



ATTEMPT UNDER PENAL CODE: A CRITICAL ANALYSIS

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INTRODUCTION

“Injustice Anywhere is a threat to justice everywhere” – Martin Luther King, Jr.

A. Brief History Of Inchoate Crimes

The Mohamedan Law had been governing the subjects of India in the East-India Company's Administration. Necessary modifications were brought up according to the people of different territories of India. There was a witness of significant rise in power of the different Provincial Governments in 1813 which was also responsible for the growth of heterogenous system of laws in India. It had become a necessity to have a unified law for all the territories of the country. Hence Law Commission in India was established. The Indian Law Commission with T.B Macaulay, J.M. Macleod, G.W. Anderson and F. Millet as Commissioners, submitted the draft of Penal Code to the Governor General in Council. This Penal Code was the brainchild of Thomas Babington Macaulay who had drafted the code during his time in Bengal in 1830s. It was returned to the Commission in

order to be printed under the superintendence.¹

Back in time, there was a belief among judicial circles that every crime necessarily entails criminal liability for attempting it.² The English Jurists conjectured that in order to prevent gross violations of law, there was a need for adoption of a sterner approach. They included incomplete offences under the ambit of law which means that a person could be prosecuted who took a step towards the commission of the offence.

There are 3 types of inchoate offences which have been codified under Indian Penal Code which are as following:

1. *Attempt*: An effort or endeavour to accomplish a crime, amounting to more than mere preparation or planning for it, and which, if not prevented, would have resulted in the full consummation of the acts attempted, but which, in fact, does not bring pass the party's ultimate design.³

2. *Solicitation*: Solicitation is the inchoate offence of offering money to someone with the specific intent of inducing that person to commit a crime.⁴

3. *Conspiracy*: A combination or confederacy between two or more persons formed for the purpose of committing, by their joint efforts, some unlawful or criminal act, or some act which is innocent in itself, but becomes unlawful when done by the concerted action of the conspirators, or for the purpose of using criminal or

¹ Officiating Director J.P. Grant's letter to the Commission, dated Legislative Dept., the 5th June 1837, National Archives of India, Legislative Department Act of 1860, No. XLV, Part I.

² R. v. Schofield (1784) Cald 397.

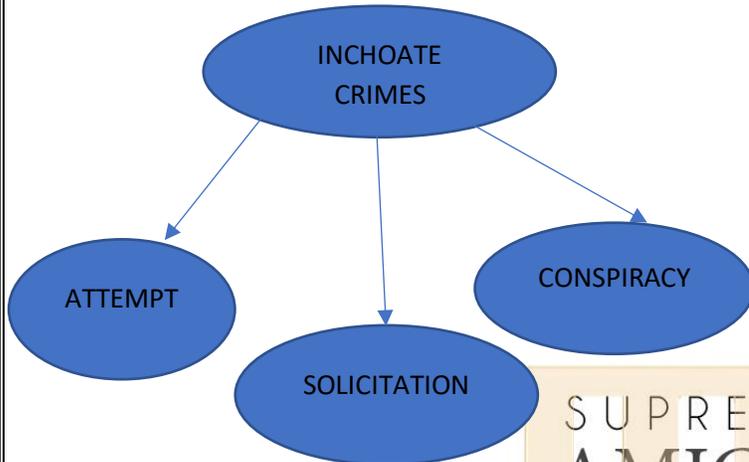
³ Black Law's Dictionary. Definition of "Attempt". Available at: <https://thelawdictionary.org/attempt/> (Visited on August 18, 2018)

⁴ Wex Law Dictionary. Definition of "Solicitation". Available at: <https://www.law.cornell.edu/wex/solicitation> (Visited on August 18, 2018)



unlawful means to the commission of an act not in itself unlawful.⁵

Here is a graphical representation of Inchoate Crimes to understand the flow of these terms:



From the above flowchart it becomes clear that Inchoate Crimes is the *genus* and Attempt, Solicitation and Conspiracy are the *species*.

