

# Concepts of Crime and Criminology

Purushendra Singh,

Assistant Professor, Department of Law, Vivekananda Global University, Jaipur, India  
Email Id- purushendra.singh@vgu.ac.in

## ABSTRACT

By delving deeply into the core mind set or state of mind of the individual committing crime, the notion of crime and criminology may be grasped. This article also discusses the motives for the crime and the variables that influence a person's decision to commit a crime. It also covers the idea of crimes and the different regulations that have been established for the commission of certain offenses. This page also covers a variety of criminology ideas that have been classified according to the MENS REA that led to the crime. Apart from that, this article also discusses the many sorts of offenses that have been recognized by the law. What is crime, in its most basic form? What are the elements that lead to criminal activity? What are the various punishments that have been established for various crimes? What are the several courts that have jurisdiction over criminal cases? What special criminal provisions have been established in the jurisdiction? All of these debates have been covered in this article. This article also covers the fundamentals of criminology and the different components that contribute to the definition of the term. The idea of criminology has been separated into two sections in this article: one half discusses the reasons that lead to a victim being a victim, and the other portion discusses the variables that lead to a person becoming an offender. Aside from crime and criminology, this article discusses the different responsibilities and capabilities of criminal courts, which are critical in establishing what constitutes a crime and dealing with criminal cases.

## KEYWORDS

Actus Rea, Crimen, Crime, Mens Rea, Violence.

## 1. INTRODUCTION

Crime is defined as any wrongful act conducted or done with the intent of committing that wrongful act or offence, as well as any act committed or done with the intent of committing that wrongful act or offence. There are several unlawful acts or offenses that our jurisdiction has classified as crimes. An act of crime is classified into several categories based on the type of offenses committed or the quality of the crime committed by the prisoner[1].

When a crime is committed, the MENS REA behind the crime is investigated. A person's MENS REA might fall into a variety of categories, depending on the severity of the crime committed[2]. The MENS REA, which is seen after a crime is done, may be observed in a variety of ways, such as what was the motivation for the crime? What was the person's mental state? What was the individual's mental condition at the time the crime was committed? Is it possible that the person was inebriated? Is it possible that the individual is insane? Is the individual suffering from DEMENTIA NATURALIS or DEMENTIA ACCIDENTALIS? All of these elements combine to form a person's MENS REA, which is visible when that person commits a crime[3].

## 2. DISCUSSION

There are different forms of crime that have been classified based on the severity of the crime committed and the circumstances or outcome of such acts or crimes. The majority of offenses have been divided into two categories: Offenses that are both cognizable and non-cognizable. Cognizable offenses are ones that are serious in character and result in a significant loss. Non-Bailable offenses, often known as cognizable offenses, are serious offenses for which bail is difficult to obtain, such as murder, rape, or culpable homicide. Theft, abduction, and injury are examples of non-cognizable offenses, which are not serious yet are recognized as crimes by the law and for which bail can be given.

As a result, any acts that result in murder, culpable homicide, kidnapping, abduction, injury, or serious injury are classified as crimes. The jurisdiction has put in place provisions for all types of offences. Basically, the quality of the crime and the laws for all such crimes may be used to categorize the notion of crime.

### 2.1. The variables that contribute to crime

When a person commits a crime, instead of punishing or imprisoning him or her, the criminal is granted a reward. So, when a person commits a crime, what was the real mind set or MENS REA that led to the crime being committed is noticed. What was the major MENS REA and what was the person's mental state, especially at the time of the crime? Whether or if the person was insane?

Is the individual suffering from DEMENTIA NATURALIS or DEMENTIA ACCIDENTALIS? Is there any evidence that the person was inebriated at the time the crime was committed? All of these factors contribute to a person's MENS REA, which is seen when they commit a crime[4].

When a person commits culpable murder under Section-299 of the Indian Penal Code, the MENS REA of the individual is examined, i.e. what was the precise cause for the culpable homicide. The convict is not liable for murder under Section-302 of the Indian Penal Code if the death of the victim occurred by chance or if the convict did not have the MENS REA or the desire to kill the person.

