

Paradigm Shift in Consideration of Crime due to Rising Intolerance

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Abstract.

Recently, the criminal cases due to acts of rage have increased in India. A more significant analysis of causes for triggering such crimes becomes essential to ensure a reduction in such crimes. To reach into the complexity of crimes done under sudden rage, it becomes vital first to understand the existing mechanism of the criminal legal system and its functioning. Under the criminal legal system, the crime is traceable by specific codified procedures. Aspects related to such a classical mindset of crime stages shall be covered to reflect upon the scope of the new rising challenge of rage crimes. There is a need for more improvisation of the criminal legal system for greater accountability of crimes, for which the article covers suitable recommendations.

Key Words. Criminal law, Rage, Actus Reus, Mens Rea, Intent, Knowledge, Motive, Recklessness, Intention, Preparation, Attempt, Accomplishment, Sociologists, Phycologists, Law enforcement.

Introduction

India has a codified criminal law that has stood the test of time and has undergone refinement for consistent improvement. However, it is unlikely that the legal provisions will reach a stage where they would require no further transformation. Therefore, it becomes imperative for all those attached to the legal profession as practitioners, academicians, lawmakers and students of law to understand the consistent social transformation and the need for changes in law, especially the criminal law, which forms part of the public law¹. The traditional criminal law approach formulated various stages of logical reasoning to implicate an accused of criminal offences. The mechanism has been quite effective in proving the criminal offences as its sustenance is on predictable human behaviour. However, human behaviour is not static and faces a significant impact of the transforming environment. Due to - the 'environment of the offender' and its impact on behaviour patterns, this factor needs constant gauging to refine the criminal legal proceedings. Currently, several crimes have come to light where the offender had little motive for committing a crime, and still, the crime did occur due to the offender's recklessness or uncontrolled rage². Such types of crimes are on the rise. They become a cause of worry as such incidences create a paradigm shift in the conceptual processing of criminal proceedings and therefore require serious study. This paper intends to understand the rising reckless crimes triggered due to uncontrolled rage and anger and evaluate the changes needed under the criminal procedures to maintain effectiveness.

Mechanism of Existing Criminal Legal System

The crime falling under the criminal law is considered a crime against the state³. Therefore, it is the state's responsibility to ensure that the offender faces punishment through the state's legal system. Whenever a crime takes place, there is the fulfilment of four conditions. First, the act is considered wrong by society⁴. Second, such incidence causes harm to society in general and those who require protection⁵. Third, the harm to the victim is serious⁶. Finally, a remedy must be available to bring the accused to justice within the criminal legal system⁷. Thus, criminal law ensures that there is protection available to people and safeguards against property damage, creating confidence within the state that public decency and public order will prevail.

Some elements of crime and other factors become essential while finalising the charges against the accused. The element of crime and other factors are as follows.

1. Elements of Crime. There are two main elements of any crime. These are as follows: -

(a). **Actus Reus.** In Latin, 'Actus Reus' means a 'wrongful deed' or 'guilty act'⁸. It includes all circumstances that led to the crime, the conduct of the offender, and the attached consequences. It is essential to reflect that the accused has committed an act prohibited by law. Thus, the criminal law must outline those aspects it considers a crime. Therefore, actus reus is a physical act of a crime⁹.

(b). **Mens Rea.** It is the second mandatory condition before an incident comes under the classification of a crime. Mens Rea is the mental part of the crime, meaning the indulgence of an evil mind that leads to a crime¹⁰. Thus, the offender must commit a crime or know about the crime. Under the common law principles, mens rea's existence is nearly mandatory for committing a crime and must also be proved beyond a reasonable doubt¹¹. It involves-intentional, knowing, negligent, reckless, or wilfully blind crimes. However, as an exception to this rule, there is no need to prove mens rea in cases involving absolute or strict liability¹². Generally, those offences without mens rea are presumed to be less severe.

2. Intent. The following essential aspect of criminal law is the intent. The offender's intent helps to understand the reason behind the commissioning of the crime. Usually, the accused is not bothered by the consequences. The offender's intent can either be general or it can be specific¹³. Under the general intent clause, the offender's intention restricts the act. On the other hand, the offender's intention is not limited to the act but holds a different criminal purpose in the specific intent clause. Under the criminal legal system, there is an assumption that there is hardly any motive for committing a crime without intent. Thus, it shall not be a crime if the intent is missing. For instance, in the case of mental illness, minors, and people under the influence of drugs and alcohol, the factor of intent for crime is ruled out, and such categories enjoy exemption from criminal punishment¹⁴.