B. Attempt: A Form Of Inchoate Crimes

The commission of a crime goes through three processes which are:

1. Conceiving an intention to commit a crime;
2. Preparation for its commission;
3. And an attempt to commit it.

There has been no punishment assigned for the initial 2 stages for the crime (subject to certain exceptions) but once the act commences to the stage of attempt, the

liability arises and the person can be prosecuted.⁶

There was a significant attempt by a 2-Judge Bench comprising of Justice R.S Sarkaria and Justice O. Chinnappa Reddy in the case of *State of Maharashtra v. Mohd. Yakub*⁷ and Ors. to define attempt. An excerpt from the observation of Justice Sarkaria states as following:

“What constitutes an attempt is mixed question of law and fact depending largely upon the circumstances of a particular case. “Attempt” defies a precise and exact definition. Broadly speaking all crimes which consist of the commission of affirmative acts are preceded by some covert or overt conduct which may be divided into three stages. The first stage exists when the culprit first entertains the idea or intention to commit an offence. In the second stage he makes preparation to commit it. The third stage is reached when the culprit takes deliberate overt act or step to commit the offence. Such overt act or step in order to be ‘criminal’ need not be the penultimate act towards the commission of the offence. It is sufficient if such acts were deliberately done, and manifest a clear intention to commit the offence aimed, being reasonably proximate to the consummation of the offence.”

Justice O. Chinnappa Reddy also observed the proceedings and concluded with stating the definition of attempt as following:

“In order to constitute an ‘attempt’ first, there must be an intention to commit a particular offence, second, some act must have been

⁵ Black Law’s Dictionary. Definition of “Conspiracy”. Available at: <https://thelawdictionary.org/conspiracy/> (Visited on August 18, 2018)

⁶ *State of Madhya Pradesh v. Narayan Singh*. (AIR 1989 SC 1789). See also *Aman Kumar v. State of Haryana*. (2004) 4 SCC 379.

⁷ *State of Maharashtra v. Mohd Yakub*. (1980) 3 SCC 57.



done which would necessarily have to be done towards the commission of the offence and, third, such act must be proximate to the intended result. The measure of proximity is not in relation to time and place but in relation to intention.”

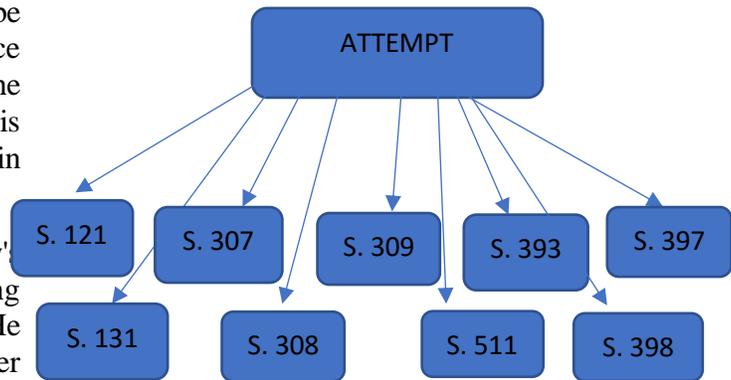
It appears that Justice Chinappa Reddy's explanation goes well with the underlying philosophy of punishment for attempt. He rightly gives emphasis on intention rather than physical proximity of the act to the commission of the crime. Intention is the direction of conduct towards the object chosen upon considering the motives which suggest the choice.⁸

But still there are certain questions which are answered and unanswered by the Legislature and Judiciary with all due respect. There have been numerous precedents which discuss the concept of “criminal attempt”. Various tests and theories have been prescribed by the Supreme Court of India as a remedy to determine attempt in a certain case.

Indian Penal Code deals with Attempts of offences in four different ways:

1. Attempt to commit offences in general under Section 511.
2. Attempt to commit capital offences under Section 307 and 308.
3. Attempt to commit suicide under Section 309. (De-criminalised)
4. Attempt to commit offences against the State.

