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Act. No. 3815 – An Act Revising the Penal Code and Other Penal Laws
 (December 8, 1930)

Criminal Law – branch or division of law which defines crimes, treats of their nature, and provides for their punishment.

Limitation on the power of the lawmaking body to enact penal legislation under 1987 Constitution:

1. No Ex Post Facto Law or Bill of Attainder shall be enacted (Art.III, Sec.22)
2. No person shall be held to answer for a criminal offense without due process of law (Art. III, Sec. 14[1])
3. **No to infliction of cruel punishments**

Ex Post Facto Law is one which:

- Makes criminal an act done before the passage of the law
- Aggravates a crime, or makes it greater than it was
- Changes the punishment and inflicts a greater punishment
- Alters legal rules of evidence, and authorizes conviction upon less or different testimony than the law required
- Assumes to regulate civil rights and remedies only
- Deprives a person accused of crime some lawful protection to which he has become entitled

Bill of Attainder – is a legislative act which inflicts punishment without trial. Its essence is the substitution of a legislative act for a judicial determination of guilt.

Construction of Penal Laws

- Liberally in favor of the accused
- Strictly against the State
- **Doctrine of Equipose** – when the evidence of the prosecution and of the defense is equally balanced, the scale should be tilted in favor of the accused in obedience to the constitutional presumption of innocence.
- **“void-for-vagueness” doctrine**
- **Doctrine of Pro Reo** – when a circumstance is susceptible to two interpretations, one favorable to the accused and the other against him, that

interpretation favorable to him shall prevail

“Where the inculpatory facts admit of several interpretations, one consistent with accused’s innocence and another with his guilt, the evidence thus adduced fails to meet the test of moral certainty and it becomes the constitutional duty of the Court to acquit the accused.” [*People vs. Sayana, 405 SCRA 243 (2003)*]

Characteristics of Criminal (Penal) Laws

1. **Generality** – means that the criminal law of the country governs all persons within the country regardless of their race, belief, sex, or creed.

R.A. No. 75 - AN ACT TO PENALIZE ACTS WHICH WOULD IMPAIR THE PROPER OBSERVANCE BY THE REPUBLIC AND INHABITANTS OF THE PHILIPPINES OF THE IMMUNITIES, RIGHT, AND PRIVILEGES OF DULY ACCREDITED FOREIGN DIPLOMATIC AND CONSULAR AGENTS IN THE PHILIPPINES

It is well settled that a consul is not entitled to the privileges and immunities of an ambassador or minister, but is subject to the laws and regulations of the country to which he is accredited. *Schneckenburger vs. Moran, 63 Phil. 250 (1936)*

2. **Territoriality** – penal laws of the country have force and effect within its territory.
3. **Prospectivity** – penal laws only operate prospectively (moving forward); also called irretrospectivity.

Article 1. Time when Act takes effect. — This Code shall take effect on the first day of January, nineteen hundred and thirty-two.

Theories in Criminal Laws

- (1) Classical (or Juristic) Theory
 - Basis of criminal liability is free will and the purpose of penalty is retribution
 - Man is essentially a moral creature with absolute free will to choose between good and evil, thereby placing more



stress upon the effect or result of felonious act than upon the man, the criminal himself

- It has endeavored to establish a mechanical and direct proportion between crime and penalty (“*oculo pro oculo, dente pro dente*”)
- There is scant regard to the human element.

(2) Positivist (or Realistic) Theory

- Man is subdued occasionally by a strange and morbid phenomenon which constrains him to do wrong, in spite of contrary to his volition
- Crime is essentially a social and natural phenomenon

(3) Eclectic (or Mixed) Theory

- Philosophy is based on the combination of Classical and Positivist Theory
- The Revised Penal Code today follows this theory or philosophy

Rules on Repeal of Penal Laws

As a general rule, penal laws will generally have prospective application except where the new law will be advantageous to the accused. In this case R.A. 8294 will spare accused-appellant from a separate conviction for the crime of illegal possession of firearm. Accordingly, said law should be given retroactive application. [People vs. Avevilla, G.R. No. 117033, February 15, 2001].

Art. 2. Application of its provisions. — Except as provided in the treaties and laws of preferential application, the provisions of this Code shall be enforced not only within the Philippine Archipelago, including its atmosphere, its interior waters and maritime zone, but also outside of its jurisdiction, against those who:

1. Should commit an offense while on a Philippine ship or airship
2. Should forge or counterfeit any coin or currency note of the Philippine Islands or obligations and securities issued by the Government of the Philippine Islands;
3. Should be liable for acts connected with the introduction into these

islands of the obligations and securities mentioned in the presiding number;

4. While being public officers or employees, should commit an offense in the exercise of their functions; or
5. Should commit any of the crimes against national security and the law of nations, defined in Title One of Book Two of this Code.

The Philippine court has no jurisdiction on the crime of theft committed on *high seas* on board a vessel *not registered or licensed* in the Philippines. (*US vs. Fowler, 1 Phil. 614*)

Crimes punishable in the Philippines under Article 2 are cognizable by the Regional Trial Court in which the charge is filed. (*Sec.44[g], Judiciary Act of 1948, R.A. No.296*)

EXCEPTIONS OF APPLICATION (RPC)

- Treaties
- Laws of preferential application
 - RP-US Visiting Forces Accord
 - Military Bases Agreement
 - Diplomatic Immunity (R.A.75)
- Public International Law

Continuing offense on board a foreign vessel.

Failing to provide stalls for animals in transit is within the jurisdiction of Philippine courts once it reached the territorial waters (violation of Act No. 55) even if when the ship sailed from foreign port. (*U.S. vs. Bull, 15 Phil.7*)

Rules as to the jurisdiction over crimes committed board foreign merchant vessels.

French Rule – such crimes are not triable in the courts of the country, unless their commission affects the peace and security of the territory or the safety of the state is endangered.

English Rule – such crimes are triable in that country, unless they merely affect things within the vessel or they refer to the internal management thereof.

In the Philippines, we observe the English Rule.



Crimes not involving breach of public order committed on board a foreign merchant vessel in transit not triable by our courts.

Mere possession of opium in a foreign merchant vessel in transit not triable in the Philippines.

Possession of opium in a foreign merchant vessel not in transit (terminal port) in the Philippines is an open violation of Philippine laws. (*U.S. vs. Look Chaw, 18 Phil. 573, 577-578*)

Smoking of opium aboard English vessel while anchored 2 ½ miles in Manila Bay constitutes a breach of public order. (*People vs. Wong Cheng, 46 Phil. 729, 733*)

Philippine courts have no jurisdiction over offenses committed on foreign warships in territorial waters.

Distinction should be made between a *merchant ship* and a *warship*. The former is subjected to territorial laws.

**Title One
FELONIES AND CIRCUMSTANCES
WHICH AFFECT CRIMINAL LIABILITY
Chapter One
FELONIES**

Art. 3. Definitions. — Acts and omissions punishable by law are felonies (*delitos*).

Felonies are committed not only by means of deceit (*dolo*) but also by means of fault (*culpa*).

There is deceit when the act is performed with deliberate intent and there is fault when the wrongful act results from imprudence, negligence, lack of foresight, or lack of skill.

Felony - acts and omissions punishable by the Revised Penal Code.

Felony → violation of Revised Penal Code
Offense → violation of Special Laws
Crime → violation of ordinary/public law
(in some books, "infraction")

Elements of felonies in general are:

1. That there must be an act or omission,
2. That the act or omission must be punishable by the Revised Penal Code,
3. That the act performed or the omission incurred by means of *dolo* or *culpa*.

Act – any bodily movement tending to produce some effect in the external world, it being unnecessary that the same be actually produced, as the *possibility* of production is sufficient.

Omission – or inaction, refers to failure to perform a positive duty which one is bound to do. There must be a law requiring the doing or performance of an act.

nullum crimen, nulla poene sine lege – no crime when there is no law punishing it.

Classification of felonies:

1. **Intentional felonies** – committed by means of *dolo* or with malice. There is *deliberate intent* and must be *voluntary*.
2. **Culpable felonies** – performed without malice or intent to cause evil.

<i>Imprudence</i>	<i>Negligence</i>
<i>Deficiency of action</i>	<i>Deficiency of perception</i>
<i>Lack of skill</i>	<i>Lack of foresight</i>
<i>Lack of precaution</i>	<i>Failure to apply diligence</i>

A criminal act is presumed to be voluntary.

Acts executed negligently are voluntary.

Reasons:

1. Revised Penal Code is based on Classical Theory (basis of criminal liability is human *free will*).
2. Act or omissions punished by law are always voluntary, since man is a rational being.
3. Felonies by *dolo* must necessarily be voluntary; in felonies by *culpa*, imprudence consists in *voluntarily* but without malice, resulting to material injury.



Requisites of **dolo** or **malice**:

- FREEDOM
- INTELLIGENCE
- INTENT

Intent presupposes the exercise of freedom and use of intelligence.

- One who acts without freedom has no intent.
- One who acts without intelligence has no intent.
- One who acts with freedom and intelligence, but without intent, he is not criminally liable.

Existence of intent is shown by **overt acts** of a person.

Intent, being a mental act, is difficult to prove. It can only be deduced from external acts performed by a person.

Criminal intent is presumed from the commission of an unlawful act.

Criminal intent and will to commit a crime are always presumed to exist unless the contrary shall appear. (*U.S. vs. Apostol, 14 Phil. 92, 93*)

But the presumption of criminal intent does not arise from the proof of the commission of an act which is not unlawful.

actus non facit reum, nisi mens sit rea – a crime is not committed if the mind of the person performing to act complained be innocent.

<i>mala in se</i>	<i>mala prohibita</i>
<i>Inherently immoral and wrongful in nature</i>	<i>Wrong because of prohibition by law</i>
<i>Generally refers to Revised Penal Code</i>	<i>Generally refers to criminal Special Laws</i>

MISTAKE OF FACT

ignorantia legis non excusat – ignorance of the law excuses no one from compliance therewith. (*Art. 3, New Civil Code*)

ignorantia facti excusat – ignorance or mistake of fact relieves the accused from criminal liability.

Requisites of **mistake of fact as a defense**:

1. The act done would have been lawful had the facts been as the accused believed them to be;
2. The intention of the accused in performing the act should be lawful;
3. The mistake must be without fault or carelessness on the part of the accused.

Ah Chong case and *Oanis* case distinguished.

In *Ah Chong* case (*U.S. v. Ah Chong, 15 Phil. 488*) there is an innocent mistake of fact without any fault or carelessness on the part of the accused.

In the *Oanis* case (*People vs. Oanis, 74 Phil. 257*), the accused found no circumstances whatever which would press them to immediate action.

Dolo is not required in crimes punished by special laws.

