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## Primer on General Principles of Criminal Liability in India

Chirag Balyan<sup>a</sup>

<sup>a</sup>Assistant Professor of Law, Maharashtra National Law University, Mumbai, India

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*Criminal law requires strict justification. It is the most powerful tool which State can use against individuals. But, criminal laws are being employed in a routine manner. This paper gives a primer on the general principles of criminal liability which the State must follow in enacting a special part of criminal law. The general principle can be stated as: every crime must fulfill the act requirement and mens rea requirement. This paper while discussing this twin requirement explains how many offences either don't fulfil the act requirement or the mens rea requirement. As far as dilution of act requirements is concerned, the creation of offences based on possession, state of affairs, omission, and automatism has been discussed. And the phenomenon of strict liability and joint liability has been discussed to emphasize many offences may not require men's rea on the part of the defendant. After the introduction, the paper explains the concept of criminal liability, then it explains the distinction between the general part and the special part of the criminal law. Thereafter, the paper delves into the actus requirement and men's rea requirement as general principles of criminal liability and the extent to which they are implemented in the Indian penal laws.*

**Keywords:** *automatism, criminal liability, fault elements, possession, strict liability.*

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### INTRODUCTION

Criminal liability is the strongest formal censure that the society can impose upon its members for the breach of the legal order.<sup>1</sup> Criminal liability may also involve deprivation of 'personal

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<sup>1</sup> Andrew Ashworth and Jeremy Horder, *Principles of Criminal Law* (OUP 2013)

liberty’ - an idea that is highly cherished in the Indian constitution.<sup>2</sup> The element of censure coupled with punishment makes the criminal law the strongest tool in the armoury of the State. Therefore, the utilization of the same must have strict justification. The principles of criminal liability lay down the legal and normative basis for the appropriate utilization of criminal law to address certain kinds of behaviours. These principles identify the threshold of acceptable behaviour for co-existential living in society. Since the last few decades, it has been claimed that the line between acceptable and unacceptable behaviour has become blurred to decide the questions of criminalization.<sup>3</sup> However, still, some broad principles can be identified.<sup>4</sup> This is not to say that there is a universal consensus as to these principles. These principles because of the acceptance by our legislators and courts and by the test of time have become so deeply ingrained values of our criminal justice system that it is very difficult to deny their presence in the decisions of criminalization. Though debatable, in India these principles are generally accepted because the penal law of the country was prepared by the Imperial government and were accepted by the Constitution makers without much discussion. Therefore, these principles could never attract public scrutiny or comment unless the *vires* of a specific provision are in question before the court. Recently, the Ministry of Home Affairs, Government of India constituted a committee to examine the reforms in criminal law. The mandate of the committee is to suggest ‘principled, effective and efficient’ reforms in the criminal law of the country. After Independence, it is for the first time the principles of criminal liability will be examined by the committee constituted by the Government.

The aim of this paper is to primarily discuss the principles which have broadly governed our penal policy until now. It broadly discusses the concept of actus reus and mens rea and the departures from these principles.

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<sup>2</sup> Constitution of India 1950, art 21

<sup>3</sup> Andrew Ashworth, ‘Is the Criminal Law a Lost Cause?’ (2000) 116 Law Quarterly Review <<https://knowledgeshouldbefree.blogspot.com/2020/12/ashworth-andrew-is-criminal-law-lost.html>> accessed 10 June 2023

<sup>4</sup> R.A. Duff et. al., *Criminalization: The Political Morality of the Criminal Law* (OUP 2014)

## CRIMINAL LIABILITY

Every kind of wrong is either addressed by the civil law machinery or the criminal law machinery. To put in other words, wrongs are either civil or criminal. There are some wrongs that are both civil and criminal like nuisance and defamation.

What are the kind of wrongs which can be appropriately addressed by the machinery of criminal law? This question has received a lot of academic attention in the last few decades. This question suggests that not every kind of wrong should be addressed by penal sanction. But, then the concern is that on what basis should this decision be taken? The answer to such questions requires one to delve into the contours of criminalization or now what is labelled as overcriminalization.<sup>5</sup> It is beyond the scope of this Article to analyse such contours in detail. Strictly speaking, a crime is a public wrong in which the State has the legitimate interest in prosecuting the accused for the protection of the larger interest of society. Another distinctive feature of the crime is that they are serious wrongs against an individual or the fundamental values of the society. But this doesn't mean that all crimes are serious wrongs. There are many crimes that are not serious. The commission of such crimes doesn't carry any social stigma. For example, violation of traffic rules though constitutes a crime is not considered serious and doesn't carry a social stigma. Scholars have argued that State has a more legitimate interest in criminalizing serious harm. The general principle of criminal liability is that there cannot be a crime without a wrongful act and a guilty mind. In simple words, a crime comprises the act and guilty mind. The requirement of an act and a guilty mind are essential to label something as a crime.