There are various sections also which deal with Attempts and are stated through the following flowchart:



RESEARCH QUESTIONS, OBJECTIVES & METHODOLOGY

A. Research Questions

- What is the role of Men's Rea in Criminal Attempt?
- How is Attempt different from other Inchoate Crimes?
- What are the different types of Attempts under IPC?
- How have the laws for Attempt under Indian Penal Code evolved?
- What is the significance of Attempt and how is it punishable?

B. Research Objectives

- To understand the literature of Criminal Attempt under Penal Code.
- To differentiate Attempt from other Inchoate Crimes.
- To scrutinize the Criminal Attempt under Penal Code.
- To study the evolution of Criminal Attempt viz-á-viz recent Judgements.

⁸ Harikishan v. Sukhbir Singh. (AIR 1988 2127)



C. Research Methodology

The Researcher will utilize both qualitative and quantitative data collection tools, focusing mainly on the qualitative part. Doctrinal methodology of research is adopted for this project. The facts and laws relevant to this subject matter shall be acquired through different books and journals. The Researcher will mainly depend on these laws and arguments by different scholars and analyse them together to arrive at conclusions. Apart from these, the other sources of data collection will be different articles in the newspapers and on the internet regarding this topic.

should not be, and is generally held not to be, a defence to a prosecution for the attempt.

Enker N., Arnold (Mens Rea and Criminal Attempt)¹⁰: The author defines attempt to commit a crime as “engaging in conduct with the specific intention to produce forbidden consequences while aware of the possibility that the circumstances that render such consequences criminal may exist.” The author develops and defends the thesis that inchoate crime is more than merely anticipatory guilt. Mens rea in inchoate offenses is not merely a condition of fault-it is a component of the danger of criminal harm that determines the need for forceful

LITERATURE REVIEW

Keedy, Edwin R. (Criminal Attempts at Common Law)⁹: This research article suggests that much has been written on the law of attempts to commit crimes and much more will be written for this is one of the most interesting and difficult problems of the criminal law. In many discussions of criminal attempts decisions dealing with common law attempts, statutory attempts and aggravated assaults, such as assaults with intent to murder or to rob, are grouped indiscriminately. It may be stated that, when it has been established there was the intent to commit a specific crime and to carry out this intent an act or acts were committed, which caused damage or sufficient danger of damage, the fact that for some reason it is impossible to complete the intended crime

Intervention.

Pillai. N. K. (Criminal: Attempt)¹¹: The author of this research article talks about the problems involved in the law of criminal attempt which are intricate. The confusion arises, because courts are doing inconsistent things with similar fact situations and also because courts are attempting to apply the same rule to utterly dissimilar situations. The problem has eluded solution so far. Perhaps the principal reason for this is that its history has been neglected. A brief historical survey of the law of criminal attempt may thus be useful in the formulation of this problem. A careful examination of these problems may help in the formulation of distinctive criteria governing criminal attempts.

Thurman W. Arnold (Criminal Attempts: The Rise and Fall of an Abstraction)¹²: This research article speaks that the law of criminal attempts usually commences with

⁹ Edwin R. Keedy. “*Criminal Attempts at Common Law*”, Penn Law Journal. (1954)

¹⁰ Enker K. Arnold, “*Mens Rea and Criminal Attempts*”, Journal of the American Bar Foundation. (1977).

¹¹ Pillai., K.N, “*Criminal Attempt*”, (2015).

¹² TW Arnold, “*Criminal Attempt – Rise and Fall of Abstractions*”, Yale Law Journal, (1930).



the statement that the problems involved are intricate and difficult to solve and that the cases are hopelessly confused. Legal problems are spoken of as confused under two different sets of circumstances. Most aspects of the problem of dealing with crime are necessarily for the legislature. But it is not too much to expect that courts will, without legislative assistance, at least free themselves, from useless abstractions too complicated for the legislature to understand. In this direction the help of the legal theorist is much needed, whether or not his conclusions add to the dream of predictability in the administration of the criminal law.