Intent to commit the crime → there must be criminal intent

Intent to perpetrate the crime → it is enough that prohibited act is done freely and consciously

In those crimes punished by special laws, the act alone, irrespective of its motives, constitutes the offense.

Good faith and absence of criminal intent not valid as defenses in crimes punished by special laws.

Motive – the moving power which impels one to action for definite result.

Motive is not an essential of a crime, and need not be proved for purposes of conviction. (*People vs. Aposaga, 108 SCRA 574, 595*)

Motive is essential only when:

- there is doubt in the identity of the assailant (*People vs. Gadiana, G.R. No. 92509, March 13, 1991, 195 SCRA 211, 214-215*)
- in ascertaining the truth between two antagonistic theories or version of killing (*People vs. Boholst-Caballero, No. L-23249, November 25, 1974, 61 SCRA 180, 191*)



- the identification of the accused was from unreliable source (*People vs. Beltran, No. L-31860, November 29, 1974, 61 SCRA 246, 254-255*)
- there are no witnesses to the crime (*People vs. Melgar, No. L-75268, January 29, 1988, 157 SCRA 718, 725*)
- evidence is merely circumstantial (*People vs. Oquiño, No. L-37483, June 24, 1983, 122 SCRA 797, 808*)

When motive is material (Atty.L.Macababbad)

1. the act brings 2 or more crimes
2. question of accidental or intentional
3. need to determine the nature of crime
4. claims for self-defense
5. perpetrator not identified

Motive is established by testimony of witnesses on the acts or statements of the accused before or immediately after the commission of the offense. Such deeds or words may indicate the motive. (*Barrioquinto vs. Fernandez, 82 Phil. 642, 649*)

Disclosure of the motive is an aid in completing the proof of the commission of the crime.

But proof of motive is not sufficient to support a conviction.

At any rate, motive becomes relevant, and its absence may assume determinative significance, only when the accused has not been positively identified, and proof thereof becomes essential only when evidence of commission of the crime is purely circumstantial or is inconclusive. This Court has time and again ruled that lack of motive does not preclude conviction when the crime and the participation of the accused therein are definitely established. *People vs. Ballinas, 202 SCRA 516, 524 (1991)*

Lack of motive may be an aid in showing the innocence of the accused.

Art. 4. Criminal liability. — Criminal liability shall be incurred:

1. By any person committing a felony (*delito*) although the wrongful act done be different from that which he intended.
2. By any person performing an act which would be an offense against

persons or property, were it not for the inherent impossibility of its accomplishment or an account of the employment of inadequate or ineffectual means.

Requisites of Article 4(1):

- Intentional felony has been committed
 - Wrong done to aggrieved party
 - DIRECT
 - NATURAL
 - LOGICAL
- } consequence

“el que causa de la causa es causa del mal causado”- he who is the cause of the cause is the cause of the evil caused

EXCEPTION: when there is an intervening or a supervening cause or event

When a person has not committed a felony, he is not criminally liable for the result which is not intended.

Error in Personae – mistake in the identity (requires 2 persons)

Aberratio Ictus – mistake in the blow (requires 3 persons)

Praeter Intentionem – injurious result is greater (requires 2 persons) than that intended

Any person who creates in another's mind an immediate sense of danger which causes the latter to do something resulting in the latter's injuries, is liable for the resulting injuries.

The felony committed must be the proximate cause of the resulting injury.

Impossible crimes [Article 4(2)], requisites:

1. The act *performed* would be offense against *persons* or *property*;
2. The act was done with *evil intent*;
3. That its accomplishment is inherently impossible, or that the *means* employed is either *inadequate* or *ineffectual*;



4. That the act performed should not constitute a violation of another provision of the Revised Penal Code.

In our jurisdiction, impossible crimes are recognized. The impossibility of accomplishing the criminal intent is not merely a defense, but an act penalized by itself. Furthermore, the phrase "inherent impossibility" that is found in Article 4(2) of the Revised Penal Code makes no distinction between factual or physical impossibility and legal impossibility. *Intod vs. CA, 215 SCRA 52*

It is but, a considered opinion of one Criminal Law Book author (Abelardo C. Estrada) that the Supreme Court erroneously applied Art. 4(2) in the case above (*Intod vs. CA*). The law applicable should be Art.4(1). The accused are liable for the crime that resulted from their felonious act, that is, destruction of house, which is Malicious Mischief (Art. 327) as a result.

Crimes Against Persons:

- Parricide (Art. 246)
- Murder (Art. 248)
- Homicide (Art. 249)
- Infanticide (Art. 255)
- Abortion (Arts. 256-259)
- Duel (Arts. 260 and 261)
- Physical Injuries (Arts. 262-266)
- Rape (Arts. 266-A, B, C, and D)

Crimes Against Properties:

- Robbery (Arts. 294, 297, 298, 300, 302 and 303)
- Brigandage (Arts. 306 and 307)
- Theft (Arts. 308, 310 and 311)
- Usurpation (Arts. 312 and 313)
- Culpable Insolvency (Art. 314)
- Swindling (Estafa) and other deceits (Arts. 315-318)
- Chattel Mortgage (Art. 319)
- Arson and other crimes involving destruction (Arts. 320-326)
- Malicious Mischief (Arts. 327-331)

Art. 5. Duty of the court in connection with acts which should be repressed but which are not covered by the law, and in cases of excessive penalties.

— Whenever a court has knowledge of any act which it may deem proper to repress and which is not punishable by law, it shall

render the proper decision, and shall report to the Chief Executive, through the Department of Justice, the reasons which induce the court to believe that said act should be made the subject of legislation.

In the same way, the court shall submit to the Chief Executive, through the Department of Justice, such statement as may be deemed proper, without suspending the execution of the sentence, when a strict enforcement of the provisions of this Code would result in the imposition of a clearly excessive penalty, taking into consideration the degree of malice and the injury caused by the offense.

The first paragraph contemplates a trial of criminal case not punishable by law, requiring the judge to make a report to the Chief Executive, through the Secretary of Justice, stating the reasons which induce him to believe that the said act should be made the subject of penal legislation.

The second paragraph, in case of excessive penalties, requires the judge to submit a statement to the Chief Executive, through the Secretary of Justice, recommending executive clemency, in consideration of the degree of malice and the injury caused by the offense. This shall be made without suspending the sentence.

Art. 6. Consummated, frustrated, and attempted felonies. — Consummated felonies as well as those which are frustrated and attempted, are punishable.

A felony is consummated when all the elements necessary for its execution and accomplishment are present; and it is frustrated when the offender performs all the acts of execution which would produce the felony as a consequence but which, nevertheless, do not produce it by reason of causes independent of the will of the perpetrator.

There is an attempt when the offender commences the commission of a felony directly or over acts, and does not perform all the acts of execution which should produce the felony by reason of some cause or accident other than this own spontaneous desistance.



STAGES IN THE DEVELOPMENT OF FELONY	
Acts	Stage
Internal Acts	(intention and effect must concur)
Preparatory acts	(ordinarily are not punishable)
Overt acts – external act	No crime yet; exception Art.304 of RPC (for robbery)
Overt acts – external act have direct connection with the crime	No felony yet (subjective phase)
Acts of Execution – commenced, incomplete due to spontaneous desistance	No felony committed (subjective phase)
Acts of Execution – incomplete due to accident or cause other than own desistance	Attempted Felony
Acts of Execution – completed w/o producing felony due to own spontaneous desistance	Other inferior felonies may be applicable; 'not attempted'
Acts of Execution – Completed w/o producing felony due to accident or cause other than own desistance	Frustrated Felony
Acts of Execution – Completed producing felony intended	Consummated Felony

Elements of attempted felony:

- The offender commences the commission of the felony directly by overt acts;
- He does not perform all the acts of execution which should produce the felony;
- The offender's act is not stopped by his own spontaneous desistance;
- The non-performance of all acts of execution was due to cause or accident other than his spontaneous desistance.

It must be borne in mind, however, that the spontaneous desistance of a malefactor exempts him from criminal liability for the intended crime but it does not exempt him from the crime committed by him before his desistance. (People vs. Lizada, 396 SCRA 62 (2003))

In case of an attempted crime, the offender never passes the subjective phase in the commission of the crime. The offender does not arrive at the point of performing all of the acts of execution which should produce the crime. He is stopped short of that point by some cause apart from his voluntary desistance. *People vs. Caballero, 400 SCRA, 424 (2003)*

Overt act – is some physical activity or deed, indicating the intention to commit a particular crime, more than a mere planning or preparation, which if carried to its complete termination following its natural course, without being frustrated by external obstacles nor by voluntary desistance of the perpetrator, will logically and necessarily ripen into a concrete offense.

Frustrated felony – the offender performs all the acts of execution which would produce the felony as a consequence but which, nevertheless, do not produce it by reason of causes independent of the will of the perpetrator

Elements of frustrated felony:

- The offender performs all the acts of execution;
- All the acts performed would produce the felony as a consequence;
- But the felony is not produced;
- By reason of causes independent of the will of the perpetrator.

Stages NOT necessary for the following cases:

- Formal crimes – consummated in one instant, no attempt (e.g. slander, sale of prohibited drugs)
- Crimes consummated by attempt by mere attempt or proposal or by overt acts (e.g. treason, corruption of minors)
- Felony by omission – there can be no attempted stage
- Crimes requiring intervention of two persons to commit them are consummated by mere agreement (betting in sports contests, corruption of public officer)
- Material crimes (e.g. no frustrated rape)



→Added by Atty. L. Macababbad

- When punished by special laws
- Impossible crimes

Attempted	Frustrated
Offender has not passed the subjective phase	Offender has reached the objective phase
Offender merely commences, overt acts	Offender performed all acts of execution
No mortal wound inflicted	Mortal wound was inflicted

In both, the offender has not accomplished his criminal purpose.

EVIL INTENT	
Attempted/Frustrated crimes	Impossible crimes
Possible of accomplishment	Cannot be accomplished
What prevented the accomplishment is the intervention of certain cause or accident which the offender had no part	Accomplishment is inherently impossible or because the means employed by the offender is inadequate or ineffectual

Consummated felony – all the elements necessary for its execution and accomplishment are present.

In determining the stage of felony, consider:

- Nature of offense
- Elements constituting felony
- Manner of committing

All are deemed to be consummated:

- Theft - there is no crime of frustrated theft.
- **Robbery - there is no frustrated robbery even if the offender did not materially benefited.**
- Arson - even with partial or incomplete damages.
- Impossible crimes - there are NO attempted or frustrated impossible crimes.