The mushroom growth of strict liability offences has diluted this general principle. The strict liability offences don't require proof of the guilty mind or require an accused to negate the guilty mind (reverse onus clauses). Example of strict liability offences includes possession offences such as possession of drugs prohibited under the Narcotics Drugs and Psychotropic Substances (NDPS) Act. The proof of offence under the NDPS Act merely requires the prosecution to prove

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<sup>5</sup> Sanford H Kadish, 'The Crisis of Overcriminalization' (1967) 374 American Academy of Political and Social Science <<https://www.jstor.org/stable/1037202>> accessed 10 June 2023

the possession, the intention of the accused is immaterial. The definition of the crime doesn't reflect the principle in which wrong is labelled as a crime. The search for principles of criminal law led Glanville Williams to give a circular definition of crime. He defined crime as "an act capable of being followed by criminal proceedings having a criminal outcome."<sup>6</sup>

Criminal liability according to Andrew Ashworth can be read under three broad headings, viz. the range of offences; scope of criminal liability; and conditions of criminal liability. The scope of criminal liability refers to the circumstances in which a person who actually doesn't commit the crime but nonetheless can be held liable. The scope of criminal liability can be understood by examining a broad range of specific offences. Another arguable element of criminal liability is the defences. It is arguable because some theorists argue that defences are nothing more than denial of a criminal offence. For example, the justificatory defence in essence questions the very wrongfulness of the act.<sup>7</sup> Some defence like mistake negates the mental element. It is, for this reason, the defences are not discussed in this Article.

## THE GENERAL PART OF THE CRIMINAL LAW

Ashworth notes that, "the general part of the criminal law is comprised of the rules and principles of the criminal law whose importance and application can be analysed and debated without necessarily referring to a specific crime." The discussion of the general principles of criminal liability is in essence understanding the general part of criminal law. The discussion of the concept of the *actus reus* and *mens rea* is the discussion of the general part of criminal law.<sup>8</sup> The normative concerns about the nature, content and effect of criminal law are often discussed in the general part. The question such as, whether, it is legitimate to impose liability upon an individual who commits an act without the requisite mental element is a question concerning the general part. The question is more so significant because of the abundance of strict liability criminal offences in the legislative texts. Similarly questions like, whether, it is legitimate to impose liability upon a person for mere possession of *mens rea* but no *actus reus*, are also

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<sup>6</sup> Glanville Williams, '7 The Definition of a Crime' (1955) 8(1) Current Legal Problems <<https://doi.org/10.1093/clp/8.1.107>> accessed 10 June 2023

<sup>7</sup> William Wilson, *Criminal Law: Doctrine and Theory* (4th edn, Longman Law Series 2011)

<sup>8</sup> Glanville Williams (n 8)

discussed in the general part. The key question in the general part is: “What the preconditions to criminal liability really are, and how far do they really reflect the principles they are commonly supposed to encapsulate”<sup>9</sup> Chapter IV of the IPC titled ‘General Exceptions’ which includes defences of mistake of fact, accident, infancy, insanity, intoxication, etc. are also considered to fall within the general part. Whereas, a special part of the criminal law contains the definitions of particular offences.<sup>10</sup> Gardner distinguishes between the general part and the special part by stating: “The special part supplies the details of particular criminal offences and arranges them into families. The general part, meanwhile, is made up of doctrines that cross the boundaries between (some or all of) these different families of criminal offences.”<sup>11</sup>

However, the distinction between the general part and the special part is far from simple. For example, a grave and sudden provocation which is a mitigating factor both in the offence of murder as well as hurt is considered to be a concept of the general part of the criminal law; but is found in the special part of the offences. Similarly, inchoate offences though studied as part of the general law; could be a better fit in the special part because they also provide the punishment for the defendant’s conduct.<sup>12</sup> So from the perspective of a code, it is difficult to demarcate the boundaries of the general part and the special part.