Lawrence C. Becker (Criminal Attempts and Theory of Law of Crime)¹³: The fundamental problem addressed in this paper is that of getting an adequate rational justification for the distinction the law draws between criminal and noncriminal wrongs. But because theorizing about the law is not only vacuous but likely to be positively misguided apart from a consideration of concrete issues in the law. The analogous extensions of these reforms will, of course, have to be subjected to further study.

Jerome Hall (Criminal Attempt – A Study of Foundation of Criminal Liability)¹⁴: The foundation of this research paper involves the very foundations of criminal liability of Attempt. Before one can conclude even a preliminary analysis, an appraising eye must be cast over almost the entire penal law - the definitions, the types of crime, the nature of "the act," the sanctions - in order to unravel

any thread of reason that can be discovered in the apparently unreasoned conglomeration of case and statute law, and exhibited doctrine. There is no more fruitful field for investigation in all of these concerns than that of criminal attempt and the problems it raises. No theory which grapples with such fundamental issues will endure very long, but the deeper insight into and the fuller understanding of our institutions thus achieved may surely encourage us to hope for recurrent studies of these problems.

Kramer Samuel (An Economic Analysis of Criminal Attempt: Marginal Deterrence and the Optimal Structure of Sanctions):

This research paper has been used to discuss the quantitative research of Attempts. Although the economic literature on crime abounds with analyses of the incentives to commit crimes, few critics notice that such incentives surface within the crimes themselves. Marginal deterrence not only is indicated by the level of societal harm, but also, as I will argue, by the level of individual utility of the criminal actor. Criminal attempts are punishable traditionally under the common law. The severity and timing of the sanctioning of an attempt are, however, debatable. Punishing attempts as severely as completed offenses incurs high social costs and ignores the potential reductions in harm due to marginal deterrence.

Columbia Law Review Association (Criminal Law, Attempt to Murder and the Line between Preparation and Attempt)¹⁵: This research paper dictates that

¹³ Lawrence C. Becker, "Criminal Attempts and Theory of Law of Crime", Philosophy & Public Affairs Vol. 3, pp. 262-294. (1974)

¹⁴ Jerome Hall, "Criminal Attempt-A Study of Foundations of Criminal Liability", Yale Law Journal (1940).

¹⁵ Columbia Law Review Association, "Criminal Law, Attempt to Commit Murder, The Line Between Preparation and Attempt", Columbia Law Review. Pp.676-678 (1936)



the courts have enunciated various tests marking the line between preparation and attempt. Some are poetic but indefinite, requiring "an appreciable fragment of the crime itself, the commencement of the consummation thereof etc. Others are explicit but too severe, or too lenient, for general application. The courts cite indiscriminately cases involving attempts to commit different crimes with unrelated factual background.

Ranjan. Rajeev, Kumar. Saurabh, Pattanayak. Deep Raman, Dhawan. Anju (De-criminalisation of attempted suicide in India)¹⁶: Attempted suicide is a serious problem requiring mental health interventions, but it continues to be treated as a criminal offence under the section 309 of Indian Penal Code. The article reviews the international legal perspective across various regions of the world, discusses the unintended consequences of section 309 IPC and highlights the need for decriminalization of attempted suicide in India. The Mental Health Care Bill, 2013, still under consideration in the Rajya Sabha (upper house), has proposed that attempted suicide should not be criminally prosecuted. Decriminalization of suicidal attempt will serve to cut down the undue stigma and avoid punishment in the aftermath of incident, and lead to a more accurate collection of suicide-related statistics. From a policy perspective, it will further emphasize the urgent need to develop a framework to deliver mental health services to all those who attempt suicide.

