

THE DECLINE OF MENS REA IN STRICT LIABILITY OFFENCES: IMPLICATIONS FOR CRIMINAL RESPONSIBILITY

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ABSTRACT

The principle of mens rea, or the guilty mind, has historically been the moral foundation of criminal liability. Rooted in the idea that one cannot be guilty without both a wrongful act and a guilty mind, criminal law traditionally required proof of both. However, the growing recognition and application of strict liability offences marks a significant shift from this foundational principle. In strict liability crimes, liability is imposed without needing to prove intent, knowledge, recklessness, or negligence. This paper critically examines the development of strict liability offences and their effects on the doctrine of mens rea. It analyzes whether these offences dilute criminal responsibility. Through doctrinal analysis, comparative law, and case law from India, the United Kingdom, and the United States, the paper argues that while strict liability serves essential regulatory and public welfare goals, its unchecked growth risks undermining fairness, moral responsibility, and the legitimacy of criminal law. The paper concludes by recommending a careful and principled use of strict liability, supported by safeguards to prevent the erosion of fundamental principles in criminal law.

KEYWORDS: Mens rea, Strict liability, Criminal responsibility, Public welfare offences, Moral culpability, Regulatory crimes, Criminal law, Fault principle 3

1. INTRODUCTION

Criminal law is based on the idea that punishment is justified only when a person willingly engages in prohibited actions with a blameworthy mind. The doctrine of mens rea serves as the moral filter that separates criminal acts from innocent behaviour. Historically, courts have insisted that criminal responsibility must come with culpability. However, modern legal systems are increasingly relying on strict liability offences, especially in regulatory, economic, environmental, and public welfare areas. These offences impose criminal liability without requiring proof of intention or knowledge, shifting the focus from moral blameworthiness to preventing harm and ensuring regulatory compliance. This change

raises an essential question: Does the rise of strict liability indicate a dilution of criminal responsibility? This paper explores this question by examining the theoretical bases of mens rea, the reasons for strict liability, and the outcomes of excluding mental fault from criminal liability

2. CONCEPT AND EVOLUTION OF MENS REA

2.1 Meaning of Mens Rea: The term mens rea refers to the mental element involved in a criminal act. It includes various mental states such as intention, knowledge, recklessness, and negligence. The Indian Penal Code, 1860 (IPC), though not explicitly defining mens rea, incorporates it through terms like “intentionally,” “knowingly,” “fraudulently,” and “dishonestly.” The philosophical basis of mens

rea is moral culpability. A person is punished not just for causing harm but for choosing to do wrong. 4

2.2 Historical Development: In early English common law, criminal liability was closely associated with moral blame. Over time, the requirement for mens rea became firmly established. In *Sweet v. Parsley*, the House of Lords confirmed that the assumption of mens rea applies unless clearly excluded by law. Indian courts have similarly upheld the significance of mental fault. In *Nathulal v. State of M.P.*, the Supreme Court highlighted that lacking dishonest intent negates criminal liability.

3. STRICT LIABILITY: MEANING AND JUSTIFICATION

3.1 Concept of Strict Liability in Criminal Law:

Strict liability offences eliminate the need for mens rea. Once the prohibited act is proven, liability is automatically assigned. Such offences are usually statutory and regulatory in nature.

Examples include:

- Food adulteration
- Environmental pollution
- Motor vehicle violations
- Corporate and economic offences

3.2 Rationale Behind Strict Liability:

The main justifications for strict liability include:

- Public welfare: Protecting society from widespread harm
- Administrative efficiency: Reducing prosecution burdens
- Deterrence: Promoting higher care standards
- Difficulty in proving intent: Especially in corporate crimes

In *Hariprasad Rao v. State*, the Supreme Court of India stated that mens rea is not a necessary aspect of statutory offences unless explicitly required. 5

4. DILUTION OF MENS REA: A CRITICAL ANALYSIS

4.1 Erosion of Moral Blameworthiness:

Punishing individuals without fault undermines the moral legitimacy of criminal law. When people are punished despite acting without intention or negligence, the criminal law may turn into a tool of coercion rather than justice.

4.2 Shift from Criminal Law to Regulatory Enforcement:

Strict liability blurs the line between criminal wrongdoing and regulatory non-compliance. This shift changes criminal law into a governance tool rather than a means of moral judgment.

4.3 Impact on Individual Liberty:

Imposing criminal penalties without fault infringes on personal freedom and fairness. In *State of Maharashtra v. Mayer Hans George*, it was noted that strict liability should be interpreted narrowly.

5. COMPARATIVE JURISPRUDENCE

5.1 United Kingdom: The UK primarily recognizes strict liability in regulatory offences. Courts apply a presumption in favour of mens rea, which can only be overturned by clear legislative intent.

5.2 United States: In the US, strict liability is largely limited to public welfare offences. The Supreme Court in *Morrisette v. United States* warned against applying strict liability to traditional crimes. 6

5.3 India: Indian law reflects a mixed approach. While the IPC emphasizes mens rea, special statutes like the Essential Commodities Act and the Factories Act impose strict liability. Indian courts have generally upheld these rules in the interest of social welfare.

6. SAFEGUARDS AGAINST ABUSE OF STRICT LIABILITY

To prevent the dilution of criminal responsibility, the following safeguards are necessary:

1. Clear legislation on the exclusion of mens rea
2. Proportional penalties that avoid imprisonment where fault is absent

3. Due diligence defences for those accused
4. Judicial caution in interpreting strict liability rules

7. CONCLUSION

The doctrine of mens rea remains crucial to the justice system, ensuring punishment aligns with moral responsibility. While strict liability has valid regulatory aims, its unchecked growth risks damaging the core principles of criminal law. The dilution of mens rea not only undermines fairness but also jeopardizes the legitimacy of criminal punishment. Thus, strict liability should be an exception, used sparingly and with safeguards to maintain the moral integrity of criminal responsibility.

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7. Morissette v. United States, 342 US 246 (1952).
8. State of Maharashtra v. Mayer Hans George, AIR 1965 SC 722.
9. Indian Penal Code, 1860.

APPENDICES

Appendix A: Table of Mens Rea Terms in IPC

| Term | Meaning | Intentionally | Conscious |
|-------------------------|-------------|----------------------------------|--------------|
| objective to cause harm | Knowingly | Awareness of consequences | Fraudulently |
| Intent to deceive | Dishonestly | Intention to cause wrongful gain | |

Appendix B: Examples of Strict Liability Statutes in India

- Essential Commodities Act, 1955
- Factories Act, 1948
- Prevention of Food Adulteration Act, 1954