The prisoner will be punished for murder under Section-302 of the Indian criminal code if he or she has the MENS REA or the purpose to kill someone. When a person commits a crime, the most important factor to consider is whether or not he intended to do so. Aside from that, there are a few other requirements that have been categorized under the MENS REA idea. Section 84 of the Indian Penal Code deals with crazy people, stating that if an insane person commits a crime, he is not responsible for his actions. Because the person who committed the crime is mad, if he or she commits any crime, that person is not accountable for his or her actions and cannot be punished for them[5].

Furthermore, Section 84 of the Indian Penal Code defines two legal terms: "DEMENTIA NATURALIS," which indicates that a person is crazy from birth, and "DEMENTIA

ACCIDENTALIS," which means that a person becomes insane after birth owing to an accident. When a person commits a crime while intoxicated and not in a state of thinking and understanding the circumstances of the acts, Section 85 of the Indian Penal Code states that if that person commits a crime or does any unlawful act while intoxicated, he or she is not punishable for the acts that he or she has done. The basic tenet of Section-85 is that if a person is inebriated, he or she is unable of comprehending the circumstances of the conduct, and if a person is of unsound mind when committing a crime, he or she is not accountable for the acts and is not punished for the crimes.

The state of mind of the individual who has committed the crime has been noted and given emphasis under the Indian penal code. If a person has committed a crime punishable under Sections 61 to 84, the legal term "ACTUS NON FACIT REUM NISI MENS SIT REA" is used to characterize the act, which means "an act is not unlawful unless the mind is guilty." So, in general, the elements of committing crime are determined not only by the person's ACTUS REUS, but also by the MENS REA of the person who did the crime. When we look at the relationship between MENS REA and ACTUS REUS and the start of a crime, we can see that there is at least one component that leads to the start of a crime: "Self-defense." There are several instances in which a crime is committed in self-defense by a person. Though there is a provision for the protection of activities that are criminal in nature but are carried out in order to protect or defend oneself, the quality of the crime makes it a type of crime alone. Section 100 of the Indian Penal Code protects those who commit crimes in self-defense[6].

## 2.2. Criminology in its Traditional Form

The name "classical criminology" is a little misleading because so-called "classicists" were writing long before criminology was established as a formal study in the late 1800s. Rather, classicism refers to a group of intellectuals from the late eighteenth and early nineteenth centuries who had common views on crime, law, and punishment, and whose ideas were later adopted by criminology. Their theories continue to have an impact on criminology today.

It is important to analyze the social, political, and intellectual background of classicists' period in order to comprehend what they contended and why. Enlightenment philosophy rose to prominence in Europe throughout the eighteenth century. The importance of human rationality in organizing society, the supremacy of scientific findings as sources of trustworthy information, and the individual citizen's human and political rights were all stressed by Enlightenment philosophers. When they examined the organization of law, criminal justice, and punishment, they discovered that the reality were far from perfect. As a result, classicists criticized the administration of justice in their time's society and advocated practical changes to put law and punishment on a more systematic, efficient, and reasonable foundation.

Cesare Beccaria (1738–94) is the first significant theorist linked with classicism. Beccaria, the scion of an aristocratic Italian family, became active in the 'academy of fists,' an organization dedicated to improving the criminal justice system, when he was in his twenties. Beccaria's investigations culminated in the publishing of *On Crimes and Punishments*, his most important book. A number of contemporary thinkers inspired Beccaria, notably Thomas Hobbes (1588–1679) and David Hume (1711–76). To begin, he borrowed from Hobbes the concept that an orderly society must be founded on a "social compact" that binds its members together. Citizens decided to give up some of their freedom to do as they wished in exchange for protection from arbitrary government actions.

## 2.3. The Courts' Role in Crime

In criminal proceedings, several courts such as the magistrate court, session court, district court, high court, and Supreme Court play an important role. Various jurisdictions have given varied courts various responsibilities and powers on the basis of which they might use that power and play a key part in dealing with criminal cases and regulating crimes.

The types of criminal courts are defined in Section 6 of the Code of Criminal Procedure. Criminal cases are filed and prosecuted in the courts that have authority over the offense that was committed. Chief Judicial Magistrate 3rd class is the lowest level or first level of the criminal court system, with the least authority and power. The Chief Judicial Magistrate 2nd class, which is just above the Chief Judicial Magistrate 3rd class, has many more jurisdictions and powers than the Chief Judicial Magistrate 3rd class[7].

