

**INDIAN PENAL CODE, 1860 read with BHARTIYA NAYAYA SANHITA,  
2023**

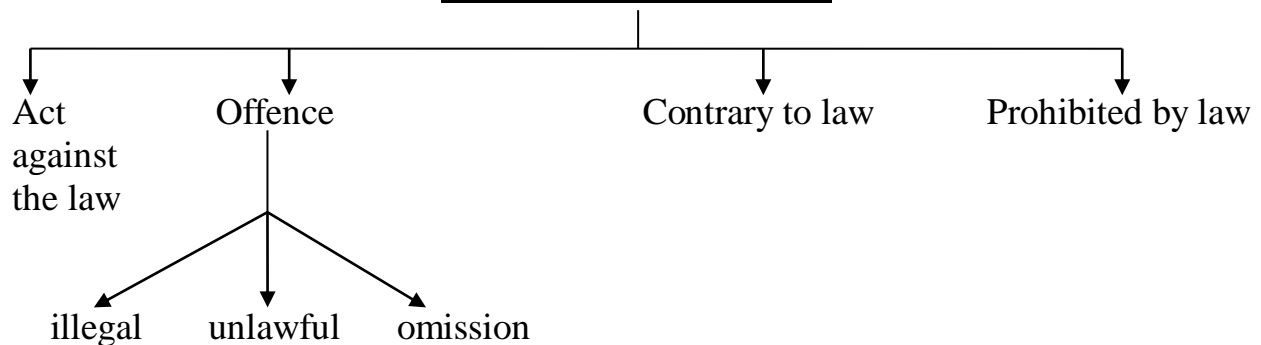
**Historical aspect of IPC-**

- IPC came into existence in 1860.
- It was enacted on the recommendation of first law commission of India headed by Lord Thomas Babington Macaulay.
- First law commission was established in 1834 under the Charter Act of 1833.
- IPC was enacted by Imperial Legislative Council.
- IPC came into force on January 1, 1862.
- IPC was applicable to whole of the British India except the princely states as they had their own courts and legal system till 1940s.
- After independence, code was adopted by whole India except Jammu and Kashmir.
- Related legislation to IPC- Indian Evidence Act, 1872 and Criminal Procedure Code, 1973.
- Ranbir Penal code was applicable on the State of Jammu and Kashmir by virtue of special status under Article 370.
- IPC has undergone numerous amendments, out of which Criminal Amendment Act, 2013 and 2018 are of great importance.
- By virtue of Jammu and Kashmir State Reorganisation Act, 2019, Article 370 was abrogated which took away the special status of Jammu and Kashmir.
- Because of the abrogation of Article 370, IPC was applicable on whole of the India including Jammu and Kashmir.
- IPC was divided in 23 Chapter and consisted of 511 Sections.