3. Knowledge. Any person with knowledge that leads to the occurrence of some offence can be part of mens rea¹⁵. For executing a crime or inciting an offence, knowledge becomes a substantial base and helps access the role of the accused in a crime.

4. **Motive.** There is a general presumption that a crime is an outcome of a motive. However, the motive of the crime is different from the intent, as the guilt of the accused is unsubstantiated. Thus, even though a person may have a motive for committing an unlawful act or still cannot be charged with an offence. In many criminal law cases, motive usually acts as indirect evidence being circumstantial¹⁶. A judge may or may not take the aspect of motive while pronouncing the judgement in a criminal case.

5. **Recklessness.** Often, without the intention to cause any harm, the offender still commits the crime due to recklessness¹⁷. Some time back recklessness factor impact was restricted to a few specific crime cases. For instance, recklessness is an essential factor in the case of road accidents. However, the impact of recklessness has overshadowed itself in present times and is an essential ingredient of several crimes. The factor of mens rea will apply if recklessness exists in the criminal case. More details of this factor will be subsequently under discussion.

Stage of Commission of Crime

Whenever a crime commits, a usual process of four stages occurs. Based on these stages, the criminal legal system confirms the commission of a crime. The four stages of crime include the following. The first includes the intention of committing a crime. Second, the offender must have undertaken due preparation for executing the crime. Third, an attempt to commit the crime must take place. Finally, the attempt must be successful for the actual commission of a crime¹⁸. If the attempt of crime fails, the same is considered an act done to commit an offence. These various stages of crime are discussed further in detail.

1. **Intention and Contemplation.** This stage of commission of the crime is also called the mental stage. However, as there is a lack of evidence, it becomes challenging to implicate a person at this stage¹⁹. Under the Indian legal system, few exceptions stand accepted, and a person accused of intending to undertake the crime will be guilty of criminal proceedings. For instance, under the Indian Penal Code (IPC) sections 121 and 123, a person can be charged for waging war against India²⁰. Similarly, under section 124 A of IPC, a person can be charged for sedation²¹. Even under section 120 A, charges of criminal conspiracy may apply²².

2. **Preparation.** All those activities a person undertakes that lead him towards executing a crime will be considered part of the preparation stage²³. However, mere intention and preparation do not become a crime in usual cases. Such remains the scenario as it is complicated to prove the actions undertaken by a person at this stage. Further, there is an assumption that the person still has the time to reconcile and decide not to execute the crime exonerating him from any criminal charges. For instance, the intention to poison someone may lead a person to purchase poison as part of the preparation, which he intends to mix with the target's food. If the person decides not to execute his plan further, it will still not amount to a crime. Few exceptions are in the IPC, wherein there can be framing of charges against the individual even during the preparation stage²⁴. Under the category come charges of preparing to wage war against the state, committing depredation in territories of power at peace with the government, planning dacoity, and counterfeiting currency and stamp paper²⁵.

3. **Attempt.** It is the third stage of commissioning a crime, also called the preliminary crime²⁶. Although the IPC does not define the word attempt, it becomes punishable once the attempt for the crime is underway²⁷. Even an attempt that fails in its accomplishments calls for legal actions as the same has angst the society causing injury. There are three fundamental aspects being part of an attempt. These are as follows. First, there should be a guilty intent to commit a crime. Second, there must be some act done to execute the crime. Third, the process should be short of the successful accomplishment of the offence²⁸. Some offences under the IPC have prescribed punishments for attempting a crime. For instance, under section 307 of IPC, a person can be tried for a murder attempt and under section 308 can be tried for an attempt of culpable homicide. Attempt to commit suicide is chargeable as per section 309 of IPC²⁹. Likewise, there are many other attempted crimes for which there is punishment under the criminal legal system.

4. **Accomplishment.** It is the last stage of the commission of a crime. If the offender successfully attempts to commit a crime, it is considered the stage of accomplishment of a crime. Now the crime becomes punishable. Thus, the major punishment provisions under the criminal legal system are in the attempt and accomplishment stages³⁰.

In the recent past, rage cases as the cause of the commission of crimes are rising. The pattern contradicts the practised norms of the criminal legal mechanism discussed above in adequate detail. Therefore, examining such new evolving patterns in the criminal jurisdiction becomes essential.

