Concepts of Crime and Punishment
What is a crime?

Essential constituents of a crime are:

• An act or omission forbidden or commanded by law.

• Violation prevented by sanction of punishment.

• Wrong doer punished only after following a procedure established by law.
Basic Principles of Criminal Liability

An act to amount to a crime must conform to the following two cardinal principles of criminal liability.

No one is held criminally liable unless he had done an act which is expressly forbidden under the criminal law.

There is no liability under criminal law for omissions, unless there is a duty imposed by law to do the act.
Essential elements of crime

• ‘Actus non facit reum nisi mens sit rea’
  ‘There can be no crime without a guilty mind’.

• Two components of a crime are:
  (i) Actus Reus (Guilty Act)-Physical element
  (ii) Mens rea (Guilty Mind)-Mental element.
Actus Reus

Actus Reus is made up of three elements.

(i) Human action i.e., conduct.
(ii) Result of the conduct i.e., injury.
(iii) Such act is prohibited by law.
Different forms of mensrea are:

– Intention (desire to bring about certain consequences or desire to do an act.)
– Motive (the reason or ground of an action.)
– Knowledge (awareness of the consequences.)
– Recklessness (foresees the consequences of his conduct, does not desire it, but is quite indifferent to the consequences.)
– Negligence (want of care and protection which a reasonable man would have taken under the particular circumstances.)
Causation in Crime

• A man is said to have caused the actus reus of a crime
  - if that actus would not have occurred without his participation in what was done.

• A man will be criminally liable
  - for such consequences of his conduct as he foresaw or
  - ought to have foreseen.
Causation of Crime contd..

A man will be criminally liable, even

- where there is no physical participation (by instigating another person to commit a crime)

- where the participation is indirect (by using an innocent agent)

He will not be liable

- if there is intervention of another person and that intervening act becomes the immediate and direct cause of the consequence)
Stages of Crime

• There are four stages in the commission of an offence.
  (i) Intention
  (ii) Preparation
  (iii) Attempt
  (iv) Actual commission of the offence.
• Intention – Emergence of an evil intention in the mind of the accused.
  (This stage is not punishable, because it cannot be proved)
• Preparation – Arranging or devising means or measures necessary for the commission of an offence.
  (Not punished unless provided by the penal law).
  Egs. Preparation to wage war (section 122 IPC)
  Preparation to commit depredation against territory at peace with Government of India (section 126 IPC)
  Preparation to commit dacoity (section 399 IPC).
Attempt

- doing an act
- towards the commission of an offence and
- if the attempt had succeeded,
- the offence charged would have been committed.
Punishments
Elements of Punishment

- Infliction of pain or unpleasant consequences
- Prescribed by law
- Administered in accordance with procedure
- By the State
- Two dimensions to punishment:
  - Purposes that justify the punishment
  - Proportionality of the nature and quantum of punishment in relation to the nature and seriousness of the crime
Purposes of punishment

• Retribution - to gratify the instinct of revenge or retaliation, which exists not merely in the individual wronged, but also in the society at large.

• Deterrence - to prevent the wrong doer from doing a wrong the second time and also to make him an example to other persons, who have criminal tendencies.
Purposes of punishment contd..

• Preventive – to prevent the offender from offending again in future by disabling him.

• Reformative – to reform the offender and by giving some vocational training in art, craft or industry, enabling him to lead a good life and become a respectable citizen of society after release.
Punishments under Indian Penal Code

- Death
- Imprisonment for life
- Imprisonment, rigorous or simple
- Forfeiture of property
- Fine
- Transportation for life and transportation for term as punishments abolished.
Thank you