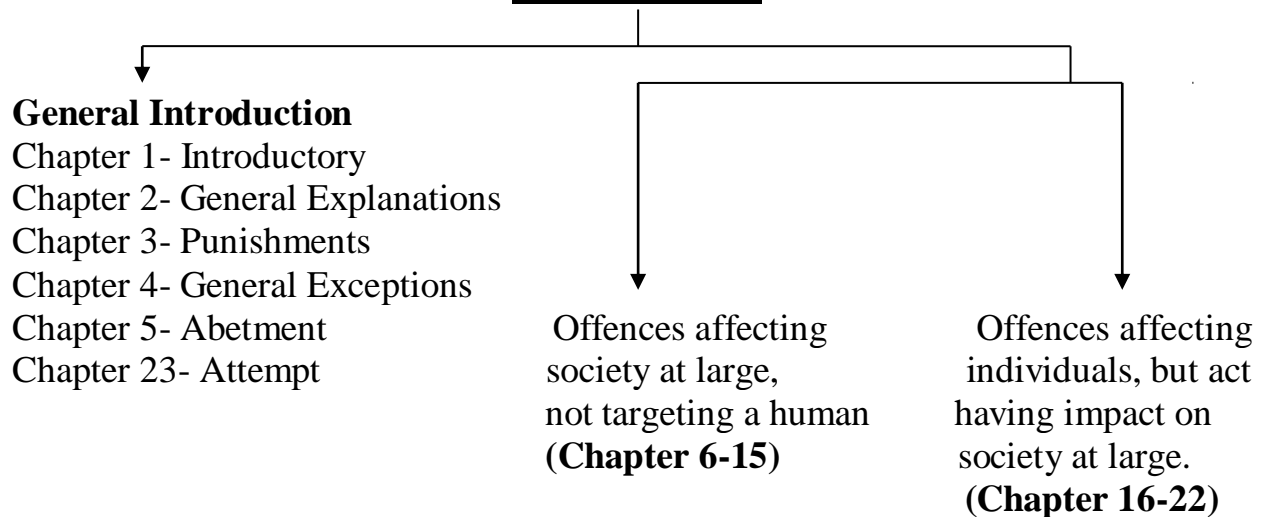
**CRIMINAL LAW**



**INDIAN PENAL CODE**



**23 CHAPTERS**



**-IMPORTANT AMENDMENTS- (Total 78 amendments except BNS)**

- The Criminal law Amendment act, 1939 (22 changes)
- Dowry Prohibition act (Amendment act), 1986 (43 changes)
- The Criminal law Amendment Act, 1993 (42 changes)
- The Information Technology Act, 2000
- The Criminal law Amendment act, 2005 (7 changes)
- The Criminal law Amendment act, 2013 (13 changes)
- The Criminal law Amendment act, 2018 (22 changes)
- The Jammu and Kashmir State Re-organisation Act, 2019
- Bhartiya Nayaya Sanhita, 2023 (Repealed old IPC completely)

### **KEY POINTERS OF Bhartiya Nayaya Sanhita, 2023-**

- Bhartiya Nayaya Sanhita, 2023 replaced the Indian Penal Code, 1860.
- The ministry of Home affairs constituted a committee headed by Ranbir Singh to review existing criminal laws. The mandate of the committee was to recommend reforms in the criminal laws of the country in a principles, effective and efficient manner- which ensures safety and security of the individuals of the community and nation; and which prioritises the constitutional validity of justice, dignity and the inherent worth of the individual.
- Introduced the offences of **Mob lynching, organised crimes, terrorism, attempt to suicide, rape on promise to marry, spreading fake news, desh droh (sedition).**
- Repealed adultery, unnatural offences, thugs.
- Some laws have been made gender neutral for example- voyeurism, outraging the modesty of woman.
- Introduced the new punishment of **community service** for petty offences.

### **RANGE OF BHARTIYA NAYAYA SANHITA, 2023**

Chapter number	Title	Section Range
1.	<b>PRELIMINARY</b>	1 - 3
2.	<b>PUNISHMENTS</b>	4 - 13
3.	<b>GENERAL EXCEPTIONS</b>	14 – 44
4	<b>OF ABETMENT, CRIMINAL CONSPIRACY AND ATTEMPT</b> <ul style="list-style-type: none"> <li>➤ Abetment (45 – 60)</li> <li>➤ Criminal Conspiracy (61)</li> <li>➤ Attempt (62)</li> </ul>	45 – 62

5.	<p><b>OF OFFENCES AGAINST WOMAN AND CHILD-</b></p> <ul style="list-style-type: none"> <li>➤ Sexual offences (63 – 73)</li> <li>➤ Criminal force and assault against woman (74 – 79)</li> <li>➤ Offences relating to marriage (80 – 87)</li> <li>➤ Causing miscarriage (88 – 92)</li> <li>➤ Offences against child (93 – 99)</li> </ul>	63 – 99
6.	<p><b>OF OFFENCES AFFECTING THE HUMAN BODY-</b></p> <ul style="list-style-type: none"> <li>➤ Offences affecting life (100 – 113)</li> <li>➤ Of hurt (114 – 125)</li> <li>➤ Of Wrongful Restraint and Wrongful Confinement – (126 – 127)</li> <li>➤ Of Criminal Force and Assault (128 – 136)</li> <li>➤ Kidnapping, Abduction, slavery and forced labor (137 – 146)</li> </ul>	100 - 146
7.	<b>OF OFFENCES AGAINST THE STATE</b>	149 – 158
8.	<b>OF OFFENCES RELATING TO THE ARMY, NAVY AND AIR FORCE</b>	159 – 168
9.	<b>OF OFFENCES RELATING TO ELECTIONS</b>	169 – 177
10.	<b>OF OFFENCES RELATING TO COIN, CURRENCY-NOTES, BANK-NOTES, AND GOVERNMENT STAMPS</b>	178 – 188
11.	<b>OF OFFENCES AGAINST THE PUBLIC</b>	189 –