Stages of Execution of Rape

The Anti-Rape Law transformed and reclassified rape as a felony against persons, under Title Eight, Chapter Two, Book II of the same Code. The criminalization of the penetration of a person's sex organ or anal orifice and the insertion of a person's penis into the mouth or anal orifice of another, whether man or woman, and the classification thereof as rape (sexual assault) were designed to prevent not only the physical injuries inflicted on the victim but also his subjection to personal indignity and degradation and affront to the psychological integrity associated with an unwanted violation. *People vs. Nequia, 412 SCRA 628 (2003)*

In cases of rape where there is a positive testimony and a medical certificate, both should in all respects complement each other; otherwise, to rely on the testimonial evidence alone, in utter disregard of the manifest variance in the medical certificate, would be productive of unwarranted or even mischievous results. It is necessary to carefully ascertain whether the penis of the accused in reality entered the labial threshold of the female organ to accurately conclude that rape was consummated. Failing in this, the thin line that separates attempted rape from consummated rape will significantly disappear.

Under Art. 6, in relation to Art. 335, of the Revised Penal Code, rape is attempted when the offender commences the commission of rape directly by overt acts, and does not perform all the acts of execution which should produce the crime of rape by reason of some cause or accident other than his own spontaneous desistance. All the elements of attempted rape - and only of attempted rape - are present in the instant case, hence, the accused should be punished only for it. *People vs. Campuhan, 329 SCRA 270 (2000)*

Art. 7. When light felonies are punishable. — Light felonies are punishable only when they have been consummated, with the exception of those committed against person or property.

Light felonies under the Revised Penal Code:

- Slight physical injuries (Art.266)
- Theft (Art. 309, par.7,8)
- Alteration of boundary marks (Art.313)
- Malicious mischief (Art. 328 par.3; Art 329, par.3)
- Intriguing against honor (Art. 364)

Arresto menor (imprisonment 1-30 days), or fine not exceeding P200.00)



The commission of felonies against *persons* or *property* presupposes in the offender *moral depravity*.

Art. 8. Conspiracy and proposal to commit felony. — Conspiracy and proposal to commit felony are punishable only in the cases in which the law specially provides a penalty therefor.

A conspiracy exists when two or more persons come to an agreement concerning the commission of a felony and decide to commit it.

There is proposal when the person who has decided to commit a felony proposes its execution to some other person or persons.

A mere conspiracy or proposal is not a felony, except when the law specifically provides a penalty therefor.

Requisites of conspiracy:

- That two or more persons came to an agreement;
- The agreement concerned the commission of a felony;
- That the execution of the felony be decided upon.

Cases where mere conspiracy is a felony:

- Conspiracy x x x to commit treason (Art.115)
- Conspiracy x x x to commit coup d'etat, rebellion or insurrection (Art.136)
- Conspiracy to commit sedition (Art.141)
- Monopolies and combinations in restraint of trade (Art.186)

Quantum of evidence: A conspiracy must be established by positive and conclusive evidence.

Requisites of proposal:

- That a person *has decided to commit a felony*, and
- That he *proposes its execution* to some other person or persons.

Cases where mere proposal is a felony:

- x x x proposal to commit treason (Art.115)
- x x x proposal to commit coup d'etat, rebellion or insurrection (Art.136)

CASES OF CONSPIRACY

Direct proof is not essential to establish conspiracy; which may be inferred from the acts of the assailants before, during and after the commission of the crime. In a conspiracy, it is not necessary to show that all the conspirators actually committed all the elements of the crime charged; what is important is that all of them performed specific acts with such closeness and coordination as to indicate an unmistakably common purpose or design to commit the crime. Thus, the act of one becomes the act of all, and each of them will thereby be deemed equally guilty of all the crimes committed. *People vs. Carang*, 418 SCRA 321 (2003)

Conspiracy must be proved as convincingly as the criminal act itself. Like any element of the offense charged, conspiracy must be established by proof beyond reasonable doubt. Conspiracy may be shown through circumstantial evidence; deduced from the mode and manner in which the offense was perpetrated; or inferred from the acts of the accused pointing to a joint purpose and design, a concerted action, and a community of interest. *People vs. Gregorio*, 412 SCRA 90 (2003)

Previous agreement to commit a crime is not essential to establish conspiracy, it being sufficient that the condition attending its commission and the acts executed may be indicative of a common design to accomplish a criminal purpose and objective. If there is a chain of circumstances to that effect, conspiracy has been established. *People vs. Esponilla*, 404 SCRA 421 (2003)

The existence of conspiracy cannot be presumed. Similar to the physical act constituting the crime itself, the elements of conspiracy must be proven beyond reasonable doubt. *People vs. Samudio*, 353 SCRA 746 (2001)

Conspiracy is always predominantly mental in composition because it consists primarily of a meeting of minds and intent. Conspiracy must be proved with the same quantum of evidence as the crime itself, that is, by proof beyond reasonable doubt. However, direct proof is not required. Conspiracy may be proved by circumstantial evidence. *People vs. Caballero*, 400 SCRA 424 (2003)



Implied Conspiracy

In conspiracy, direct proof of a previous agreement to commit a crime is not necessary. It may be deduced from the mode and manner by which the offense was perpetrated, or inferred from the acts of the accused themselves when such point to a joint purpose and design, concerted action and community of interest. Conspiracy may be inferred from the conduct of the accused before, during or after the commission of the crime. *People vs. Liad*, 355 SCRA 11 (2001)

Art. 9. Grave felonies, less grave felonies and light felonies. — Grave felonies are those to which the law attaches the capital punishment or penalties which in any of their periods are afflictive, in accordance with Article 25 of this Code.

Less grave felonies are those which the law punishes with penalties which in their maximum period are correctional, in accordance with the above-mentioned article.

Light felonies are those infractions of law for the commission of which a penalty of *arresto menor* or a fine not exceeding 200 pesos or both, is provided.

Capital punishment:

Death (now prohibited under R.A. 9346)

Afflictive penalties: ($x > P6,000.00$)

Reclusion perpetua

Reclusion temporal

Perpetual or temporary absolute disqualification

Perpetual or temporary special disqualification

Prision mayor

Correctional penalties: ($P200.00 > x > P6,000.00$)

Prision correccional

Arresto mayor

Suspension

Destierro

Light penalties: ($x \leq P200.00$)

Arresto menor

Public censure

Art. 10. Offenses not subject to the provisions of this Code. — Offenses which are or in the future may be punishable under

special laws are not subject to the provisions of this Code. This Code shall be supplementary to such laws, unless the latter should specially provide the contrary.

Special law is a statute enacted by the Legislative branch, penal in character, which is not an amendment of the Revised Penal Code.

Chapter Two JUSTIFYING CIRCUMSTANCES AND CIRCUMSTANCES WHICH EXEMPT FROM CRIMINAL LIABILITY

Art. 11. Justifying circumstances. — The following do not incur any criminal liability:

1. Anyone who acts in defense of his person or rights, provided that the following circumstances concur:

First. Unlawful aggression;

Second. Reasonable necessity of the means employed to prevent or repel it;

Third. Lack of sufficient provocation on the part of the person defending himself.

2. Anyone who acts in defense of the person or rights of his spouse, ascendants, descendants, or legitimate, natural or adopted brothers or sisters, or his relatives by affinity in the same degrees and those by consanguinity within the fourth civil degree, provided that the first and second requisites prescribed in the next preceding circumstance are present, and the further requisite, in case the provocation was given by the person attacked, that the one making defense had no part therein.

3. Anyone who acts in defense of the person or rights of a stranger, provided that the first and second requisites mentioned in the first circumstance of this Art. are present and that the person defending be not induced by revenge, resentment, or other evil motive.

4. Any person who, in order to avoid an evil or injury, does not act which causes damage to another, provided that the following requisites are present:

First. That the evil sought to be avoided actually exists;

Second. That the injury feared be greater than that done to avoid it;



Third. That there be no other practical and less harmful means of preventing it.

5. Any person who acts in the fulfillment of a duty or in the lawful exercise of a right or office.

6. Any person who acts in obedience to an order issued by a superior for some lawful purpose.

There is no crime committed, the act being justified.

Art.11(1) Self-defense

Reason why penal laws make self-defense lawful → because it would be quite impossible for the State in all case to prevent aggression upon its citizens and offer protection to the person unjustly attacked.

Requisites of self-defense:

1. Unlawful aggression, (indispensable)

ACTUAL
SUDDEN
UNEXPECTED } Attack

Immediate or Imminent

Possible exception: LIBEL (varying opinion)

Threat is not an unlawful aggression.

2. Reasonable necessity of the means employed to prevent or repel the unlawful aggression, and
3. Lack of sufficient provocation on the part of the person defending himself.

Unlawful aggression is a condition *sine qua non* for the justifying circumstance of self-defense. It contemplates an actual, sudden and unexpected attack, or imminent danger thereof, and not merely a threatening or intimidating attitude. The person defending himself must have been attacked with actual physical force or with actual use of weapon. Of all the elements, unlawful aggression, i.e., the sudden unprovoked attack on the person defending himself, is indispensable. *People vs. Rubiso*, 399 SCRA 267 (2003)

It is axiomatic that the mere thrusting of one's hand into his pocket as if for the purpose of drawing a weapon is not unlawful aggression. Even the cocking of a rifle without aiming the firearm at any particular target is not sufficient to conclude that one's life was in imminent danger.

Retaliation is different from self-defense. In retaliation, the aggression that was begun by the injured party already ceased to exist when the accused attacked him. In self-defense, the aggression was still existing when the aggressor was injured by the accused. *People vs. Vicente*, 405 SCRA 40 (2003)

When there is a second stage of the incident as in this case, treachery should be considered as a qualifying aggravating circumstance if used as a means to insure the success of an attack against a fellow protagonist during the said second stage of the incident.

Art.11(2) Defense of Relatives

The natural impulse of any person who has killed someone in defense of his person or relative is to bring himself to the authorities and try to dispel any suspicion of guilt that the authorities might have against him. *Balunueco vs. CA*, 410 SCRA 76 (2003)

In the case at bar, petitioner (Ricardo) utterly failed to adduce sufficient proof of the existence of a positively strong act of real aggression on the part of the deceased (Senando), with the exception of his self-serving allegations.

Art.11(3) Defense of Stranger

With the absence of unlawful aggression that can be attributed to the victim, it becomes unnecessary to determine the remaining requisites for they obviously have no leg to stand on. Thus, in this case, the defense of stranger will not lie, complete or incomplete. *Almeda vs. CA*, 80 SCRA 575

[W]hen the victim fell down and staggered after petitioner shot him pointblank in the head, any supposed unlawful aggression by the former, assuming that it has begun, had ceased. If so, the one making the defense has no more right to kill or even wound the former aggressor.



Art.11(4) "State of Necessity Doctrine"

Requisites:

1. That the evil sought to be avoided actually exists;
2. That the injury feared be greater than that done to avoid it;
3. That there be no other practical and less harmful means of preventing it.