## ACTUS REUS

The term *actus reus* refers to the external elements of the offence. Criminal liability is imposed when a person commits a prohibited act or caused a prohibited consequence. According to Ashworth, “The *actus reus* consists of the prohibited behaviour or conduct, including any specified consequences arising therefrom.”<sup>13</sup>

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<sup>9</sup> A T H Smith, ‘On Actus Reus and Mens Rea’ in P R Glazebrook (ed), *Reshaping the Criminal Law: Essays in Honour of Glanville Williams* (Sweet & Maxwell 1978)

<sup>10</sup> R A Duff and Stuart Green, *Defining Crimes: Essays on The Special Part of the Criminal Law* (OUP 2005)

<sup>11</sup> John Gardner, *On the General Part of the Criminal Law’* (1998) *Philosophy and the Criminal Law: Principle and Critique* (CUP 2009)

<sup>12</sup> R A Duff and Stuart Green (n 10)

<sup>13</sup> Jeremy Horder, *Ashworth’s Principles of Criminal Law* (OUP 2013)

The act requirement in the offences manifests in different forms. There are offences like rape where the act requirement is explicitly stated. The offence of rape under section 375 clearly defines the acts which constitute rape when committed under specified circumstances. The act of sexual intercourse or any other kind of sexual act is not an offence in itself. The act becomes an offence when it is committed under the circumstances stated in section 375 of the IPC such as when the specified act is done without consent. Here the act becomes wrongful when done in a manner proscribed by the law. Thus, the mere act is not sufficient; the act must also be wrongful.

Then there are offences where the 'act' in question is not per se wrongful but the intention with which the act is committed makes it wrongful. For example, mixing of poison in milk is not per se a wrongful act but it becomes wrongful when the same is done with the intention of causing harm to someone. There are some offences where the 'act requirement' is provided in terms of a specific result or consequence. These are also called result crimes. Here the criminal liability is not for the act but for causing the consequence. For example, murder is a result offence. It is immaterial what act you committed in order to cause murder; what is material is whether you 'caused the death' of a person or not. Similarly, the offence of voluntarily causing hurt is a result offence. The act requirement in the offence of hurt is 'causing bodily pain, disease or infirmity.'<sup>14</sup> Therefore, as result offences of any kind of act suffice. The specific act is not provided by the law. The law talks in terms of causation.

The act requirement is contestable in at least three kinds of offences. Ashworth identifies them as offences that penalize state of affairs, possession offences and omission. Ashworth argues that in these three specified categories, the law imposes liability even though in a strict sense there might not have been a positive act committed by the actor.

## **STATES OF AFFAIRS**

There may be certain offences where a person is held liable not for what he/she does but because he/she is found in a state of affairs that is criminalized by penal law. For example, stopping a

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<sup>14</sup> Indian Penal Code 1860, s 319

vehicle on a specific expressway is prohibited in many jurisdictions. Now, in case there is a breakdown of the vehicle on the expressway and for such reason, the vehicle is stopped, the owner of the vehicle will be liable even though he has not committed any act or omission. The owner didn't do anything to stop that vehicle. The vehicle just stopped because of some mechanical problem. Therefore, the owner of the vehicle finds himself in a state of affairs which are criminalized by the State. Similarly, arises the issue of liability of a lady who after the expiry of her visa could not leave the alien State as the airlines didn't permit her to fly due to the pregnancy. She didn't commit any 'act' to violate the immigration law. But, she is in a state of affairs that violates the immigration law. Such a lady was not held to be liable.<sup>15</sup> However, if a person after the expiry of his visa could not travel on airlines because of a shortage of money, then that's not a defence for violating the immigration law.<sup>16</sup>

Under the Gambling Act, 1867 if a person is found in a gambling house then that attracts the criminal liability provided in that legislation.<sup>17</sup> A son went to the gambling house in order to take his father from the gambling house. At about the same time, the police raided the gambling house and arrested both father and son. The issue arises with regard to the liability of the son. The son didn't go there to gamble but to get his father. But, the son would nonetheless be liable for the state of affairs he is found in. The offences which impose situational liability expect the citizens to know their duty to avoid certain situations. The liability is imposed for being in the state of affairs.

