Foundations of Criminal Law

- Attempts
- Complicity
- Conspiracy
- Punishment

Attempts

- *41.(1) Whosoever with intent to commit a crime shall have manifested such intent by overt acts which are followed by a commencement of the execution of the crime, shall, save as otherwise expressly provided, be liable on conviction –*
- *(a) if the crime was not completed in consequence of some accidental cause independent of the will of the offender, to the punishment established for the completed crime with a decrease of one or two degrees;*
- *(b) if the crime was not completed in consequence of the voluntary determination of the offender not to complete the crime, to the punishment established for the acts committed, if such acts constitute a crime according to law.*
- *(2) An attempt to commit a contravention is not liable to punishment, except in the cases expressly provided for by law.*

Attempts

- An overt act manifesting the intent to commit a crime;
- A commencement of the execution of the crime, and
- The non-completion of the crime by reason of accidental circumstance independent of the will of the offender.

Attempts – Voluntary Desistance

- ***41. (1)(b)*** *'the crime was not completed in consequence of the voluntary determination of the offender not to complete the crime, to the punishment established for the acts committed, if such acts constitute a crime according to law'*

Attempts

- Appeal Nr. 352/2023 – The Police vs Owen John Carabott decided on the 11th January, 2024

Complicity

The Principal

The person who is the **actual perpetrator** of the act constituting the offence.

(Can be more than one principal).

The Accomplice

A person who is concerned in the commission, but is not the actual perpetrator.

Requires a **"common design"** (shared intent) and an act of assistance.

Complicity

- **General Rules Applicable to all forms of Participation in an offence**
- A man may be held responsible for an offence, even though he may have not done the act which constitutes the offence, if he had done some other act which has helped towards the commission of the offence and had done the act in the pursuance of a common design to commit the offence.
- Each of the parties to an offence is liable to punishment in respect to that offence but only in proportion to his individual guilt;

Complicity

- **Complicity by Moral Participation**
  - Commanding, instigating (bribes, threats), giving instructions, or strengthening the determination of another, .
- **Complicity by Physical Participation:**
  - Procuring weapons, instruments, or other means used in the commission of the crime, knowing they will be used.

Complicity

- *42. A person shall be deemed to be an accomplice in a crime if he –*
- *(a) commands another to commit the crime; or*
- *(b) instigates the commission of the crime by means of bribes, promises, threats, machinations, or culpable devices, or by abuse of authority or power, or gives instructions for the commission of the crime; or*
- *(c) procures the weapons, instruments or other means used in the commission of the crime, knowing that they areto be so used; or*
- *(d) not being one of the persons mentioned in paragraphs (a), (b) and (c), in any way whatsoever knowingly aids or abets the perpetrator or perpetrators of the crime in the acts by means of which the crime is prepared or completed; or*
- *(e) incites or strengthens the determination of another to commit the crime, or promises to give assistance, aid or reward after the fact.*

Conspiracy

- 48A(1) *Whosoever in Malta conspires with one or more persons in Malta or outside Malta for the purpose of committing any crime in Malta is liable to the punishment of imprisonment, not being a crime in Malta under the Press Act, shall be guilty of conspiracy to commit that offence.*

Conspiracy

- The act of agreement
- The persons agreeing
- The purpose agreed upon
- The agreement on a mode of action

Punishment

- Imprisonment & Detention
- Solitary Confinement
- Fines
- Suspended Sentence
- Provisions under the Probation Act

Punishment

(*b*) subject to any special provision contained in this Code, the following shall be the scale of punishments of imprisonment:

(i) from ten years to forty years;
(ii) from eight years to thirty years,
(iii) from seven to twenty years,
(iv) from six to twelve years,
(v) from five to nine years,
(vi) from four to six years,
(vii) from three to five years,
(viii) from two to four years,
(ix) from eighteen months to three years,
(x) from thirteen months to two years,
(xi) from nine to eighteen months,
(xii) from seven months to one year,
(xiii) from five to nine months,
(xiv) from two to six months,
(xv) from one to three months;

(*c*) the descent from the fifteenth degree shall be to imprisonment for a term not exceeding twenty days, or to detention or to a fine (*ammenda*);

Punishment

- Provisions Under the Probation Act
  - Probation
  - Community Service Order
  - Combination Order
  - Absolute or Conditional Discharge