Art.11(5) Fulfillment of a Duty/ Lawful Exercise of a Right or Office

The reasonableness of the resistance is also a requirement of the justifying circumstance of self-defense or defense of one's rights under paragraph 1 of Article 11, Revised Penal Code. When the appellant fired his shotgun from his window, killing his two victims, his resistance was disproportionate to the attack. *People vs. Narvaez, 121 SCRA 389 (1983)*

Self –
defense of
property?

Art. 429 of the New Civil Code provides:

The owner or lawful possessor of a thing has the right to exclude any person from the enjoyment and disposal thereof. For this purpose, he may use such force as may be reasonably necessary to repel or prevent an actual or threatened unlawful physical invasion or usurpation of his property (Emphasis supplied).

Art.11(6) Obedience to a Lawful Order of a Superior

An individual is justified in performing an act in obedience to an order issued by a superior if such order, is for some lawful purpose and that the means used by the subordinate to carry out said order is lawful (Reyes, Revised Penal Code, Vol. 1, 1981 ed., p. 212). Notably, the alleged order of Hiong's superior Chua Kim Leng Timothy, is a patent violation not only of Philippine, but of international law. Such violation was committed on board a Philippine-operated vessel. Moreover, the means used by Hiong in carrying out said order was equally unlawful. *People vs. Tulin, 364 SCRA 10 (2001)*

Starting year 2004 thru R.A. 9262, additional justifying circumstance:

BATTERED WOMAN SYNDROME (see p.18)

To consider a valid "battered woman syndrome" at least 2 cycles of the following are completed:

1. Tension building phase
2. (Acute) physical aggression
3. Reconciliation (tranquility)

[I]t is equally important to determine whether appellant Genosa had acted freely, intelligently and voluntarily when she killed her spouse. The Court, however, cannot properly evaluate her battered-woman-syndrome defense, absent expert testimony on her mental and emotional state at the time of the killing and the possible psychological cause and effect of her fatal act. *People vs. Genosa, 341 SCRA 493 (2000)*

BURDEN OF PROOF

→In ordinary cases, the accuser is the first to present evidence.

→In cases of self-defense, defense of relatives, or defense of stranger, the accused has the burden of proof.

- This is called Reverse Trial (Admission and Avoidance)

Art. 12. Circumstances which exempt from criminal liability. — the following are exempt from criminal liability:

1. An imbecile or an insane person, unless the latter has acted during a lucid interval. When the imbecile or an insane person has committed an act which the law defines as a felony (*delito*), the court shall order his confinement in one of the hospitals or asylums established for persons thus afflicted, which he shall not be permitted to leave without first obtaining the permission of the same court.

2. A person under nine years of age.

3. A person over nine years of age and under fifteen, unless he has acted with discernment, in which case, such minor shall be proceeded against in accordance with the provisions of Article 80 of this Code.

When such minor is adjudged to be criminally irresponsible, the court, in conformably with the provisions of this and the preceding paragraph, shall commit him to the care and custody of his family who shall be charged with his surveillance and education otherwise, he shall be committed



to the care of some institution or person mentioned in said Article 80.

4. Any person who, while performing a lawful act with due care, causes an injury by mere accident without fault or intention of causing it.

5. Any person who act under the compulsion of irresistible force.

6. Any person who acts under the impulse of an uncontrollable fear of an equal or greater injury.

7. Any person who fails to perform an act required by law, when prevented by some lawful insuperable cause.

<i>Justifying</i>	<i>Exempting</i>
<i>No crime committed</i>	<i>No criminal liability</i>
<i>No civil liability</i>	<i>With civil liability</i>
<i>With Civil liability for Par.4</i>	<i>No Civil liability for Par.4</i>

Imbecility (always exempt) exists while a person of advanced age, has a mental development of a child between 2 and 7 years of age.

Insanity (exempt, except if on lucid intervals) when there is a complete deprivation of freedom and intelligence of the will. Mere abnormality is not enough.

Crazy (not an exemption) is not the same as insane. The popular conception of the word "crazy" is being used to describe a person or an act unnatural or out of the ordinary. A man may behave in a crazy manner but it does not necessarily and conclusively prove that he is legally so. *People vs. Florendo, 413 SCRA 132 (2003)*

Effects of Insanity to the Accused:

- At the time of the commission of the Crime** – exempting.
- During trial** – criminal proceedings will be suspended.
- After judgment or while serving sentence** – the execution of judgment or sentence will be suspended and the court shall order the accused to be committed to a hospital.

Art. 12, Pars. 2 & 3 of Revised Penal Code has been amended by Sec.6 of R.A. No. 9344

SEC. 6. Minimum Age of Criminal Responsibility. - A child fifteen (15) years of age or under at the time of the commission of the offense shall be exempt from criminal liability. However, the child shall be subjected to an intervention program pursuant to Section 20 of this Act.

A child above fifteen (15) years but below eighteen (18) years of age shall likewise be exempt from criminal liability and be subjected to an intervention program, unless he/she has acted with discernment, in which case, such child shall be subjected to the appropriate proceedings in accordance with this Act.

The exemption from criminal liability herein established does not include exemption from civil liability, which shall be enforced in accordance with existing laws.

Juvenile Justice and Welfare Act of 2006

Intervention

SEC. 20. Children Below the Age of Criminal Responsibility. - If it has been determined that the child taken into custody is fifteen (15) years old or below, the authority which will have an initial contact with the child has the duty to immediately release the child to the custody of his/her parents or guardian, or in the absence thereof, the child's nearest relative. Said authority shall give notice to the local social welfare and development officer who will determine the appropriate programs in consultation with the child and to the person having custody over the child. If the parents, guardians or nearest relatives cannot be located, or if they refuse to take custody, the child may be released to any of the following: a duly registered nongovernmental or religious organization; a barangay official or a member of the Barangay Council for the Protection of Children (BCPC); a local social welfare and development officer; or when and where appropriate, the DSWD. If the child referred to herein has been found by the Local Social Welfare and Development Office to be abandoned, neglected or abused by his parents, or in the event that the parents will not comply with the prevention program, the proper petition for involuntary commitment shall be filed by the DSWD or the Local Social Welfare and Development Office pursuant to Presidential Decree No. 603,



otherwise known as "The Child and Youth Welfare Code".

14 years old and below

- Parents
- Guardian
- Nearest of kin
- N.G.O. or religious organizations
- Barangay chairperson/officials
- DSWD

Diversion

SEC. 23. System of Diversion. - Children in conflict with the law shall undergo diversion programs without undergoing court proceedings subject to the conditions herein provided:

- (a) Where the imposable penalty for the crime committed is not more than six (6) years imprisonment, the law enforcement officer or Punong Barangay with the assistance of the local social welfare and development officer or other members of the LCPC shall conduct mediation, family conferencing and conciliation and, where appropriate, adopt indigenous modes of conflict resolution in accordance with the best interest of the child with a view to accomplishing the objectives of restorative justice and the formulation of a diversion program. The child and his/her family shall be present in these activities.
- (b) In victimless crimes where the imposable penalty is not more than six (6) years imprisonment, the local social welfare and development officer shall meet with the child and his/her parents or guardians for the development of the appropriate diversion and rehabilitation program, in coordination with the BCPC;
- (c) Where the imposable penalty for the crime committed exceeds six (6) years imprisonment, diversion measures may be resorted to only by the court.

16 and 17 years old acting with discernment

- ➔ If 6 or less years of imprisonment:
Reconciliation thru barangay or police
- ➔ If more than 6 years of imprisonment:
Suspended proceedings/trial

Art. 12, Par. 4 Performing a Lawful Act with Due Care

[T]he legal provision pertinent to accident, contemplates a situation where a person is in fact in the act of doing something legal, exercising due care, diligence and prudence, but in the process produces

harm or injury to someone or to something not in the least in the mind of the actor – an accidental result flowing out of a legal act. Indeed, accident is an event that happens outside the sway of our will, and although it comes about through some act of our will, it lies beyond the bounds of humanly foreseeable consequences. In short, accident presupposes the lack of intention to commit the wrong done. (*Talampas vs. People, G.R. No. 180219, November 23, 2011*)

Art. 12, Par. 5 Under the Compulsion of an Irresistible Force

The accused acts only not without a will but is against his will. The irresistible force must be either physical force or violence and must come from a third person and produces an effect upon the individual that in spite of all resistance, it reduces him to a mere instrument and as such incapable of committing a crime.

Art. 12, Par. 6 Under the Impulse of an Uncontrollable Fear of an Equal or greater Injury

The fear must be insuperable and the person who acts under insuperable fear is completely deprived of freedom.

Actus me invito factus non est meus factus – an act done against my will is not my act.

Art. 12, Par. 7 Prevented by some Lawful Insuperable Cause

Insuperable cause – a cause which prevents a person to do what the law requires. It applies to felonies by omission.

Prescribed filing of cases, within:

- 12 hours for light felony
- 18 hours for less grave felony
- 36 hours for grave felony

ADDITIONAL EXEMPTING CIRCUMSTANCES:
(by reason of jurisprudence)

- **Absolutory causes** – are those where the act committed is a crime but for reasons of public policy the accused is exempt from criminal liability.
- **Instigation** – as exempting circumstances for law and peace officers; does not apply to private persons.



Instigation	Entrapment
<i>Takes place when a peace officer induces an innocent person to commit a crime</i>	<i>Signifies that ways and means are resorted to by peace officers to apprehend a person who has committed a crime</i>
<i>Exempting circumstance by reason of public policy</i>	<i>Neither exempting nor mitigating</i>
<i>The law officer conceives the commission of the crime and suggest it to the accused who adopts the idea and carries it into execution</i>	<i>Mens rea* originates from the mind of the criminal *guilty mind</i>

Article 332 provides for an **absolatory cause** in the crimes of theft, estafa (or swindling) and malicious mischief. It limits the responsibility of the offender to civil liability and frees him from criminal liability by virtue of his relationship to the offended party. x x x The “continuing affinity view”...considers that, where statutes have indicated an intent to benefit step-relatives or in-laws, the “tie of affinity” between these people and their relatives-by-marriage is not to be regarded as terminated upon the death of one of the married parties. [This] view is more consistent with the language and spirit of Article 332(1) of the Revised Penal Code. *Intestate Estate of Manolita Gonzales Vda. De Carungcong vs. People, G.R. No. 181409, February 11, 2010.*

**Chapter Three
CIRCUMSTANCES WHICH
MITIGATE CRIMINAL LIABILITY**

Art. 13. Mitigating circumstances. — The following are mitigating circumstances;

1. Those mentioned in the preceding chapter, when all the requisites necessary to justify or to exempt from criminal liability in the respective cases are not attendant.
2. That the offender is under eighteen year of age or over seventy years. In the case of the minor, he shall be proceeded against in accordance with the provisions of Art. 80.
3. That the offender had no intention to commit so grave a wrong as that committed.
4. That sufficient provocation or threat on the part of the offended party immediately preceded the act.