DISCUSSING THE ATTEMPTED CRIMES AND SECTIONS

A. Attempt to Murder (Section 307)

Section 307 reads as following: Whoever does any act with such intention or knowledge, and under such circumstances that, if he by that act caused death, he would be guilty of murder, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine; and if hurt is caused to any person by such act, the offender shall be liable either to imprisonment for life, or to such punishment as is hereinbefore mentioned. Attempts by life convicts.— When any person offending under this section is under sentence of imprisonment for life, he may, if hurt is caused, be punished with death.¹⁷

The main ingredients under section 307 are

1. The act attempted should be of such a nature that if not prevented or intercepted, it would lead to the death of the victim.¹⁸
2. The intention or mens rea to kill is need to be proved clearly without doubt, for this purpose the prosecution can make use of the circumstances like attack by dangerous weapons on vital parts of the body however the intention to kill cannot be gauged simply by the seriousness of the injury caused.¹⁹
3. The intention and the knowledge of the result of the act being done is the main thing that is needed to be proved for conviction under section 307.

¹⁶ Rajeev Ranjan, Saurabh Kumar, "(De-) Criminalisation of Attempted Suicide in India: A Review", *Industrial Psychiatry Journal*, Vol. 23, pp. 4-9, (2014).

¹⁷ S. 307 of Indian Penal Code.

¹⁸ Ratanlal & Dheerajlal, *Indian Penal Code*.

¹⁹ Hari Kishan v. Sukhbir Singh. AIR 1988 SC 2127



The first requisite of a criminal attempt is the intent to commit a specific crime.²⁰ If one man with the intent to kill another man shoots him but fails to kill him this is an attempt to murder. Also if with the same intent he shoots at, but just misses, the other man, who is unaware of the shooting, this is likewise an attempt to murder. In the first case there is damage, while in the second there is the danger of damage. Where the door of a building was broken, but there was no evidence of an entry, it was held that the defendant was guilty of an attempt to commit burglar.²¹

There are various cases by which we can understand Attempt to Murder in-depth:

- It has been suggested that if B stabs the dead body of A, without being aware that A is dead, B may be guilty of an attempt to murder A.²² Further, it seems to be incorrect and a question arises as to whether a person can be held liable to stab a corpse of a person who no longer exists.)
- If a man mistakes a stump for his enemy and shoots at it, notwithstanding his desire and expectation to shoot his enemy, his intent is to shoot the object aimed at, which is the stump.²³
- If a person with the intent to kill another invokes witch-craft, charms, incantations²⁴, maledictions, hexing²⁵ or voodoo²⁶ this cannot constitute an attempt

to murder since the means employed are not in any way adapted to accomplish the intended result.

- In the much discussed case of *State v. Clarissa*²⁷ it was held that administering a harmless substance thought to be poisonous cannot constitute an attempt to murder.

Thus for an attempt to murder A there must be the intent to murder A and for an attempt to steal the coat of A it is necessary that there be the intent to steal the coat of A. While the completed crime of the murder of A may be committed without the intent to murder A.²⁸

Courts agree that if there is nothing more than preparation for the commission of the crime intended an attempt has not been committed.²⁹ It is likewise well settled at common law that there can be no conviction for an attempt if the intended crime has been consummated.³⁰ So basically if the intention or necessary knowledge to cause death as envisaged by section 300 IPC which defines murder is there, then it is immaterial to whether or not any hurt was caused to the victim by the accused.³¹

B. Attempt to Commit Suicide (309)

Suicide is a permanent solution to a temporary problem. Suicide attempt can be defined as a non-fatal self-directed potentially injurious behavior with an intent

²⁰ *Regina v. Doody*, 6 Cox C.C 463.

²¹ *State v. Carr*, 146 Mo, 1, 47 S.W. 790. (1898).

²² Turner, *Attempts to Commit Crimes*, 5 CAMB. L.J. 230 (1934).

²³ Beale, *Criminal Attempts*, 16 HARV. L. REV. 491 (1903).

²⁴ *Attorney Gen. v. Sillem*, 2 H. & C. 43

²⁵ *Commonwealth v. Johnson*, 312 Pa. 140

²⁶ *Id.*

²⁷ 11 Ala. 57 (1847).

²⁸ *State v. Levelle*, 34 S.C. 120.

²⁹ Kenny, *Outlines Of Criminal Law* 80 (1902).

