के साथ टकराव से बचने के लिए वापस मुर्शिदाबाद स्थानांतरित कर दिया गया।
 - 1790 में, लॉर्ड कॉर्नवालिस ने इस अदालत को वापस कलकत्ता स्थानांतरित कर दिया और इसे गवर्नर-जनरल और उनकी परिषद के पर्यवेक्षण में रखा।
- समाप्ति (1857-58 के बाद): सदर निज़ामत अदालत को, इसके सिविल समकक्ष, सदर दीवानी अदालत के साथ, 1857 के भारतीय विद्रोह के बाद समाप्त कर दिया गया। इन अदालतों की शक्तियाँ और अधिकार क्षेत्र 1861 के भारतीय उच्च न्यायालय अधिनियम द्वारा स्थापित नए उच्च न्यायालयों को सौंप दिए गए थे।

Question :- when S.C. establish?

Answer :- The Supreme Court of India was officially established on January 26, 1950, the day India's Constitution came into force. The inaugural session, however, was held two days later, on January 28, 1950, in the Chamber of Princes at Parliament House

Question :- common object and common intention is the same?

Answer :- no both are different.

Question :- element of common intention?

Answer :- a) they must be more than one.

b) pre-arranged plan.

c) active participation.

Case ref ***Barendra Kumar Ghosh vs King Emperor***

Barendra Kumar Ghosh vs. King Emperor (1925) is a landmark judgment in Indian criminal law that clarified the concept of "common intention" under Section 34 of the Indian Penal Code. It is famously known as the "Postmaster case".

मामले के तथ्य

- अगस्त 1923 में, बरेन्द्र कुमार घोष अपने तीन साथियों के साथ कलकत्ता के शंकरितोला पोस्ट ऑफिस में एक डकैती में शामिल था।
- गिराह का इरादा पोस्ट ऑफिस को लूटकर उस धन का उपयोग क्रांतिकारी गतिविधियों के लिए करना था।
- डकैती के दौरान, जब पोस्टमास्टर ने विरोध किया, तो एक साथी ने उसे गोली मार दी, जिससे उसकी मौत हो गई।
- हालांकि घोष ने गोली नहीं चलाई थी, वह मौके पर मौजूद था, हथियारबंद था और डकैती की योजना में सक्रिय रूप से शामिल था।
- उसे गिरफ्तार कर लिया गया और ट्रायल कोर्ट द्वारा हत्या का दोषी ठहराया गया, आईपीसी की धारा 302 के तहत, जिसे सामान्य आशय के लिए धारा 34 के साथ पढ़ा गया।

Case ref ***Queen-Empress v. Abdulla (1885)***

The case of *Queen-Empress v. Abdulla* (1885) is a landmark judgment in the Indian legal system that established the admissibility of dying declarations made through signs and gestures. This case is a crucial precedent for interpreting Section 32 of the Indian Evidence Act, 1872.

मामले के तथ्य

- शिकार: इलाहाबाद में दुलारी नाम की एक युवा वेश्या का उसके हमलावर ने उस्तरे से गला काट दिया था और उसे अस्पताल ले जाया गया था।
- साक्ष्य: गले में चोट लगने के कारण दुलारी बोल नहीं पा रही थी। मरने से पहले, एक मजिस्ट्रेट की उपस्थिति में उसकी माँ और एक सब-इंस्पेक्टर ने उससे सवाल पूछे। जवाब में, उसने अपने हाथ के इशारों से अपने हमलावर, आरोपी अब्दुल्ला, की पहचान बताई।
- कानूनी प्रश्न: इलाहाबाद उच्च न्यायालय के समक्ष मुख्य मुद्दा यह था कि क्या किसी मरणासन्न व्यक्ति के गैर-मौखिक हावभाव और संकेत को भारतीय साक्ष्य अधिनियम की धारा 32 के तहत एक वैध "मौखिक बयान" माना जा सकता है।

Section 396 of the Indian Penal Code (IPC) deals with dacoity with murder. It is one of the most severe offenses in the IPC, treating all participants equally liable for a murder committed during a dacoity.

This section has since been replaced by the Bharatiya Nyaya Sanhita (BNS) Section 310(3), which came into effect on July 1, 2024, but retains the core principle.

कानून क्या कहता है (IPC की धारा 396 के अनुसार)

- अपराध: अगर पाँच या उससे अधिक व्यक्ति मिलकर डकैती कर रहे हों, और उनमें से कोई एक डकैती करते समय हत्या कर देता है।
- परिणाम: तो उस डकैती में शामिल हर व्यक्ति को उस हत्या के लिए दंडित किया जाएगा, भले ही उसने व्यक्तिगत रूप से हत्या नहीं की हो।

Ref case

The case you are referring to is ***Shreekantiah Ramayya Munipalli vs. The State of Bombay, a 1954*** Supreme Court of India judgment. It is a significant case for interpreting Section 34 of the Indian Penal Code, which deals with acts done by several persons in furtherance of a common intention.

श्रीकांतैया रमैया मुनिपल्ली बनाम बॉम्बे राज्य, एक 1954 का सर्वोच्च न्यायालय का फैसला है। यह भारतीय दंड संहिता की धारा 34 (जो एक सामान्य आशय को आगे बढ़ाने में कई व्यक्तियों द्वारा किए गए कृत्यों से संबंधित है) की व्याख्या के लिए एक महत्वपूर्ण मामला है।

मामले के तथ्य

- आरोपी: तीन सरकारी कर्मचारियों पर आपराधिक विश्वासघात करने की साजिश रचने का आरोप था। आरोपी श्रीकांतैया (पहला आरोपी), परसुराम (दूसरा आरोपी), और डॉसन (तीसरा आरोपी) थे।
- अपराध: तीनों, जो सरकारी स्टोर के प्रभारी थे, ने कथित तौर पर अवैध रूप से स्टोर बेचने और पैसे का गबन करने की साजिश रची।
- आरोप: उन पर आईपीसी की धारा 409 (लोक सेवक द्वारा आपराधिक विश्वासघात), धारा 34 (सामान्य आशय) के साथ संयुक्त रूप से आरोप लगाया गया था।
- परीक्षण: मुकदमे की सुनवाई जूरी द्वारा की गई, और तीनों को दोषी पाया गया।

सर्वोच्च न्यायालय के समक्ष मुद्दा

सर्वोच्च न्यायालय के समक्ष मुख्य मुद्दा धारा 34 के अर्थ और आवेदन को स्पष्ट करना था, विशेष रूप से सामान्य आशय स्थापित करने के लिए अपराध स्थल पर "शारीरिक उपस्थिति" की आवश्यकता के संबंध में। पहले आरोपी, श्रीकांतैया के बचाव पक्ष ने तर्क दिया कि जब सामान बेचा गया था तब वह शारीरिक रूप से मौजूद नहीं था और इसलिए उसे उत्तरदायी नहीं ठहराया जा सकता था।