## POSSESSION

As a matter of principle, mere possession of certain things should not create criminal liability.<sup>18</sup> However, the possession of stolen articles, drugs, weapons etc. attracts liability under our criminal laws. The person in the possession might not have done the requisite act to get the item in possession but nonetheless would be liable if found in the possession. As Shamsul Huda rightly puts it, "Being in possession, is not an act, but a mere legal status." Therefore, possession

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<sup>15</sup> *Finau v Department of Labour* [1984] 2 NZLR 396

<sup>16</sup> *Tifaga v Department of Labour* [1980] 2 NZLR 235

<sup>17</sup> Public Gambling Act 1867, s 4

<sup>18</sup> Andrew Ashworth, 'The Unfairness of Risk-Based Possession Offences' (2011) 5 *Criminal Law & Philosophy* 237-257 <<https://doi.org/10.1007/s11572-011-9112-2>> accessed 10 June 2023

offences are exceptions to the rule that there must be an 'act' to constitute a crime. These offences are justified because they allow law enforcement agencies to intervene before actual harm is committed. The possession of dangerous items or prohibited items negates innocent use. It must be noted that the concept of possession is far from simple. The Law Commissioners responsible for drafting IPC remarked, "We believe it to be impossible ...to mark with precision by any words, the circumstances which constitute possession."

There are at least two compelling grounds to question possession crimes. First is that criminalizing possession may be too remote from the ultimate harm. The defendant as a matter of principle must be given the benefit of the doubt that he may change his mind. The second objection comes from the voluntariness requirement in criminal law. As regard this objection the issue that arises is: whether a person can be said to be in possession of something which has slipped into his/her bag. Or whether a person can be held liable for possession of drugs who mistakenly construed the packet of *ganja* to be the packet of green tea?

### **OMISSION AND SERIES OF ACTS**

In the absence of the 'act', liability is not imposed upon the accused. For example, A saw B drowning in water but did nothing to save B, though A knows how to swim. Here A has not committed any offence because he has not committed the Act to kill B. However, there are a few circumstances where a person can be held liable for the omissions as well. However, liability for omissions is limited to the cases where there is a duty to act. The duty to act can be because of a contractual relationship, legal relationship, fiduciary relationship or blood relationship. Therefore, in the above example if A is the father of B or A is the swimming instructor of B, then A has the legal duty to save B from drowning. Therefore, omission to save B would attract criminal liability. In fact, section 32 of the Indian Penal Code, 1860 provides that act also includes illegal omission unless the intention of the legislature is contrary.

"Words referring to acts include illegal omissions. –In every part of this Code, except where a contrary intention appears from the context, words which refer to acts done extend also to illegal omissions."



In the celebrated case of *RV Miller*,<sup>19</sup> the issue of liability for the omission was discussed by the House of Lords. In this case, Miller went to a hotel in a drunken state. He entered the room and lay on the mattress. Thereafter, he lit up the cigarette. When Miller woke up he found the mattress to be smouldering. He went to the other room and again slept there. The entire hotel soon caught up the fire. The issue, in this case, was whether Miller caused the fire so as to make him liable for the offence of Arson.

The court held that Miller is liable as he has omitted his duty to put off the fire when he first came to realize that his involuntary act has caused it. Thus, the duty theory was utilized by the court in this case. The duty in this case was the legal duty. The liability in this case is also explained through the 'continuous act' theory. According to it, the series of acts of Miller starting from beginning to end constitutes a single act and thus he shall be held liable.

In fact, the continuous act theory also has a basis in section 33 of the Indian Penal Code. It provides as follows:

“Omission”. – The word “act” denotes as well a series of acts as a single act: the word “omission” denotes as well a series of omissions as a single omission. The case of Miller demonstrates that though Miller didn't commit the 'act' in the strict sense, still he is liable because of either the duty theory or the continuous act theory. Notably, Lord Diplock who authored this judgment criticized the usage of the word 'actus reus' to be misleading as it suggests the requirement of a positive act on the part of the accused.

In an Indian case titled, *OM Parkash v State of Punjab*,<sup>20</sup> the issue before the Supreme Court of India was whether the omission to give food to a wife can be equated with an act required to constitute the offence of attempt to murder. The court answered the issue in the affirmative and held the husband liable for the offence under section 307 of the IPC. The court observed as follows:

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<sup>19</sup> *R v Miller* [1983] 2 AC 161

<sup>20</sup> *Om Parkash v State of Punjab* (1961) SC 1782

“In view of the finding of the Court below about Bimla Devi's being confined and deprived of regular food in pursuance of a scheme of regularly starving her in order to accelerate her end, the responsibility of the appellant for the condition to which she was brought up to the 5th of June, 1956, is clear.