5. That the act was committed in the immediate vindication of a grave offense to the one committing the felony (*delito*), his spouse, ascendants, or relatives by affinity within the same degrees.

6. That of having acted upon an impulse so powerful as naturally to have produced passion or obfuscation.

7. That the offender had voluntarily surrendered himself to a person in authority or his agents, or that he had voluntarily confessed his guilt before the court prior to the presentation of the evidence for the prosecution;

8. That the offender is deaf and dumb, blind or otherwise suffering some physical defect which thus restricts his means of action, defense, or communications with his fellow beings.

9. Such illness of the offender as would diminish the exercise of the will-power of the offender without however depriving him of the consciousness of his acts.

10. And, finally, any other circumstances of a similar nature and analogous to those above mentioned.

	Privileged Mitigating	Ordinary Mitigating
<i>Offset by any aggravating circumstance</i>	<i>Cannot be offset</i>	<i>Can be offset by a generic aggravating circumstance</i>
<i>Effect on penalty</i>	<i>Effect of imposing the penalty by 1 or 2 degrees lower than that provided by law</i>	<i>If not offset, has the effect of imposing the minimum period of the penalty; provided the penalty is divisible</i>
<i>Kinds (Sources)</i>	<i>Art. 13 Par.1 and 1st Part of Par. 2. (minority, incomplete Self-defense), two or more mitigating circumstance without any aggravating circumstance (has the effect of lowering the penalty by one degree). Art. 64, 68 and 69</i>	<i>Those circumstances enumerated in Article 13, except Par.1 and 1st Part of Par.2</i>
<i>With respect to Art. 11 Pars. 1, 2, and 3</i>	<i>Unlawful aggression plus 1 of 2 other circumstance are present</i>	<i>Only unlawful aggression is present in self-defense, defense of relative or defense of stranger</i>



Art. 13, Par. 1

- Incomplete self-defense
- incomplete defense of relatives
- incomplete defense of stranger
- incomplete accident

There must always be unlawful aggression.

Art. 13, Par. 2

Par.2. Impliedly repealed by R.A. 9344 or the Juvenile Justice Welfare Act of 2006

BASIS: Diminution of intelligence

Age	Legal Effects
15 and below	exempting
Above 15 but under 18	Exempting unless he acted with discernment; if acted with discernment, the penalty is reduced by 1 degree lower than that imposed (Art. 68 of RPC as amended by RA 9344)
Minor delinquent under 18	Sentence is suspended (PD 603, PD 1179, RA 9344)
70 years or over	(Generic) Mitigating and no imposition of death penalty* *if already imposed, sentence is suspended and commuted

Diversion – refers to an alternative, child-appropriate process of determining the responsibility and treatment of a child in conflict with the law on the basis of his/her social, cultural, economic, psychological, or educational background without resulting to formal court proceedings.

Art. 13, Par. 3 Praeter Intentionem

BASIS: Diminution of intent

Intention, being an internal state, must be judged by external acts.

Intention may be ascertained considering:

- the weapon used
- the part of the body injured
- the nature of injury inflicted, and,
- the manner of attack; which may show that the accused intended the wrong committed.

Applicable	Not Applicable
<ul style="list-style-type: none"> • Robbery with homicide; • Physical injuries, (mitigating only when the victim dies) • Material harm • Malversation of funds 	<ul style="list-style-type: none"> • Offender employed brute force • Felonies by negligence • When intention is immaterial • Slander • Defamation

Par.3 is appreciated in murder qualified by circumstances based on manner of commission, (not on state of mind of accused) but not on murder qualified by treachery.

Art. 13, Par. 4

BASIS: Diminution of intelligence or intent

Par.4 That sufficient provocation or threat on the part of the offended party immediately preceded the act.

Provocation

- any unjust or improper conduct or act of the offended party, capable of exciting, inciting, or irritating any one;
- any act of the offended party that excites or stirs up emotions or actions;

Requisites of provocation:

1. That the provocation must be *sufficient*;
2. That it must *originate from the offended party*;
3. That the provocation must be *immediate* to the act; i.e. to the commission of the crime by the person who is provoked.

“Immediate” means that there is no interval of time between the provocation and commission of the crime. *People vs. Pagal, 79 SCRA 570.*

Art. 13, Par. 5

Par.5 That the act was committed in the immediate vindication of a grave offense to the one committing the felony (*delito*), his spouse, ascendants, or relatives by affinity within the same degrees.



Requisites:

1. Grave offense done to the one committing the felony;
2. Felony is committed in vindication of such grave offense.

A lapse of time is allowed between the grave offense and the vindication.

Provocation	Vindication
<ul style="list-style-type: none"> • Made directly only to person committing felony • Cause need not be a grave offense • Immediately preceded the act 	<ul style="list-style-type: none"> • Also with offender's relatives • grave offense to the offender or his relatives • Proximate time

Basis to determine the gravity of offense in vindication:

1. Age of the accused;
2. Social standing of the person;
3. Time and place of the commission of the crime.

[A]ccused-appellant was urinated on by the victim in front of the guests. The act of the victim, which undoubtedly insulted and humiliated accused-appellant, came within the purview of a "grave offense" under Article 13, paragraph 5, of the Revised Penal Code. Thus, this mitigating circumstance should be appreciated in favor of accused-appellant. *People vs. Espina, 361 SCRA 701 (2001)*

Art. 13, Par. 6

Par.6 That of having acted upon an impulse so powerful as naturally to have produced passion or obfuscation.

Rules for application (Par.6)

1. The act is committed in a spirit of lawlessness; or,
2. The act is committed in a spirit of revenge.

The act of the offended party must be unlawful or unjust.

Exercise of a right or fulfillment of a duty is not a proper source of passion or obfuscation.

When mitigating	When NOT mitigating
<ul style="list-style-type: none"> • Act producing passion or obfuscation, time not far from commission of crime • Rivalry for the hand of a woman 	<ul style="list-style-type: none"> • After 24 hours passed • Jealousy with non-spouse or illegitimate relationship

Vindication of grave offense cannot co-exist with passion and obfuscation.

Passion or obfuscation compatible with lack of intention to commit so grave a wrong, but incompatible with treachery.

Passion/obfuscation	Irresistible force
<ul style="list-style-type: none"> • mitigating • cannot give rise to irresistible force • from offender himself • must arise from lawful sentiment 	<ul style="list-style-type: none"> • exempting • requires physical force • from a third person • is unlawful

To be considered as a mitigating circumstance, passion or obfuscation must arise from lawful sentiments and not from a spirit of lawlessness or revenge or from anger and resentment. In the present case, clearly, Marcelo was infuriated upon seeing his brother, Carlito, shot by Jose. However, a distinction must be made between the first time that Marcelo hacked Jose and the second time that the former hacked the latter. When Marcelo hacked Jose right after seeing the latter shoot at Carlito, and if appellant refrained from doing anything else after that, he could have validly invoked the mitigating circumstance of passion and obfuscation. But when, upon seeing his brother Carlito dead, Marcelo went back to Jose, who by then was already prostrate on the ground and hardly moving, hacking Jose again was a clear case of someone acting out of anger in the spirit of revenge. *People vs. Bates, 400 SCRA 95 (2003)*

Art. 13, Par. 7

7. That the offender had voluntarily surrendered himself to a person in authority or his agents, or that he had voluntarily confessed his guilt before the court prior to the presentation of the evidence for the prosecution;



Voluntary surrender cannot be appreciated where the accused fled immediately after the killing and took him more than a month-and-a-half to surrender to the authorities. *People vs. Almendras*, 372 SCRA 737

Voluntary surrender must be made to a **person in authority** or **his agent**. The law does not require that the surrender must be before or after the issuance of warrant of arrest. Surrender to the Treasurer is not mitigating. He is a public officer but not a person in authority.

Person in authority – one who is directly vested with jurisdiction which is the power to govern and to execute the laws, whether as an individual or a member of some court or governmental corporation, board or commission. (Art. 152, RPC)

Agent of a person in authority – one who by direct provision of the law or by election or by appointment by competent authority is charged with the maintenance of public order and security of life and property and any private person who comes to aid of a person in authority. (Art. 152, as amended by RA 1978)

[T]he appellant's alleged surrender to the barangay chairman was not voluntary. On the contrary, it was solely motivated by self-preservation from what he feared was an imminent retaliation from the immediate relatives of Alfredo. Consequently, the same cannot be appreciated in his favor. *People vs. dela Cruz*, 416 SCRA 24 (November 18, 2003)

Voluntary plea of guilty, to be mitigating:

- the offender spontaneously confessed his guilt
- the confession of guilt was made before a competent court
- the confession of guilt was made prior to the presentation of evidence by the prosecution

Art. 13, Par. 8

BASIS: Diminution of voluntariness

8. That the offender is deaf and dumb, blind or otherwise suffering some physical defect which thus restricts his means of action, defense or communication with his fellow beings.

The physical defect referred to in this paragraph must affect the means of action, defense or communication of the accused. It must relate to the offense committed.

The fact that the accused is deaf is not mitigating in homicide or rape.

Art. 13, Par. 9

9. Such illness of the offender as would diminish the exercise of the will power of the offender without however, depriving him of the consciousness of his acts.

The Supreme Court in the Marivic Genosa case only appreciated "battered woman's syndrome" only as a mitigating circumstance that diminishes will power.

After the Genosa case RA 9282 was enacted and now a new Justifying Circumstance. The battered woman does not incur both criminal and civil liabilities. (also see p.12)

Art. 13, Par. 10

10. Any other circumstances similar in nature and analogous to those above mentioned.

Examples:

- extreme poverty, as similar to state of necessity
- impulse of jealousy, similar to passion and obfuscation
- voluntary return of funds in malversation, similar to voluntary surrender
- over 60 years old with failing sight, analogous to a person over 70 years of age and voluntary surrender

Chapter Four CIRCUMSTANCE WHICH AGGRAVATE CRIMINAL LIABILITY

Art. 14. Aggravating circumstances. — The following are aggravating circumstances:

1. That advantage be taken by the offender of his public position.
2. That the crime be committed in contempt or with insult to the public authorities.



3. That the act be committed with insult or in disregard of the respect due the offended party on account of his rank, age, or sex, or that is be committed in the dwelling of the offended party, if the latter has not given provocation.

4. That the act be committed with abuse of confidence or obvious ungratefulness.

5. That the crime be committed in the palace of the Chief Executive or in his presence, or where public authorities are engaged in the discharge of their duties, or in a place dedicated to religious worship.

6. That the crime be committed in the night time, or in an uninhabited place, or by a band, whenever such circumstances may facilitate the commission of the offense.

Whenever more than three armed malefactors shall have acted together in the commission of an offense, it shall be deemed to have been committed by a band.

7. That the crime be committed on the occasion of a conflagration, shipwreck, earthquake, epidemic or other calamity or misfortune.