	<b>TRANQUILLITY</b>	197
12.	<b>OF OFFENCES BY OR RELATING TO PUBLIC SERVANTS</b>	198 – 205
13.	<b>OF CONTEMPTS OF THE LAWFUL AUTHORITY OF PUBLIC SERVANTS</b>	206 – 226
14.	<b>OF FALSE EVIDENCE AND OFFENCES AGAINST PUBLIC JUSTICE</b>	227 – 269
15.	<b>OF OFFENCES AFFECTING THE PUBLIC HEALTH, SAFETY, CONVENIENCE, DECENCY AND MORALS</b>	270 – 297
16.	<b>OF OFFENCES RELATING TO RELIGION</b>	298 – 302
17.	<b>OF OFFENSES AGAINST PROPERTY</b> <ul style="list-style-type: none"> <li>➤ Of Theft (303 – 307)</li> <li>➤ Of Extortion (308)</li> <li>➤ Of Robbery and Dacoity (309 – 313)</li> <li>➤ Of Criminal Misappropriation of Property (314 – 315)</li> <li>➤ Of Criminal Breach of Trust (316)</li> <li>➤ Of Receiving stolen property (317)</li> <li>➤ Of Cheating (318 – 319)</li> <li>➤ Of fraudulent deeds and disposition of property (320 – 323)</li> <li>➤ Of Mischief (324 – 328)</li> <li>➤ Of Criminal Trespass (329 – 334)</li> </ul>	303 – 334
18.	<b>OF OFFENSES RELATING TO DOCUMENTS AND TO</b>	335 –

	<b>PROPERTY</b>	350
19.	<b>OF CRIMINAL INTIMIDATION, INSULT, ANNOYANCE, DEFAMATION, etc</b>	351 – 357
20.	<b>REPEAL AND SAVINGS</b>	358

### **ACTUS NON FACIT REUM NISI MENS SIT REA –**

The Latin expression ‘*actus non facit reum nisi mens sit rea*’, loosely translated as “an act does not render a man guilty of a crime unless his mind is equally guilty,” expresses a foundational concept in criminal law. This means that proving criminal culpability necessitates not only the presence of the *actus reus* and the *mens rea*, but also the coincidence or concurrence of the *mens rea* with the conduct that creates the *actus reus*. This article aims to explore the concerned maxim with respect to the criminal laws in India.

The Supreme Court of India while deciding on the case of *C.K. Jaffer Sharief vs State (Thr C.B.I.)* (2012) had observed that an individual’s criminal culpability would be attached if they broke the law. The norm, however, is not absolute, and it is subject to the constraints set out in the Latin maxim *actus non facit reum nisi mens sit rea*. It means that there can’t be a crime without a criminal mind. To hold someone criminally responsible, it must be proven that their actions resulted in an illegal act and that their actions were accompanied by a legally blameworthy mental attitude. As a result, every crime has two components, a physical element and a mental aspect, i.e. *actus reus* and *mens rea* respectively.

*Mens rea* is the source of the Latin maxim *actus non facit reum nisi mens sit rea*. *Actus non facit reum nisi mens sit rea* clarifies the application of *mens rea* in criminal law. It asserts that a person is only guilty of committing a crime if the conduct is done with the purpose to commit a crime. This maxim is used to judge whether certain conduct is illegal or not. Crimes done with a particular intent, rather than unforeseen or inadvertent acts, are subject to harsher penalties. However, no violation of the law may go unpunished.