Increasing Cases of Rage Crimes

The most common crimes witnessed include- dacoity, rioting, murder, fatal accidents, rape, molestation, robbery, chain snatching, dowry death and cruelty. A comparative analysis of all such crimes, especially in the metro city, indicates high crimes related to dowry and cruelty³¹. Both these crimes reflect upon two significant concerns of the evolving society. First is the greed to accumulate wealth through quick means. Such a desire forces individuals, many of whom do not have a prior criminal record, to commit the most heinous crime of atrocity against women. Second, the concern is regarding the rising intolerance of people in general, where rage becomes the basis for the commission of the crime. Both these factors get combined, creating a further cascading effect. The criminal can be brought to justice for the dowry atrocity, although the process often remains cumbersome. However, the task becomes very challenging in cases of rage leading to crime or cruelty. In many cases, there is no primary intent for the crime, no knowledge of the victim, and no motive for undertaking the crime barring the recklessness due to rage³². Once the crime commits, both the aspect of mens rea and actus reus become applicable.

Some of the recent cases indicate such trends. Due to the father's poor health, his consistent coughing became a source of irritation for the son, who lost his cool and hailed abuses at his father. The father responded by using his licenced revolver to shoot and kill his son due to such behaviour³³. In another incident, due to an argument triggered due to a dispute over culinary skills, the couple fought, provoking the wife to poison her three children and attempt suicide. In Kolkata, a man murdered his real brother after being refused financial support for pursuing further studies. A scuffle between neighbours regarding the car parking

space in Delhi led to instant rage leading to the murder of a person³⁴. Many more cases can be listed and occur across the entire country frequently.

The crime scene is no different in rural India and indicates rising intolerance. Due to petty issues, groups of people associate with the cause and undertake actions that lead to heinous crimes. Several incidents' reports show that groups of people have vandalised victims recently, leading to severe injuries and even death. Caste conflict, land dispute, and ideological differences may cause crime initiation, but the reality remains that in most such cases, the uncontrolled rage was the cause of the crime with a false understanding that they would not face the accountability of law.

A deeper analysis of such cases reflects that prevention of most of these crimes was possible if people's rage was under control and the sense of being made accountable for criminal acts was much higher³⁵. As for control of anger, the matter comes under the jurisdiction of sociologists and psychologists to intervene. From the legal perspective, there is a need to create stern legal mechanisms to counter such sporadic behaviour leading to crime. In several cases, the victim and offender have no past affiliation, leading to a lack of identification. Thus, if individuals commit crimes without motives, it will become difficult to bring the criminals to account.

Recommendations for Meeting the Challenge of Rising Crimes due to rage

A new approach is a requirement that should act as a deterrence to ensure that such crime does not occur in the first instance. Even where such rage crime with cruelty occurs, the culprits be identified and quickly brought to justice. To meet such an objective, some of the recommendations are as follows.

1. Use of Technology. In present times, with the aid of technology, establishing the culprits' identity has become much better. However, such technologies, which keep consistently evolving and improving, are expensive and remain out of the reach of many law enforcement agencies. Due to a shortfall in the availability of the latest technology with the investigating agencies, quick and prompt action to identify the offenders fails. Adequate funds should be made available to ensure that the investigating agencies are equipped with suitable technology to identify the offenders and collect evidence of a crime.

2. Amendments in the Legal System. There is also a need for changes within the criminal legal system to ensure strict law exists against those who commit crimes due to rage. Such an initiative will also act as deterrence against violations of such nature. Even the court must view such crimes seriously and set a precedence that helps mitigate the crime. Perhaps the record of those found violating the law must be kept in the crime data for early identification of those tending to commit crimes.

3. Response Capability Enhancement of the Law Enforcement Agencies. Most of the time, in case of conflict situations, the indulgence of the law enforcement agencies is far too delayed. Such delays sometimes justify ordinary people taking the law into their hands and committing an offence. There is a need to increase the presence of law enforcement agencies on the ground with faster reaction capacity. Such actions will go a long way to ensure the crime rates reduction. As policing remains a state matter, the state government's active involvement

becomes crucial for any advancement on the matter. In addition, the union government must make new policy norms supported by fund allocation for effectiveness.

Conclusion

The paper aimed to understand the new trends in the commission of criminal offences within India. The existing mechanism for identification of the commission of a crime was covered. Many aspects attached to the commissioning of crime investigation are old and time-tested. However, the rise in crime is due to rising financial aspirations and a lack of tolerance. Much due to this aspect, crimes due to sudden rage are rising.

In many cases, the offender and the victims have no prior affiliation reducing the assessment of the motive for executing the crime. Such a scenario makes it much more difficult for law enforcement agencies to identify offenders and instil justice for the victims. After such detailed coverage, there was a proposal for incorporation to meet the rising challenge of rage crimes in India. The field of criminal law is vast, and with the vent of technology, it is evolving at a high rate. Correct use of technology and constant enhancement in the criminal legal procedure will go a long way to creating a safer society meeting the aspiration of the state's people.

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