Following the Chief Judicial Magistrate 2nd class is the Chief Judicial Magistrate 1st, who has significantly more authority and jurisdiction than the Chief Judicial Magistrate 2nd class. The Chief Judicial Magistrate 1st class is followed by the Chief Judicial Magistrate 2nd class, who has significantly broader jurisdictions and powers than the CJM 1st class. The Sessions courts, which sit above the Chief Judicial Magistrate, have far greater authority and jurisdiction than the CJM. The High Court, which has a considerably broader jurisdiction and much more power than the CJM, can exercise any power, deliver any judgment, and deal with any criminal matters in its state. The Supreme Court of India, which possesses supreme power to exercise any jurisdiction, comes first.

## 2.4. The Criminology Concept

The idea of criminology encompasses a broad understanding of how a crime is committed as well as the fundamental element and mindset that leads to a crime. Many divisions exist in criminology, each of which plays an important part in understanding the idea of criminology. The following are the divisions or components into which the subject of criminology has been divided: The first section, Victimisation, discusses the many ways and reasons that lead to a person becoming a victim. Victimisation describes how a person becomes a victim as well as the types of people and parts of society who are at risk of becoming victims. Victimization research and theory are primarily based on two factors: victim centricity and state punishment. The two primary ways of punishing an offender are victim centered and state punishment, which connect the ways of the past to the current manner of punishing an offender. When there was no law and no systematization of law, the notion of EYE FOR AN EYE was used. The EYE FOR AN EYE technique is a historical idea of punishing an offender that states that an offender should be treated or punished according on the offense that he has committed. That is to say, if a person commits a murder, he or she is sentenced to death since his or her actions resulted in death. If a person has grievously injured someone, the victim has the right to grievously injure the offender as well. Previously, there was no concept of looking into a person's MENS REA to determine whether his or her intentions were right or wrong, and if he or she had committed murder, he or she was simply sentenced to death[8].

The victim centric technique had several advantages, including the fact that it was quick and, in some people's opinion, the most effective form of punishment. Victim-centered justice seems to be the most successful type of justice. This approach also has the benefit of redemption. As a consequence, there was no sense that the victim was not receiving adequate justice, and there was no question that a criminal was not being punished appropriately.

Benjamin used the term "victimization" in 1947, and he defined stigma as "the mental state of a person that leads to such actions

and deeds." Stigma also refers to what a person is thinking and intending at the moment the crime is committed.

Following the notion of victim centricity, the concept of state punishment emerged, which is the current court system situation. The process of examining all of the components, factors, and intents of both the victim and the perpetrator is known as state punishment. State punishment may also be defined as a more organized and modernized manner of enforcing the law. All of the rules and laws that have been created expressly for a certain offense are referred to as state punishment. The notion of state punishment is significantly different from the direct technique, which was victim centered. However, the state's sentencing technique has been modernized, and it now follows a step-by-step procedure.

If a person commits a crime, instead of handing him the death penalty, the technique of appropriate processes is used in state punishment. For such specific conduct or crime, the individual will be punished according to the laws of the jurisdiction. The key feature of state punishment that distinguishes it from the victim-centric approach is that it considers both the victim's and offender's MENS REA.

The technique of state punishment does not directly penalize an offender; instead, it examines a person's MENS REA to determine if he or she intended to do so or not. The penalty for a convict is determined by the offender's intent as much as the law. The distinction is that this sentencing procedure might take a long time and cause a delay in delivering justice to the victim. The victim's part in his or her victimization can be divided into three categories: Precipitation of the victim. Facilitation of the victim. Provocation by the victim

A victim actively engages in the action in victim precipitation, whereas a setting is produced for a person to participate in the activity in victim facilitation.

Lawrence Sherman, a philosopher, examined the notion of victimization and provided some thoughts regarding social structure and process. Lawrence Sherman concentrated on specific neighborhoods, examining how they function as a burden or a danger. Slums, for example, is a neighborhood that has been mentioned during this process. Many people in some areas, such as slums, are not socially advanced or developed, and they do not have much exposure to increase and develop their social thinking thoughts. As a result, such areas are more prone or effected in the case of increasing domestic violence, as families involved in domestic violence are more influenced by their slum neighbors[9].

The family members are influenced by such neighbors, and they begin to act and behave in ways that they are not permitted to act or conduct.