*Actus non facit reum nisi mens sit rea* under the Indian Penal Code, 1860  
The maxim *actus non facit reum nisi mens sit rea* has been integrated into the Indian Penal Code, 1860 in two basic ways:

1. Through express inclusion of the required state of mind (*mens rea*) in the definition of an offence.
2. Through 'General Exceptions' enumerated in Chapter 5 of the Code, some of which, such as mistake of fact, accident, infancy, and insanity, deny the existence of *mens rea*.

**Exceptions of *actus non facit reum nisi mens sit rea* -**

In certain situations, the law can create offences based only on the physical act, disregarding 'the state of mind' of the person committing the crime. These situations are likewise punished and are considered exceptions to the general rule of *actus non facit reum nisi mens sit rea*. In basic terms, a crime for which *mens rea* is not a necessary criterion is an exception to this rule.

While hearing the case of *Ranjit D. Udeshi v. the State of Maharashtra* (1964), the Supreme Court of India observed "*We do not accept the notion that the prosecution must establish that the person who sells or holds for sale any obscene object knows that it is obscene before he can be declared guilty*". As a result, *mens rea* is less significant than the act committed. If obscene material is discovered in a person's possession, he will be prosecuted under Section 292 of the Indian Penal Code, 1860. It is not necessary to show his purpose or awareness of the obscene material.

1. **IGNORANCE OF LAW**- Because every citizen and non-citizen is expected to know the laws of the nation they are in or visiting, ignorance of the law cannot be used as a justification to commit a crime. As a result, in such circumstances, the existence or lack of purpose is not taken into account, making it an exception to the rule. In the case of the *State of Maharashtra v. Mayer Hans George* (1964), the Indian Government had issued an order on November 24th, banning gold transportation outside of India in order to save foreign exchange and combat smuggling. The appellant, M.H George, a German national, boarded an aircraft in Zurich on November 27th to travel to Manila. On the 28th of November, the plane made a stopover in Bombay, where he was apprehended by a customs official with 34 kg of gold. He was held liable under Sections 8 and 23 of the Foreign Exchange Regulation Act, 1947. Later, the matter went to the Bombay High Court, where he was acquitted since he had been exposed to the law recently and, as a German national, he was unaware of the Indian legislation and had no intention of smuggling the gold. However, when the matter went to the Supreme Court, he was found guilty since ignorance of

the law could not be used as an excuse, even though he had no intention of smuggling the gold.

2. **PUBLIC NUISANCE-** A public nuisance is a criminal offence in which an act or omission obstructs, harms, or causes trouble to the general public's right. It may also be described as conduct that jeopardises the broad public's interest or comfort. In such circumstances, strict responsibility is applied since the public's interest is jeopardised. As a result, these offences are penalised whether or not there is a mental purpose.
3. **PETTY OFFENCES-** Petty offences are the least serious kind of offences. When it comes to minor offences like running a red light, proving the *mens rea* behind such an act might be challenging. As a result, in such instances, acts such as that of jumping the red light may be considered criminal. As a result, it is an exception to the general rule of *actus non facit reum nisi mens sit rea*.
4. **STRICT LIABILITY-** Strict liability offences are those in which the prosecution does not need to show that the defendant behaved with a guilty mental state since the conduct is sufficient to establish the crime. The activities that fall under these categories are damaging to society or the State. For example, under Section 375 of the Indian Penal Code, 1860, rape is defined as an act of sexual intercourse without consent. In this situation, even if *mens rea* is not required, the physical act alone is sufficient to convict a person under this provision.

### **STAGES OF CRIME-**

There are four stages of crime in IPC – intention, preparation, attempt, and commission. From the initial intention to commit a crime to the actual commission of the offence and the subsequent post-commission actions, each stage has its own legal provisions under the Indian Penal Code (IPC) and other relevant laws. Crime is a complex phenomenon that involves various stages, each with its own distinct characteristics and legal implications. In the Indian legal system, understanding the different stages of crime is crucial in determining the guilt or innocence of an accused person and the appropriate legal action to be taken against them.