³⁰ *Regina v. Nicholls*, 2 Cox C.C. 182 (1847); *Commonwealth v. Eagan*, 190 Pa. 10, 42 Atl. 374 (1899); *Graham v. People*, 181 Ill. 477, 55 N.E. 179 (1899).

³¹ Ratanlal and Dheerajlal, *The India Penal Code* (32nd edn, Lexis Nexis Butterworths, 2010) 1753-83.



to die.³² More than one lakh persons (135,445) in India lost their lives by committing suicide in the year 2012 alone. The number of suicides in the country during the decade (2002-2012) has recorded an increase of 22.7% (135,445 in 2012 from 110,417 in 2002).³³ If a person is sad for more than 2 weeks, then it can lead to depression”- said by Dr. Solanki.³⁴

Attempt to Suicide is not a crime as it has been stated in the ‘The Mental Healthcare Act, 2017’ which moves its motion towards the decriminalization of attempt to suicide.³⁵ The Supreme Court in Rathinam case³⁶, not only declared Section 309 of Indian Penal Code as being violative of Article 21 and thus unconstitutional but also conceded constitutional right to die. In doing so, the Supreme Court seemed to have relied heavily on the Bombay High Court decision in Dubal case³⁷. The Bombay High Court argument was plain: the right to one’s life also includes the right to take it away.

The Constitution has emphasised that no person shall be deprived of his/her right to life except the procedure which has been established by law.³⁸ But it has been overruled by the Supreme Court that the

Right to Life does not include right to die or right to be killed.³⁹

In 210th Law Commission Report which laid emphasis on Humanisation and Decriminalisation of Attempt to Suicide, it was stated that the individuals who attempt suicide do it because of a mental disease which is deserving of treatment and care rather than punishment for the offense.⁴⁰

An interesting case which came in the purview of Court was to understand whether hunger strike came under the purview of committing suicide. In this case, a poet was on a hunger strike after which she was arrested on the charges of S. 309 of Indian Penal Code. It was laid down by the Court that the hunger strike was because of a cause and not to kill herself. Hence, she should be provided with aid rather than punishment for suicide.⁴¹

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C. Attempt to Commit Robbery (S. 397 & 398)

Attempted Robbery is defined by the Black’s Law Dictionary the term used to describe the

³² Krug E. Vol. 1. Genèva: World Health Organization; 2002. World Report on Violence and Health; p. 185.

³³ Accidental deaths and suicide in India. National Crime Records Bureau. Ministry of Home Affairs.2012. [Last accessed on 26 Sept 2018]. Available from: <http://ncrb.nic.in/CD-ADSI-2012/ADSIHome2012.html>

³⁴ TNN, ‘*Depression is the Leading Cause of Suicide.*’ Times of India. <https://timesofindia.indiatimes.com/city/jaipur/depression-is-leading-cause-for->

suicide/articleshow/58073608.cms (Last accessed on September 26’ 2018).

³⁵ S. 115 of The Mental Healthcare Act, 2017.

³⁶ P. Rathinam v. Union of India. 1994 SCC (3) 394.

³⁷ Maruti Shripati Dubal v. State of Maharashtra. 1987 (1) BomCR 499.

³⁸ Art. 21 of Constitution of India.

³⁹ Gian Kaur v. State of Punjab. (1992) 2 SCC 648

⁴⁰ 210th Law Commission Report.

⁴¹ Smt. Irom Sharmila Yumnam v. State of Manipur. 2015 SCC Online Mani 84.



preparations and planning in an attempt to commit a robbery that failed.⁴²

Section 397 reads as following: Whoever attempts to commit robbery shall be punished with rigorous imprisonment for a term which may extend to seven years, and shall also be liable to fine.⁴³

And;

Section 398 reads as following: If, at the time of attempting to commit robbery or dacoity, the offender is armed with any deadly weapon, the imprisonment with which such offender shall be punished shall not be less than seven years.⁴⁴

The difference between both the Sections is that in Section 397, there is no presence of a deadly weapon. Whereas, in Section 398 there should be a presence of deadly weapon with the person who is attempting the crime.