## **AUTOMATISM**

The imposition of criminal liability requires that the conduct must be voluntary. If the conduct of the accused is not voluntary then that means the absence of agency. The involuntary movements which cause the conduct of the accused negate the authorship of the accused. For example, twitching of the eye is an involuntary conduct. Though twitching is an act of the person, the act is involuntary. The phenomenon is called automatism. However, not every involuntary act amounts to automatism. For example, a person is asked to kill someone else for fear of his own instant death. Here the act of a person killing someone for self-preservation is thought involuntary but not automatic. Automatism refers to the conduct of a person which happens automatically without the person willing to do that act. For example, somnambulism happens to the person automatically. That person doesn't will to walk while sleeping. It can also happen because of a panic reaction. For example, where a swarm of bees attacks a person driving a car and such a driver because of panic lost control of the car and kills the person. The conduct of the driver is automatic. Automatism prevents liability from all crimes because voluntariness of the conduct is an essential requisite for a crime. Examples of kinds of involuntariness which also amounts to automatism include convulsions, muscle spasms, acts following concussion, physically coerced movements, etc

Section 39 of the IPC defines the term voluntarily in the following terms:

“Voluntarily” – A person is said to cause an effect ‘voluntarily’ when he causes it by means whereby he intended to cause it, or by means which, at the time of employing those means, he knew or had reason to believe to be likely to cause it.

Currently, there is no separate defence of automatism. It can be considered as either negating the voluntariness requirement or even the men's rea requirement by pleading the defence of unsoundness of mind.

## MENS REA

The *mens rea* is usually described as the mental element (fault element) –the intention, knowledge, or recklessness of the defendant in relation to the proscribed conduct. The presence of a mental element doesn't necessarily mean that person is culpable for the offence. The liability would depend upon various justificatory or excusatory defences. However, in most of the cases, the presence of fault means that the person is culpable. As a matter of general rule for an act to be criminal, it must be committed with mens rea. This is also called the condition of imputability or criminality

The principle of *mens rea* according to liberal criminal law is based on the concept of the autonomous individual. The principle of autonomy means that an individual is a rational and free agent. The individual can take the decision freely. Thus, we can say that when a person does something then such a person willed to do such an act. This presupposes that a person is aware of what he/she is doing and the consequences of their act.

The essence of the principle of mens rea is that criminal liability should be imposed only on persons who are sufficiently aware of what they are doing, and of the consequences it may have, that they can fairly be said to have chosen the behaviour and its consequences. This approach is grounded in the principle of autonomy. There is a hierarchy of the mental element in the crime. At the top of the hierarchy is intention. The intention is necessary for all major crimes such as murder, theft, robbery etc. Thereafter we have the knowledge and then negligence. The degree of the fault also determines the quantum of punishment. For example, intentional murder attracts the death penalty or life imprisonment under section 302 of the IPC. On the other spectrum, death by negligence only attracts a maximum of two years of imprisonment.

The Indian Penal Code doesn't use the word mens rea or mental element or fault element or guilty mind. The presence of terms like intention, knowledge, negligence, a reason to believe, dishonestly, fraudulently etc. in the specific offences indicates that the offence also requires proof of the mental element.<sup>21</sup> However, the absence of the same doesn't mean that the mental

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<sup>21</sup> Shamsul Huda and KI Vibhuti, *Principles Of The Law Of Crimes* (EBC 2015)

element is not required to be proved. The Supreme Court of India in the landmark judgment of the *MH George case*<sup>22</sup> held that the common law presumption of mens rea also applies to statutory offences. The court observed that in order to determine whether the offence is one which requires proof of the mens rea or not regard must be given to the object of the statute and its language. The court succinctly observed as follows:

“Mens rea is an essential ingredient of a criminal offence. Doubtless, a statute may exclude the element of mens rea, but it is a sound rule of construction adopted in England and also accepted in India to construe a statutory provision creating an offence in conformity with the common law rather than against it unless the statute expressly or by necessary implication excluded mens rea. The mere fact that the object of the statute is to promote welfare activities or to eradicate a grave social evil is by itself not decisive of the question of whether the element of the guilty mind is excluded from the ingredients of an offence. Mens rea by necessary implication may be excluded from a statute only where it is absolutely clear that the implementation of the object of the statute would otherwise be defeated. The nature of the mens rea that would be implied in a statute creating an offence depends on the object of the Act and the provisions thereof...”