## **Definition of Stages of Crime in IPC**

The stages of crime in the Indian Penal Code, 1860 (IPC) refer to the various phases that a criminal offence goes through, from the initial thought or intention to commit the crime to the actual execution of the offence and the post-commission actions.

These stages are considered crucial in establishing the culpability of an accused person and determining the appropriate legal consequences for their actions.

Understanding the different stages of crime in IPC helps in analyzing the mens rea (mental state) and actus reus (physical act) of the accused, which are essential elements in establishing criminal liability.

## **4 Stages of Crime under IPC**

The four stages of crime in India are:

### **1. Intention**

Intention is the first stage of crime, where the accused person forms the mental state or mens rea to commit a particular offence. It involves a conscious decision or desire to commit the crime, without taking any physical action towards its execution. Intention may be either general or specific, depending on the nature of the offences.

In the Indian legal system, criminal intent is considered the first stage in committing a crime. However, it is important to note that individuals are not punished for their evil thoughts or unlawful intentions under the law. Criminal intent alone cannot be punished until a crime has been committed with that intent. The concept of criminal intent plays a crucial role in determining the culpability of an accused person and guiding the appropriate charges and punishments.

### **Illustration:**

For instance, if a person intends to steal a valuable item from a store and plans to do so by entering the store after hours and breaking the lock, the intention to steal is formed in the person's mind even before they take any physical action.

### **2. Preparation**

The preparation stage follows the intention stage and involves taking actions towards the execution of the intended offences. In this stage, the accused person makes arrangements, gathers resources, and plans the details of the crime, but has not yet taken any concrete steps towards its commission.

### **Preparation When Punishable**

When the offence is regarded as a serious offence, preparation to commit offences is penalised under the Indian Penal Code. A few of them are mentioned below:

- Warfare preparations against the government (Section 122 of IPC).
- Preparing coins or government stamps for counterfeiting (Sections 233 to 235, 255, and 257 of IPC).
- Having counterfeit money, fraudulent documents, or fake weights and measurements (Sections 242, 243, 259, 266).
- Making plans to commit dacoity (Section 399 of IPC).

### **Illustration:**

Continuing with the previous example, the person who intends to steal from the store may start gathering tools or instruments, such as lock-picking tools or a crowbar, to break the lock. They may also survey the store's layout, identify the best time to commit the theft, and plan their escape route.

In the preparation stage, certain acts may be punishable under the law, depending on the nature of the offences and the specific provisions of the relevant laws. For example, if the preparation involves possession of weapons, tools, or instruments with an intent to commit a crime, it may attract charges under Section 399 and 402 of the IPC, which deal with preparing to commit dacoity (a form of robbery involving violence or threat of violence). Similarly, if the preparation involves forgery or counterfeiting of documents or currency, it may attract charges under Section 464 and 489 of the IPC, respectively.

### **3. Attempt**

The attempt stage follows the preparation stage and involves taking direct actions towards the commission of the intended offences. It is the stage where the accused person makes a physical or overt act towards the completion of the crime, but the offence is not fully consummated.

### **Illustration:**

In the previous example, the person who intends to steal from the store may go to the store after hours, break the lock using the tools they gathered in the preparation stage, and enter the store with the intent to steal. However, if they are caught by security personnel or leave the store without actually stealing anything, it would be considered as an attempt to commit theft.

Under the IPC, an attempt to commit a crime is punishable under Section 511, which provides for the punishment for attempting to commit an offence punishable with imprisonment for life or with shorter terms. The punishment for the attempt is generally lesser than the punishment for the actual offences, but it varies depending on the nature of the offences and the specific provisions of the law.

#### **4. Commission**

The commission stage is the final stage of crime, where the accused person successfully completes the offences by performing all the necessary acts to accomplish the intended crime. It is the stage where the mens rea (mental state) and actus reus (physical act) of the accused coincide, resulting in the consummation of the offences.