D. Section 511

The principle laid down in Section 511 reads as following: Punishment for attempting to commit offences punishable with imprisonment for life or other imprisonment.—Whoever attempts to commit an offence punishable by this Code with imprisonment for life or imprisonment, or to cause such an offence to be committed, and in such attempt does any act towards the commission of the offence, shall, where no express provision is made by this Code for the punishment of such attempt, be punished with imprisonment of any description

provided for the offence, for a term which may extend to one-half of the imprisonment for life or, as the case may be, one-half of the longest term of imprisonment provided for that offence, or with such fine as is provided for the offence, or with both.

The accused in *Abhyanand Mishra v. State of Bihar*⁴⁵ applied to the University for Admission to appear at the M.A. examination as a private candidate representing that he was a graduate and that he had been teaching in a certain school. In support of his application he attached certain certificates purporting to be from the head master of the school and Inspector of Schools. The university authorities accepted the accused's statements and he was permitted to appear in the examination. Subsequently, on receiving information and enquiry thereafter the university found out that accused was neither a graduate nor a teacher. Thereupon, he was held to be guilty under S. 429 read with S. 511, IPC.

According to the Allahabad High Court, S. 511 does not apply to attempts to commit murder which are fully and exclusively provided for by S. 307.⁴⁶ The Bombay High Court has, however, held otherwise in a case⁷¹ which has been doubted in a later case.⁴⁷

The court observed that the very policy underlying S. 511 seems to be for providing it as a residuary provision. The corollary, therefore, is that once an act is expressly

⁴² 'Robbery', Black Law's Dictionary. <https://thelawdictionary.org/robbery/> (Last Accessed on September 26' 2018)

⁴³ S. 397 of Indian Penal Code.

⁴⁴ S. 398 of Indian Penal Code.

⁴⁵ AIR 1961 SC 1698.

⁴⁶ *R. v. Niddha*, (1892) 14 All. 38.

⁴⁷ *Vasudeo Balwant Gogte v. Emperor*, (1932) 34 Bom. L.



made punishable by the Code it stands lifted out of the purview of S. 511.⁴⁸

The Law Commission of India, proposed deletion of S. 511 and insertion of a new Chapter VB entitled 'Of Attempt' consisting of the two Ss. 120C and 120D after Chapter VA dealing with 'Criminal Conspiracy' with a view to group inchoate crimes together.⁴⁹

CONCLUSION

In conclusion, I would like to dictate that the submission which is being made is not exhaustive and consists of explanations of other sections also which come under the purview of Penal Code classified as attempt. The theoretical formation responsibility for attempt is provided by Prof. Glanville Williams⁵⁰ thus:

“The actus reus of attempt is of a most peculiar kind. Most crimes specify their actus reus directly, they tell us what it is that we must do or not to do. Criminal attempt is different; it specifies the actus reus chiefly by reference to the crime attempted. It tells us that we must not seek to trace a certain distance towards the commission of the actus reus of some other crime. If the defendant is under some serious mistake, no part of what he does may be the actus reus of another crime. So it may seem plausible to say that his criminality exists only in his own mind. However, this conclusion, overlooks the special features of criminal attempt. In an attempt, by hypothesis, the full crime has not been committed, or need not be proved to have been committed. So, by hypothesis,

there need be no full actus reus of the complete crime. The actus reus is that of the attempt, it is forbidden by reason of the law of attempt, and not by reason of any other penal law.”

Attempt under Indian Penal Code has been rightly prescribed as a Punishable offence. It is very important to understand that there are certain crimes such as murder whose mere attempt is a heinous offence. Such offences should be punishable. Whereas certain cases such as Sec. 309 of IPC where attempt to suicide was made an offence is not morally correct. Every human goes through a time where a person goes through depression or stress which leads to resorting to suicide. This is not morale but such people can be helped. It is very certain to note that punishing such people is just adding more to their existing misery.

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⁴⁹ 42nd Law Commission Report.

⁵⁰ G Williams, "The Lords and Impossible Attempts" (1986) 45 Cambridge L. 33.