8. That the crime be committed with the aid of armed men or persons who insure or afford impunity.

9. That the accused is a recidivist.

A recidivist is one who, at the time of his trial for one crime, shall have been previously convicted by final judgment of another crime embraced in the same title of this Code.

10. That the offender has been previously punished by an offense to which the law attaches an equal or greater penalty or for two or more crimes to which it attaches a lighter penalty.

11. That the crime be committed in consideration of a price, reward, or promise.

12. That the crime be committed by means of inundation, fire, poison, explosion, stranding of a vessel or international damage thereto, derailment of a locomotive, or by the use of

any other artifice involving great waste and ruin.

13. That the act be committed with evident premeditation.

14. That the craft, fraud or disguise be employed.

15. That advantage be taken of superior strength, or means be employed to weaken the defense.

16. That the act be committed with treachery (*alevosia*).

There is treachery when the offender commits any of the crimes against the person, employing means, methods, or forms in the execution thereof which tend directly and specially to insure its execution, without risk to himself arising from the defense which the offended party might make.

17. That means be employed or circumstances brought about which add ignominy to the natural effects of the act.

18. That the crime be committed after an unlawful entry.

There is an unlawful entry when an entrance is effected by a way not intended for the purpose.

19. That as a means to the commission of a crime a wall, roof, floor, door, or window be broken.

20. That the crime be committed with the aid of persons under fifteen years of age or by means of motor vehicles, motorized watercraft, airships, or other similar means. (As amended by R.A. 5438).

21. That the wrong done in the commission of the crime be deliberately augmented by causing other wrong not necessary for its commissions.

Kinds of Aggravating Circumstances

1. **Generic** – that apply to all crimes. It increases the penalty up to maximum period prescribed in the crime. It may be offset by mitigating circumstance
Ex. Dwelling, nighttime, recidivism



2. **Specific** – that apply to specific crimes.
Ex. Ignominy in crimes against chastity or cruelty and treachery in crimes against persons
3. **Qualifying** – change the nature and gives the name exclusive of the crime. It must be alleged, otherwise will be treated only as generic aggravating circumstance. It cannot be offset by a mitigating circumstance.
Ex. Alevosia or evident premeditation to qualify killing of a person to murder
4. **Inherent** – those that must of necessity accompany commission of the crime.
Ex. Evident premeditation is inherent in robbery, theft, estafa, adultery, concubinage

AGGRAVATING CIRCUMSTANCES			
Circ.	Generic	Specific	Qualifying
1	X		
2	X		
3	X (DWELLING ONLY)	X (EXCEPT DWELLING)	
4	X		
5	X		
6	X		
7			X
8			X
9	X		
10	X		
11			X
12			X
13			X
14	X		
15		X	X
16		X	X
17		X	
18	X		
19	X		
20	X (EXCEPT MOTOR VEHICLES)		X (MOTOR VEHICLES ONLY)
21		X	X

Art. 14, Par. 1

Applicable only when the offender is a **public officer**.

If the accused could have perpetrated the crime without occupying his position, then there is no abuse of public position. In the case before us, no evidence was adduced to show that the killing of Zandro Vargas was in any way facilitated by the accused-appellant's public position. It was not even shown whether the accused-appellant wore his uniform or used his service firearm when he committed the crime. *People vs. Sumaoy, G.R. No. 105961, October 22, 1996*

Art. 14, Par. 2

That crime be committed in contempt of or with insult to public authorities.

Requisites:

1. That the public authority is engaged in the exercise of his functions;
2. That he who is thus engaged in the exercise of said functions is not the person against whom the crime is committed;
3. The offender knows him to be a public authority;
4. His presence has not prevented the offender from committing the criminal act.

Art. 14, Par. 3

Crime committed with insult or disregard of the respect due to the offended party on account of his rank, age or sex or committed in the dwelling

As if to add insult to Rebecca's injury, accused-appellant presented a witness, one Isabelo Goloya, who in his affidavit would have us believe that Rebecca is a woman of such loose morals that she would consent to have sex with him, a married man, in a public place. *People vs. dela Torre, 373 SCRA 1104 (1997)*

What aggravates the commission of the crime in one's dwelling?

- The abuse of confidence which the offended party reposed in the offender by opening the door to him; and
- The violation of the sanctity of the home by trespassing therein with violence or against the will of the owner.

Offended party must not give provocation.

If provocation was:

- Given by the owner of the dwelling;
- Sufficient; and,
- Immediate to the commission of the crime.

Then dwelling is NOT aggravating.



Dwelling includes:

- Dependencies
- Foot of the staircase (*dissented*)
- Enclosure under the house
- Bed spacing
- Paternal home
- House of relatives
- Guest rooms

Art. 14, Par. 4

That the crime With abuse of confidence or obvious ungratefulness

Abuse of confidence, requisites:

1. That the offender *had trusted the offender*.
2. That the offender abused such trust by committing the crime against the offended party.
3. That the abuse of confidence facilitated the commission of the crime.

Ungratefulness must be obvious, i.e. manifest and clear

Art. 14, Par. 5

Committed in the place of the Chief Executive or where public authorities are engaged in the discharge of their duties or place dedicated to religious worship

In these cases, the offender must have the intention to commit a crime when he entered the place.

Art. 14, Par. 6

Nighttime/ uninhabited place/ by a band

As to nighttime, this circumstance is considered aggravating only when (1) it was especially sought by the offender; or (2) the offender took advantage of it; or (3) it facilitated the commission of the crime by ensuring the offender's immunity from identification or capture. x x x The mere fact that the killing was committed at night would not suffice to sustain nocturnity for, by, and of itself. *People vs. Avendano, 396 SCRA 309 (2003)*

In the case at bar, the accused neither sought the nighttime nor took advantage of it to commit the crime with greater facility or to escape. If he had hidden behind the tree and attacked the deceased without warning or availed himself of the darkness to prevent his being recognized or to escape, then nocturnity would have been an aggravating circumstance. *People vs. Coderes, 130 SCRA 134 (1981)*

Nighttime – (*Viada*) that period of darkness beginning at the end of dusk and ending at dawn.

Uninhabited place – one where there are no houses at all, a place at a considerable distance from town, or where the houses are scattered at a great distance from each other.

Uninhabited place answers the issue: *Whether or not in the place of the commission of the offense there was a reasonable possibility of the victim receiving some help.*

Band – whenever more than three armed malefactors shall have acted together in the commission of an offense (***all must be principals by direct participation***).

In the information, the People erroneously charged the accused with "robbery in band with homicide." There is no such crime in the Revised Penal Code. The felony is properly called robbery with homicide. In the landmark case of *People vs. Apduhan, Jr.*, we ruled that if robbery with homicide is committed by a band, the indictable offense would still be denominated as "robbery with homicide" under Article 294(1) of the Revised Penal Code, but the circumstance that it was committed by a band would be appreciated as an ordinary aggravating circumstance. *People vs. Buayaban, 400 SCRA 48 (2003)*

Art. 14, Par. 7

Conflagration, shipwreck, earthquake, epidemic or other calamity or misfortune.

BASIS: Reference to the time of the commission of the crime.

REASON: Debased form of criminality met in one who, in the midst of a great calamity, instead of lending aid to the afflicted, adds to their suffering by taking advantage of their misfortune to despoil them.

**Art. 14, Par. 8**

In aid of armed men or persons who insure or afford impunity

Requisites:

1. That the armed men or person took part in the commission of the crime, *directly or indirectly*;
2. That the accused *availed* himself of their aid or *relied* upon them when the crime was committed.

Aid of armed men	By a band
<i>Up to 3 armed malefactors</i>	<i>Requires 4 or more armed malefactors</i>
<i>Enough that offender relied on aid</i>	<i>Actual and direct participation necessary</i>

Aid of armed men includes armed women

Art. 14, Par. 9

Recidivist (generic aggravating circumstance)

BASIS: Greater perversity of the offender, as shown by his inclination to crimes.

Requisites:

1. The offender is on trial for an offense;
2. That he was previously *convicted* by a *final judgment* of another crime;
3. That both the first and the second offenses are embraced in the *same title of Code*;
4. That the offender is convicted of the new offense.

No recidivism if the subsequent conviction is for an offense committed before the offense involved in prior conviction.

Pardon → does not obliterate the fact that the accused was a recidivist.

Amnesty → extinguishes the penalty and its effects.

Art. 14, Par. 10

Reiteracion

Requisites:

1. The accused is on trial for an offense;
2. That he previously *served sentence* for another offense which the law attaches an *equal or greater* penalty, or for *two or more* crimes to which it attaches *lighter* penalty than that for the new offense; and
3. That he is convicted of the new offense.

Forms of Habituality/repetitions:

- Recidivism (Art. 14, Par.9)
- **Reiteracion** (Art. 14, Par.10)
- Habitual Delinquency (Art. 62, Par.5)
- Quasi-Recidivism (Art. 160)

Recidivism	Reiteracion
<i>Offender previously convicted by final judgment</i>	<i>Offender previously punished</i>
<i>Offense must be embraced in the same title of the Code</i>	<i>Offenses are not embraced in the same title of the Code</i>
<i>If present, always aggravating</i>	<i>Not always aggravating; depends on discretion of the court</i>

Habitual Delinquency – if within a period of 10 years from the date of conviction or last release of a person for any crimes of:

- **Serious** physical injuries
- **Less serious** physical injuries
- **Theft**
- **Robbery**
- **Estafa**
- **Falsification**

Is found guilty of any of the said crimes a third time or offender.

Quasi-Recidivism – any person who shall commit a felony after having been:

- Convicted of a final judgment
- Before beginning to serve sentence, or
- While serving the same sentence

...shall be punished by a maximum period of the penalty prescribed by law for the new felony.



Art. 14, Par. 11

Price/Reward/Promise

BASIS: Greater perversity of the offender, as shown by motivating power itself.

If without previous promise it was given voluntarily after the crime had been committed as an expression of his appreciation for the sympathy and aid shown by other accused, it should not be taken into consideration for the purposes of increasing the penalty. *US vs. Flores, 28 Phil. 29, 34)*

Art. 14, Par. 12

Inundation, fire, explosion, stranding of a vessel or intentional damage thereto, derailment of a locomotive, or by use of any other artifice involving great waste and ruin.

When there is no actual design to kill a person in burning a house, it is plain arson even if a person is killed.

RA 8294 – Amending PD 1866 (firearms, ammunitions, and explosives) and providing aggravating circumstances therefor.

Art. 14, Par. 13

Evident Premeditation

Requisites, the prosecution must prove:

1. The time when the offender determined to commit the crime;
2. An act manifestly indicating that the culprit has clung to his determination;
3. A sufficient lapse of time between the determination and execution, to allow him to reflect upon the consequence of his act and to allow conscience to overcome the resolution of his will.