#### **Illustration:**

In the previous example, if the person who intended to steal from the store successfully breaks the lock, enters the store, and steals a valuable item, it would be considered as the commission of theft.

The commission of a crime is punishable under the relevant provisions of the IPC or other applicable laws, depending on the nature of the offences. For example, theft is punishable under Section 378 of the IPC, which prescribes the punishment for theft as imprisonment of either description for a term which may extend to three years, or with fine, or with both.

#### **Are Post-Commission Actions Punishable?**

After the commission of a crime, the accused person may take certain post-commission actions, such as hiding the stolen goods, disposing of evidence, or attempting to escape from the scene. These actions may also attract legal consequences, depending on the nature of the offences and the specific provisions of the law.

#### **Illustration:**

Continuing with the previous example, if the person who committed theft hides the stolen item in their house or sells it to another person, they may be charged with offences such as concealment of stolen property or disposal of stolen property, which are punishable under the relevant provisions of the IPC.

Post-commission actions may be punishable under the relevant provisions of the IPC or other applicable laws, depending on the nature of the offences. For example, Section 411 of the IPC deals with the punishment for dishonestly

receiving stolen property, while Section 201 of the IPC deals with the punishment for causing the disappearance of evidence of an offence.

### **Conclusion**

The stages of crime in IPC are intention, preparation, attempt, and commission, play a crucial role in the criminal justice system. These stages help establish the mens rea and actus reus of the accused, determine the level of culpability, and guide the appropriate charges and punishments.

### **TRANSFER OF MALICE-**

The doctrine of transfer of malice is a legal doctrine that can be used in the Indian Penal Code, 1860 (IPC) to prosecute an offender for offence against a person who was not the intended target of offender.

- **Section 301** of the IPC deals with this doctrine of transfer of malice.

### **What is the Concept of Doctrine of Transfer of Malice?**

#### **About:**

- The doctrine of transfer of malice or transmigration of malice is a legal principle that is applied in criminal law.
- It involves the transfer of criminal intent or malice from the **intended target to an unintended target.**

#### **General Meaning:**

- In other words, if an individual has the intent to commit a crime against one person but, in the course of committing that crime, ends up harming another person unintentionally, the law **may transfer the criminal intent** or malice from the intended target to the unintended target.

#### **Purpose:**

- This ensures that the accused is held responsible for the **consequences of their actions**, even if those consequences were not initially intended.

#### **Illustration:**

- Z with the intention to murder A, fires a gun but misses the target and unintentionally murders B.

- In this scenario, the Doctrine of Transfer of Malice may come into play, allowing the legal system to transfer Z's the criminal intent of murdering A to the murder of B.
- Z shall be held liable for the murder of B, even though that harm was not the intended target.

### **Which Legal Provisions Covers Doctrine of Transfer of Malice?**

#### **Section 301 of IPC: Culpable homicide by causing death of person other than person whose death was intended.—**

- If a person, by doing anything which he intends or knows to be likely to cause death, commits culpable homicide by causing the death of any person, whose death he **neither intends nor knows** himself to be likely to cause, the culpable homicide committed by the offender is of the description of which it would have been if he had caused the death of the person whose death he **intended or knew himself** to be likely to cause.

### **What are the Landmark Judgments of Doctrine of Transfer of Malice?**

#### **1. R v. Mitchell (1983):**

- Appellant in this case was restricted by a man for jumping the queue in a post office. He hit and pushed the man resulting to which the man fell on the people standing behind him in queue. Because of this leg of an old lady in the queue broke and she died due to that broken leg.
- The court applied doctrine of transfer of malice and **appellant was convicted** for manslaughter.

#### **2. Emperor v. Mushnooru Suryanarayana Murthy (1912):**

- In this **case**, appellant intended to kill a person named Appalla through poisoned rice, Appalla ate some, but the accused's relative's daughter Rajalakshmi ate the thrown-away sweetmeat and died.
- The **Madras High Court convicted the accused** for murder of Rajalakshmi by transferring his malice.