Richard, a philosopher, coined the term "social interactionist perspective" (SIP) in 1992, claiming that anxiety and stress lead to a lack of social interaction, which might lead to victimization or criminal behavior. Social connection is critical in the development and exercise of a person's intellect, regardless of whether the individual acts normally or criminally.

Social contact is important because it indicates if an individual lives or interacts with nice people or with those who are socially misbehaving and criminals. As a person is impacted by the people with whom he or she lives and interacts, social engagement with socially inappropriate individuals and people with criminal minds and mentalities can sometimes lead to the formation of criminal mindset and criminal behavior.

Aside from the notion of victimisation and theories aimed at victims, there are also theories and concepts aimed at punishing or offending people. Tenants of vengeance is a term that may be used to describe this notion. Some of the tenants have

received vengeance for the individual who has been punished: If and only if a person has voluntarily done anything wrong, he will be penalized. The punishment for the wrongdoing should be proportional to the severity of the offense. The justification for punishing is that the suffering in exchange for the moral wrong willingly committed is morally beneficial in and of itself. Criminals must always face judicial punishment for no other reason than that they have committed a criminal crime[10]. There have been significant improvements in the notion of criminology, as well as some modifications in the concept of criminology.

### 3. CONCLUSION

In the creation of criminological ideas, criminologists employ modern social scientific research methodologies. Evidence-based criminology is the use of rigorous social scientific approaches to the development of knowledge in the discipline of criminology (also called knowledge-based criminology). Today's criminologists' study yields a corpus of scientific knowledge that may be applied to the issues and reality of today's world. Because modern criminology is based on a social scientific approach to the study of crime, it has a lot to contribute as we try to address the issues of crime and crime control.

The executive board of the American Society of Criminology (ASC) established a new division of experimental criminology in 2009, in recognition of the growing importance of evidence-based criminology. The division's purpose is "the promotion and improvement of experimental evidence and methods in the advancement of criminological theory and evidence-based crime policy.

### ACKNOWLEDGMENT

Authors acknowledge the immense help received from the scholars whose articles are cited and included in references to this manuscript. The authors are also grateful to authors/ editors / publishers of all those articles, journals and books from where the literature for this article has been reviewed and discussed.

### REFERENCES

- [1] T. S. T. SOWMYA, "Crime: A Conceptual Understanding," *Indian J. Appl. Res.*, vol. 4, no. 3, pp. 196–198, 2011, doi: 10.15373/2249555x/mar2014/58.
- [2] L. Paoli and V. A. Greenfield, "Harm: A neglected concept in criminology, a necessary benchmark for crime-control policy," *Eur. J. Crime, Crim. Law Crim. Justice*, vol. 21, no. 3–4, pp. 359–377, 2013, doi: 10.1163/15718174-21042034.
- [3] G. Stratton, A. Powell, and R. Cameron, "Crime and justice in digital society: Towards a 'digital criminology'?", *Int. J. Crime, Justice Soc. Democr.*, 2017, doi: 10.5204/ijcjsd.v6i2.355.
- [4] K. Carrington, R. Hogg, and M. Sozzo, "Southern Criminology," *Br. J. Criminol.*, 2016, doi: 10.1093/bjc/azv083.
- [5] L. H. C. Hulsman, "Critical criminology and the concept of crime," *Contemp. Crisis.*, 1986, doi: 10.1007/BF00728496.
- [6] R. L. Matsueda, "TOWARD AN ANALYTICAL CRIMINOLOGY: THE MICRO–MACRO PROBLEM, CAUSAL MECHANISMS, AND PUBLIC POLICY," *Criminology*, 2017, doi: 10.1111/1745-9125.12149.

- [7] J. Lea, "Left realism: A radical criminology for the current crisis," *Int. J. Crime, Justice Soc. Democr.*, 2016, doi: 10.5204/ijcjsd.v5i3.329.
- [8] N. Ronel and D. Segev, "Positive criminology in practice," *Int. J. Offender Ther. Comp. Criminol.*, 2014, doi: 10.1177/0306624X13491933.
- [9] R. Surette, "Thought bite: A case study of the social construction of a crime and justice concept," *Crime, Media, Cult.*, 2015, doi: 10.1177/1741659015588401.
- [10] J. Philips, "Book review: Desistance from Crime: New Advances in Theory and Research," *Probat. J.*, vol. 65, no. 1, pp. 109–110, 2018, doi: 10.1177/0264550517752750b.