

# LAWXPERTS.

## WHY YOU SHOULD STUDY THIS ?

1. HIGH QUALITY.
2. BASED ON STANDARD SOURCES
3. POSSIBILITY OF DIRECT QUESTIONS
4. COMPLETELY SYLLABUS-ORIENTED.

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**SYLLABUS : General principles of criminal liability: Mens rea and actus reus, mens rea in statutory offences.**

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**THIS IS NOT A PRIMER ; THESE ARE COMPREHENSIVE NOTES MEANT FOR SPOON-FEEDING.**

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### **1. CRIMINAL SCIENCE?**

= study of criminal law, criminology & penology.

### **2. WHAT IS A CRIME ?**

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- You do an breach of act/ omission as defined by the law - for which there is punishment not mere compensation.
- WHO DEFINES IT ? IPC made by the parliament.
- --the word "offence" denotes a thing made punishable by this Code S.40 OF IPC.

*Seems confused?*

*Let's explore more about the crime.*

### **3. COMPREHENSIVE ANALYSIS OF THE DEFINITION OF CRIME ?**

#### **1. CRIME IS A PUBLIC WRONG :**

- *Romans = crimes as delicta publica [public wrongs]*
- *Blackstone = act/ omission in violation of public rights & duties = in the community.*
- *CRITICISM : all the acts injurious to public are not necessarily a crime (KENNY) .*

#### **2. CRIME AS A MORAL WRONG :**

- *Crime = owes its roots ; in greek - kromos ; in sanskrit - krama = means SOCIAL ORDER.*
- those acts that go against social order and are worthy of serious condemnation.
- crime constitutes = immoral and anti-social acts. GARAFALO.
- crime is an immoral and harmful act that is regarded as criminal by public opinion because it is an injury to so much of the moral sense as is possessed by a community – a measure which is indispensable for the adaptation of the individual to society.

#### **3. CRIME AS A CONVENTIONAL WRONG: -**

##### **DEFINITION GIVEN BY EDWIN SUTHERLAND:**

- criminal behaviour is a behaviour in violation of the criminal law.
- no matter what the degree of immorality, reprehensibility, or indecency of an act, it is not crime unless it is prohibited by the criminal law.
- characteristics, which distinguish this body of rules regarding human conduct from other rules, are therefore, \
- politicality, specificity, uniformity and penal sanction.
- CRITICISM : Crime can also be anything which is not violating criminal law.

#### 4. CRIME AS A SOCIAL WRONG :

- crime is an act that has been shown to be actually harmful to society, or that is believed to be socially harmful by a group of people that has the power to enforce its beliefs, and that places such act under the ban of positive penalties. JOHN GILLIN.
- CRITICISM :Fails to explain the criminal behaviours. Eg : Dowry is a crime ; there is hardly any change in people attitude.

#### 5. CRIME AS A PROCEDURAL WRONG:

- **Defined in the terms of nature of the proceedings:**
- a wrong which is pursued by the sovereign or his subordinates is a crime. PUBLIC WRONG. AUSTIN.
- a wrong which is pursued at the discretion of the injured party and his representatives is a civil injury. PRIVATE WRONG. AUSTIN.
- crimes are wrongs whose sanction is punitive, and is in no way remissible by any private person, but is remissible by the crown alone, if remissible at all. KENNY.

#### 6. CRIME AS LEGAL WRONG:

- legal wrong = when a penal statute prescribes punishment for an act or illegal omission it becomes a crime. SEC.32 IPC.

#### 3 ESSENTIAL ATTRIBUTES:

- crime = an act of commission/omission on the part of a human being, which is = harmful + prohibited = by the state.
- the transgression of such harmful acts is prevented by a threat or sanction of punishment administered by the state; and
- the guilt of the accused is determined after the accusation against him has been investigated in legal proceedings of a special kind in accordance with the provisions of law (CRPC & Evidence law)

**END OF PART 1.**