Evident premeditation cannot be appreciated. The two accused allegedly planned to kill Waje at 7:00 o'clock in the morning and the killing took place at 9:00 A.M. The two accused did not have sufficient time to reflect during the two hours that preceded the killing. *People vs. Crisostomo, G.R. No. L-38180, October 23, 1981*

Evident premeditation was not attendant because the prosecution failed to prove the elements thereof, namely: (1) the time when the offender determined to commit the crime; (b) sufficient lapse of time between the determination and execution to allow himself to reflect upon the consequence of his act. *People vs. dela Cruz, 398 SCRA 415 (February 28, 2003)*

Art. 14, Par. 14

Craft, fraud or disguise

Craft – involves the use of intellectual trickery or cunning on the part of the accused.

Fraud – insidious words or machinations use to induce the victim to act in a manner which would enable the offender carry out his design.

Disguise – resorting to any device to conceal identity.

Art. 14, Par. 15

Advantage be taken of superior strength/ means be employed to weaken defense

Applicable only for crimes against persons (e.g. homicide). Sometimes with crimes against persons and property (robbery with rape).

Abuse of superior strength cannot likewise be appreciated even if there were at least two assailants as superiority in number vis-a-vis that of the victim does not of itself warrant a finding of abuse of superior strength. There must exist proof that the attackers deliberately took advantage of their superior strength. *People vs. Cantojos, 370 SCRA 105 (2001)*

Art. 14, Par. 16

Treachery (*alevosia*)

Treachery – there is treachery when the offender commits any of the crimes against person, employing means, method or forms in the execution thereof which tend directly and specially to insure its execution, without risk to himself arising from the defense which the offended party might make.



Requisites:

1. That at the time of attack, the victim was *not in a position to defend himself*, and
2. That the offender *consciously adopted* the particular means, method or form on the attack employed by him.

The essence of treachery is the sudden and unexpected attack by an aggressor without the slightest provocation on the part of the victim, thus depriving the latter of any real chance to put up a defense, and thereby ensuring the commission of the attack without risk to the aggressor. *People vs. Escarlos, 410 SCRA 463 (2003)*

In the case at bar, it was established that appellant came from behind, went towards the right of the victim, and suddenly stabbed the victim's chest while holding the latter's left shoulder. Evidence shows that, *first*, at the time of attack, the victim was not in a position to defend himself, as he was unarmed and totally unsuspecting when appellant suddenly held and stabbed him; and *second*, appellant consciously and deliberately adopted the particular means of attack, as he was seen surreptitiously following the victim with a *balisong* tucked under his waist. Clearly therefore, treachery attended the crime. *People vs. Alfon, 399 SCRA 64 (2003)*

The presence of treachery, though, should not result in qualifying the offense to murder, for the correct rule is that when it obtains in the special complex crime of robbery with homicide, such treachery is to be regarded as a generic aggravating circumstance, robbery with homicide being a case of a composite crime with its own definition and special penalty in the Revised Penal Code. *People vs. Cando, 334 SCRA 331 (2000)*

Summary of rules:

- (1) When aggression is continuous, treachery must be present **at the beginning** of the assault;
- (2) When the assault was not continuous, in that there was interruption, it is sufficient that treachery was present **at the moment the fatal blow was given**.

In treachery, intent is immaterial, and must always be appreciated even if it was not the person the accused intended to kill.

Art. 14, Par. 17

Ignominy

Ignominy – pertains to moral order, which adds disgrace and obloquy to the material injury caused by the crime.

But it was incorrect to appreciate adding ignominy to the offense because the victim was already dead when his body was dismembered. This aggravating circumstance requires that the offense be committed in a manner that tends to make its effects more humiliating to the victim, that is, add to his moral suffering. *People vs. Carmina, G.R. No. 81404, January 28, 1991*

Art. 14, Par. 18

That crime be committed after an unlawful entry.

There is unlawful entry when an entrance is effected by a way not intended for the purpose.

To effect entrance, not for escape.

Art. 14, Par. 19

That as a means to the commission of the crime, a wall, roof, floor, door, or window be broken.

The act of entering through the window, which is not the proper place for entrance into the house, constitutes unlawful entry.

Also to effect entrance, not for escape.

Exceptions under Rules of Criminal Procedure

- Under Rule 113, Section 11, to make an arrest
- Under Rule 126, Section 7, if refused admittance to the place

Art. 14, Par. 20

Crime be committed with aid of persons under 15 years of age or by means of motor vehicles, airships, or other similar means.

NOTE: 15 years → now **18 years of age**

Motor vehicles do not include bicycle under this aggravating circumstance.



Art. 14, Par. 21

Deliberately augmented by causing other wrong (cruelty)

Cruelty – when the culprit *enjoys* and *delights* in making his victim suffer slowly and gradually, causing him unnecessary physical pain in the consummation of the criminal act. *People vs. Dayug, 49 Phil. 423, 427*

Requisites:

1. That the injury caused be *deliberately increased* by causing *other wrong*;
2. That the other wrong be *unnecessary* for the execution of the purpose of the offender.

The trial court held that the crime was committed with deliberate cruelty “considering that the victim suffered twenty-one (21) hack and stab-wounds, contusions and abrasions on the different parts of his body.” The number of wounds is not the criterion for the appreciation of cruelty as an aggravating circumstance. The mere fact that wounds in excess of what is necessary to cause death were inflicted upon the body of the victim does not necessarily imply that such wounds were inflicted with cruelty. It is necessary to show that the accused intentionally and deliberately increased the victim's suffering. In this case, there is no evidence showing appellants' intent to commit such cruelty. *People vs. Solamillo, 404 SCRA 211 (2003)*

Rapes, robbery and other forms of cruelties are aggravating circumstances of ignominy and cruelty in treason.

When committed by a Syndicate

Sec.23, RA 7659

The maximum penalty shall be imposed if the offense was committed by any group who belongs to an organized/syndicated crime group.

An organized/syndicated crime group means a group of two or more persons collaborating, confederating or mutually helping one another for purposes of gain in the commission of any crime.

When committed under the influence of drugs

Sec.25 RA 9165

Qualifying Aggravating Circumstances in the Commission of a Crime by an Offender Under the Influence of Dangerous Drugs. – Notwithstanding the provisions of any law to the contrary, a positive finding for the use of dangerous drugs shall be a qualifying aggravating circumstance in the commission of a crime by an offender, and the application of the penalty provided for in the Revised Penal Code shall be applicable. (Emphasis supplied)

Use of unlicensed firearm in homicide or murder

Thus where an accused used an unlicensed firearm in committing homicide or murder, he may no longer be charged with what used to be the two (2) separate offenses of homicide or murder under *The Revised Penal Code* and qualified illegal possession of firearms used in homicide or murder under P.D. 1866; in other words, where murder or homicide was committed, the penalty for illegal possession of firearms is no longer imposable since it becomes merely a special aggravating circumstance. *People vs. Malinao, G.R. No. 128148, February 16, 2004*

When the owner, driver, passenger of a carnapped vehicle is killed/rape

Section 14 of RA 6539

Sec. 14. Penalty for Carnapping.- Any person who is found guilty of carnapping, as this term is defined in Section Two of this Act, shall, irrespective of the value of motor vehicle taken, be punished by imprisonment for not less than fourteen years and eight months and not more than seventeen years and four months, when the carnapping is committed without violence or intimidation of persons, or force upon things; and by imprisonment for not less than seventeen years and four months and not more than thirty years, when the carnapping is committed by means of violence against or intimidation of any person, or force upon things;and the penalty of reclusion perpetua to death shall be imposed when the owner, driver or occupant of the carnapped motor vehicle is killed or raped in the course of the commission of the carnapping or on the occasion thereof.(Emphasis supplied)

People vs. Garcia and Bernabe, G.R. No. 138470, April 1, 2003



**Chapter Five
ALTERNATIVE CIRCUMSTANCES**

Art. 15. Their concept. — Alternative circumstances are those which must be taken into consideration as aggravating or mitigating according to the nature and effects of the crime and the other conditions attending its commission. They are the relationship, intoxication and the degree of instruction and education of the offender.

The alternative circumstance of relationship shall be taken into consideration when the offended party in the spouse, ascendant, descendant, legitimate, natural, or adopted brother or sister, or relative by affinity in the same degrees of the offender.

The intoxication of the offender shall be taken into consideration as a mitigating circumstances when the offender has committed a felony in a state of intoxication, if the same is not habitual or subsequent to the plan to commit said felony but when the intoxication is habitual or intentional, it shall be considered as an aggravating circumstance.

Alternative circumstances are:

- Relationship
- Intoxication
- Degree of instruction and education of the offender

RELATIONSHIP		
Crimes against	When mitigating	When aggravating
Persons	Less serious physical injuries, slight physical injuries, if the offended party is lower in degree;	Less serious physical injuries, slight physical injuries, if the offended party is higher in degree; When admitted: ascendants, descendants, legitimate, natural or adopted brothers or sisters, relatives by affinity within the same degrees;
Chastity	N/A	Always aggravating
Property	Robbery, Usurpation, Fraudulent insolvency, Arson	N/A (No criminal, only civil liability on theft, swindling and malicious mischief)

INTOXICATION	
When mitigating	When aggravating
If not habitual	When habitual
Not subsequent to the plan	Intentional

DEGREE OF INSTRUCTION	
When mitigating	When aggravating
Low degree	High degree
When schooling was confined in studying and finishing caton only	When offender took advantage of the degree

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**Title Two
PERSONS CRIMINALLY LIABLE FOR FELONIES**

Art. 16. Who are criminally liable. — The following are criminally liable for grave and less grave felonies:

1. Principals.
2. Accomplices.
3. Accessories.

The following are criminally liable for light felonies:

1. Principals
2. Accomplices.

Three Types of Principals:

1. Principals by *direct participation*
2. Principals by *inducement*
3. Principals by *indispensable cooperation*

Accessories are not liable for light felonies

Rules relative to light felonies:

- Punishable only when consummated (Art.7, RPC)
- Punishable if committed against persons or property, even if attempted or frustrated (Art.7, RPC)
- Only principals and accomplices are liable for light felonies (Art. 16, RPC)
- Accessories are not liable for light felonies, even if committed against persons or property (Art.16, RPC)

Only natural persons can be active subject of crime.

Reasons:



- The RPC requires that the culprit should have acted with *personal malice* or *negligence*.
- A juridical person cannot commit a crime where willful purpose or malicious intent is required.
- There is substitution of *deprivation of liberty* (subsidiary imprisonment) for pecuniary penalties in case of insolvency.
- Other penalties consisting in imprisonment and other deprivation of liberty, like *destierro*, can be executed only against individuals.