### **STRICT LIABILITY**

However, the majority of Indian criminal statutes are strict liability offences. Strict liability offences are those offences where there is no requirement to prove the *mens rea*. On first blush, the strict liability offence seems to violate the maxim “*actus non facit reum nisi mens sit rea*.” The maxim means that there can’t be a crime without a *mens rea*. Different scholars have debated the propriety and legality of strict liability offences. There is another body of offences where the *mens rea* is presumed by the law. The accused has to lead the proof to displace the *mens rea*. Such offences are said to have the reverse onus clause. These clauses shift the onus of proof of *mens rea* from the prosecution to the defence. Again the validity of such clauses is contentious in the liberal constitutions.<sup>23</sup> However, as the position stands both the strict liability offences and the

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<sup>22</sup> *State of Maharashtra v MH George* AIR 1965 SC 722

<sup>23</sup> Francis Sayre, ‘Public Welfare Offences’ (1933) 33(1) Columbia Law Review  
<<https://www.jstor.org/stable/1115413>> accessed 10 June 2023

reverse onus clauses have become an established norm in our country. The offence of waging war, sedition, kidnapping etc. are examples of strict liability offences within the IPC.

### **MULTIPLE FAULT ELEMENTS**

While there are offences that don't have any fault element, there are some offences that require proof of more than one fault element such as the offence of theft. There are two or more fault elements that are required to establish some offences. For example, the definition of theft under section 378 is as follows:

Theft. – Whoever, intending to take dishonestly any movable property out of the possession of any person without that person's consent, moves that property in order to such taking, is said to commit theft. The offence of theft requires that the taking must be 'intentional' and it must be 'dishonest'. The two fault elements are intention and dishonesty.

### **JOINT LIABILITY**

There are many situations where it is difficult to identify who has played what role in a crime. The actus reus of individuals in the group may be very difficult to delineate. According to the principle of joint liability, all the people present at the crime scene will be attributed the 'common intention' though each of them might have played different roles. According to the concept of joint liability, every person who is part of the criminal enterprise will be treated in the manner he/she has committed the crime individually. Section 34 provides as follows:

Acts done by several persons in furtherance of common intention. – When a criminal act is done by several persons in furtherance of the common intention of all, each of such persons is liable for that act in the same manner as if it were done by him alone.

Section 34 is used where it is difficult to prove the exact role of the parties to a joint criminal enterprise.<sup>24</sup> This section provides the *actus reus* of joint liability. The scope of section 34 is contentious and is examined by scholars in detail.<sup>25</sup> The concept of joint liability is also entailed

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<sup>24</sup> Stanley Yeo, 'Common Intention In The Indian Penal Code: Insights From Singapore' (2008) 50(4) JILI <<http://www.jstor.org/stable/43952182>> accessed 10 June 2023

<sup>25</sup> *Ibid*

in the offence of criminal conspiracy under section 120A and under section 149 of the IPC which provides for the liability of an unlawful assembly acting pursuant to the common object. The principle of joint liability is a departure from the principle that a person must commit an act to commit a crime. Being a member of the criminal conspiracy is enough and it is not required that each member must do some act.<sup>26</sup>

## CONCLUSION

Recently, the principles of criminalization have assumed the centre stage in determining the contours of criminal liability. But, there is no consensus on what their principles are. The act requirement and the mental requirement are the fundamental principles of criminal liability. However, these general principles of criminal liability are watered down because of the recent developments in criminal law in the last few decades. Though the rule is that the person is liable for the act he or she does. Further, the act must be voluntary. However, the act requirement in penal law manifests in many ways such as in possession offences, state of affairs, omissions etc. In this case, strictly speaking, there is no act but still liability is imposed.

The mens rea is the requisite element in every crime. The common law presumption also extends to statutory offences in India. However, most of the crimes are strict liability offences or have reverse onus provisions. The significance of mens rea as a fundamental principle of criminal law is diluted by unprincipled criminalization.

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<sup>26</sup> *Sushil Suri v Central Bureau of Investigation* (2011) SC 1713