

## BULLET POINTS ON CONSPIRACY!

✓ **What is conspiracy?**

A secret plan by a group to do something unlawful or harmful

✓ **When does conspiracy occur?**

In law, a “conspiracy” occurs when two or more people agree to do something illegal, or to do something legal but to do it in an illegal way.

✓ **What are the types of Conspiracy ?**

There are two types of conspiracy

**Criminal Conspiracy** – dealt by Indian Penal Code refer IPC modules

**Civil Conspiracy** – it is a tort dealt in this module.

✓ **What is the definition of conspiracy as tort ?**

"A conspiracy consists not merely in the intention of two or more, but in the agreement of two or more to do an unlawful act, or to do a lawful act by unlawful means."# *Mulcahy v The Queen*

✓ **What is the specialty of the tort of conspiracy?**

It renders each participant in the wrongful act responsible as a joint tortfeasor irrespective of their role # **Mox Incorporated v. Woods**

✓ **Why conspirators are joint tortfeasors ?**

By participation in a civil conspiracy, a co-conspirator effectively adopts as his or her own the torts of other co-conspirators within the ambit of the conspiracy. In this way, a co-conspirator incurs tort liability co-equal with the immediate tortfeasors.

✓ **Conclusion:** Conspiracy is not a cause of action, but a legal doctrine that imposes liability on persons who share a common plan.

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**Definition: Winfield:** When two or more persons combine for the purpose of inflicting upon another person an injury which is unlawful in object/means resulting in damage.

**Elements of conspiracy :**

1. Two or more people who;
2. Make an agreement to act together;
3. With the intention to accomplish an unlawful goal with the purpose of harming another/ achieve lawful goal in unlawful means.
4. That results in damages

**Forms of criminal conspiracy:**

- (a) **Unlawful means:** unlawful conduct directed at the plaintiff which will foreseeably result in damages to the plaintiff or
- (b) **Unlawful object:** where the purpose of the conduct is to injure the plaintiff, regardless of whether the means are lawful or unlawful.

**INGREDIENTS EXPLAINED!**

1. **There must be two or more participators** - There must be atleast two minds so that are arise an agreement and common design of action. Role of participators immaterial all share equal liability.
2. **There must be an agreement / concurrence to do unlawful act/lawful act in unlawful means** #There must be an agreement between two or more persons to injure another.

**Agreement=** no actual /formal agreement- a tacit agreement or understanding will be sufficient. # **CBS Songs Ltd. v. Amstrad**

**Characteristic of such agreement:**

- 1) The participator must have knowledge of unlawful Act# Schick v. Bach,
- 2) They must have intention to aid such act agreed upon.
- 3) They must agree to cause injury

**There must be agreement – objective+ course of action+ injury.**

**Mogul Steam Ship Co Ltd vs McGregor, Gow and Co-** The act of monopolising trade is not conspiracy even if it cause loss to plaintiff because monopoly is trade tactics not unlawful act.

**3. There must be an overt act in consonance of the agreement** -it is necessary there is any overt act in pursuance of such agreement.#**Glidewell LJ in Unilever plc v. Chefaro**

**4. Such overt act must have resulted in damage to plaintiff.**

Damage = pecuniary loss / not emotional damage.

**Case Law: Yokong Line Ltd. Of Korea Vs Rendsburg Investments Corpn.of Liberia:**

Director of the plaintiff company directed the funds to some other account without intention to harm plaintiff- held- not conspiracy

CIVIL CONSPIRACY	CRIMINAL CONSPIRACY
Nature: It is a civil wrong/tort	It is a crime
It is offence against individual	It is offence against state
Concept: Concerted act of two or more persons to act unlawfully/ achieve unlawful object thereby intending to cause damage to plaintiff	Concerted design to commit an illegal act.
Mere agreement to conspire is not an offence.	Agreement /attempt /preparation perse an offence.
An overt act is necessary to find guilty	An overt act not necessary /mere preparation will do

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