Juridical persons are criminally liable under certain special laws

Examples:

- B.P. Blg. 68 – Corporation Code
- Com. Act No. 146 – Public Service Law
- B.P. Blg. 178 – Revised Securities Act
- B.P. 881 – Omnibus Election Code

In such cases, only the following are liable:

- Principals
 - By direct participation
 - By induction
 - By indispensable cooperation
- Accomplices

Manager of a (juridical entity) is liable even when there is no evidence of his participation in the commission of the offense

- Internal Revenue Code
- Motor Vehicle Law

Passive subject of crime - holder of the injured right. (man, juristic person, group, the State)

Corpse or animal cannot be passive subject

Exception: Art.353 of RPC, defamation against memory of the dead.

Art. 17. Principals.— The following are considered principals:

1. Those who take a direct part in the execution of the act;
2. Those who directly force or induce others to commit it;

3. Those who cooperate in the commission of the offense by another act without which it would not have been accomplished.

In conspiracy (committing felony), act of one is act of all. It may exist even without *evident premeditation*.

In abduction, all are liable even if only one acted with lewd design. (lewd = obscene)

In multiple rape, each rapist is equally liable for the other rapes.

Requisites of Par.1:

1. Participation in the criminal resolution (conspiracy);
2. Culprits carried out their plan and personally took part in its execution, by acts which directly tended to the same end.

Conditions:

1. Directly *forcing* or *inducing* the other to commit a crime;
2. Principal by direct participation committed the act induced.

Forcing to commit crime:

- By *irresistible force*
- By *uncontrollable fear*

Inducing to commit a crime:

- Giving price, *reward* or *promise*
- Using *words of command*

Requisite of Par.2:

1. That the inducement be made directly with the intention of producing the commission of the crime, and
2. That such inducement be the *determining cause* of the commission of the crime by material executor.

<i>Principal by inducement</i>	<i>Offender who made proposal to commit</i>
<ul style="list-style-type: none"> • Inducement to commit crime • Liable only when crime is committed by principal by direct participation • Inducement 	<ul style="list-style-type: none"> • inducement to commit crime • mere proposal punishable in treason or rebellion • must involve only



involves any crime	treason and rebellion
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Possessor of recently stolen property is a principal.

Requisites of Par.3

1. Participation in the criminal resolution, i.e. there is either anterior conspiracy or unity of criminal purpose, and with intention immediately before the commission of crime;
2. Cooperation in the commission of the offense by performing another act, without which would not have been accomplished.

Art. 18. Accomplices. — Accomplices are those persons who, not being included in Art. 17, cooperate in the execution of the offense by previous or simultaneous acts.

Quasi collective criminal responsibility – between collective criminal responsibility and individual criminal responsibility, where some of the offenders in the crime are criminal and the others are accomplices.

In case of doubt, the participation of the offender will be considered *that of an accomplice* rather than of a principal.

<i>Accomplices</i>	<i>Conspirators</i>
<ul style="list-style-type: none"> • Know and agree with criminal design • Came to know after principals decided • Concur only • Merely instruments whose acts not essential 	<ul style="list-style-type: none"> • Know and agree with criminal design • Decided upon such course of action • Decided that crime be committed • <i>The authors of the crime</i>

To be considered as accomplice, the following must concur:

1. That there be community of design, i.e. *knowing the criminal design*;

2. That he operates in execution of the offense by *previous* or *simultaneous acts*;
3. That there be a relation between the acts done by the principal and those attributed to the person charged as accomplice.

Art. 19. Accessories. — Accessories are those who, having knowledge of the commission of the crime, and without having participated therein, either as principals or accomplices, take part subsequent to its commission in any of the following manners:

1. By profiting themselves or assisting the offender to profit by the effects of the crime.
2. By concealing or destroying the body of the crime, or the effects or instruments thereof, in order to prevent its discovery.
3. By harboring, concealing, or assisting in the escape of the principals of the crime, provided the accessory acts with abuse of his public functions or whenever the author of the crime is guilty of treason, parricide, murder, or an attempt to take the life of the Chief Executive, or is known to be habitually guilty of some other crime.

Accessory distinguished from principal and accomplice

- *The accessory does not take direct part or cooperate in, or induce, the commission of crime.*
- *The accessory does not cooperate in the commission of the offense by acts either prior thereto or simultaneous therewith.*
- *The participation of the accessory in all cases always takes place after the commission of the crime.*

P.D. No. 1612 (Anti-Fencing Law of 1979)

Fencing – the act of any person who, with intent to gain for himself or for another, shall buy, receive, possess, keep, acquire, conceal, sell or dispose of, or shall buy and sell, or in any other manner deal in any article, item, object, or anything, of value which he knows, or should be known to him, to have been derived from the proceeds of the crime of robbery and theft.



Fence – includes any person, firm, association, corporation or partnership or organization who/which commits the act of fencing.

Value of Property	Penalty
Above P22,000.00	Reclusion Temporal + accessory penalty under RPC; Max. 20 years Prision Mayor to its maximum periods: +1 year every P10,000.00 value exceeding P22,000.00
$P12,000.00 < x \leq P22,000.00$	Prision Mayor
$P6,000.00 < x \leq P12,000.00$	Prision Correccional in its medium and maximum periods
$200.00 < x \leq P6,000.00$	Prision Correccional in its minimum and medium periods
$P50.00 < x \leq P200.00$	Arresto Mayor in its medium period to Prision Correccional
$P5.00 < x \leq P50.00$	Arresto Mayor in its medium period
P5.00 and below	Arresto Mayor in its minimum period

Liability of Officials of Juridical Persons – the president or manager or any officer thereof who knows or should have known the commission of the offense. (Art.4)

Presumption of Fencing – mere possession of any goods, article, item, object or anything of value which has been the subject of robbery or thievery shall be *prima facie* evidence of fencing

P.D. No. 1829 (Obstruction of Justice)

Penalty of prision correccional in its maximum period OR a fine of P1,000.00-P6,000.00 OR both.

Prohibited acts:

- (a) preventing witnesses from testifying in any criminal proceeding or from reporting the commission of any offense or the identity of any offender/s by means of bribery, misrepresentation, deceit, intimidation, force or threats;
- (b) altering, destroying, suppressing or concealing any paper, record, document, or object, with intent to impair its verity, authenticity, legibility, availability, or admissibility as evidence in any investigation of or official proceedings in, criminal cases,

- or to be used in the investigation of, or official proceedings in, criminal cases;
- (c) harboring or concealing, or facilitating the escape of, any person he knows, or has reasonable ground to believe or suspect, has committed any offense under existing penal laws in order to prevent his arrest, prosecution and conviction;
- (d) publicly using a fictitious name for the purpose of concealing a crime, evading prosecution or the execution of a judgment, or concealing his true name and other personal circumstances for the same purpose or purposes;
- (e) delaying the prosecution of criminal cases by obstructing the service of process or court orders or disturbing proceedings in the fiscal's offices, in Tanodbayan, or in the courts;
- (f) making, presenting or using any record, document, paper or object with knowledge of its falsity and with intent to affect the course or outcome of the investigation of, or official proceedings in, criminal cases;
- (g) soliciting, accepting, or agreeing to accept any benefit in consideration of abstaining from, discounting, or impeding the prosecution of a criminal offender;
- (h) threatening directly or indirectly another with the infliction of any wrong upon his person, honor or property or that of any immediate member or members of his family in order to prevent such person from appearing in the investigation of, or official proceedings in, criminal cases, or imposing a condition, whether lawful or unlawful, in order to prevent a person from appearing in the investigation of or in official proceedings in, criminal cases;
- (i) giving of false or fabricated information to mislead or prevent the law enforcement agencies from apprehending the offender or from protecting the life or property of the victim; or fabricating information from the data gathered in confidence by investigating authorities for purposes of background information and not for publication and publishing or disseminating the same to mislead the investigator or to the court.

Art. 20. Accessories who are exempt from criminal liability. — The penalties prescribed for accessories shall not be imposed upon those who are such with respect to their spouses, ascendants, descendants, legitimate, natural, and adopted brothers and sisters, or relatives by affinity within the same degrees, with the single exception of



accessories falling within the provisions of paragraph 1 of the next preceding article.

Grounds for Exemption:

- based on *ties of blood*
- *preservation of cleanliness* of one's name

which compels one to conceal crimes committed by relatives so near as those mentioned above.

Exempted, is principal is a:

- spouse, or
- ascendant, or
- descendant, or
- legitimate, natural or adopted brother or sister, or
- relative by affinity within the same degree

EXCEPTIONS to exemptions:

1. By profiting by the effects of the crime;
2. By assisting the offender to profit by the effects of the crime.

**Title Three
PENALTIES
Chapter One
PENALTIES IN GENERAL**

Art. 21. Penalties that may be imposed. — No felony shall be punishable by any penalty not prescribed by law prior to its commission.

Penalty – is that suffering that is inflicted by the State for the transgression of the law.

Penalty in its general sense signifies *pain*; especially considered in the judicial sphere, it means suffering undergone, because of the action of human society, by one who commits crime.

Judicial conditions of penalty:

1. Must be *productive of suffering*, without however affecting the integrity of the human personality;
2. Must be *commensurate* with the offense – different crimes must be punished with different penalties;

3. Must be *personal* – no one should be punished for the crime of another;
4. Must be *legal* – it is the consequence of a judgment according to law;
5. Must be *certain* – no one may escape its effects;
6. Must be *equal* for all;
7. Must be *correctional*.

Theories of penalty:

- a) Prevention – the State must punish the criminal to prevent or suppress the danger to the State arising from the criminal acts of the offender.
- b) Self-defense – the State has the right to punish as a measure of self-defense so as to protect society from the threat and wrong inflicted by the criminal.
- c) Reformation – the object of punishment in criminal cases is to correct and reform the offender.
- d) Exemplarity – the criminal is punished to serve as an example to deter others from committing crimes.
- e) Justice – that crime must be punished by the State as an act of retributive justice, a vindication of absolute right and moral law violated by the criminal.

Subsidiary penalty for a crime cannot be imposed, if it was “not prescribed by law prior to its commission”

Art. 22. Retroactive effect of penal laws. — Penal Laws shall have a retroactive effect insofar as they favor the persons guilty of a felony, who is not a habitual criminal, as this term is defined in Rule 5 of Article 62 of this Code, although at the time of the publication of such laws a final sentence has been pronounced and the convict is serving the same.

General rule is to give criminal laws prospective effect.



Be it procedural, substantive or remedial for as long as the law is favorable to the accused who is not a habitual delinquent, the law must be given a retroactive application.
People vs. Ramirez, G.R. No. 135094, February 28, 2001.

Exceptions to the exceptions:

1. Where the new law is expressly made inapplicable to pending actions or existing causes of actions.
2. Where the offender is a *Habitual Delinquent* under Article 62 of RPC.

Habitual delinquent – within 10 years, from date of release or last conviction of the following crimes (see p.41):

- Serious physical injuries
- Less serious physical injuries
- Falsification
- Robbery
- Estafa
- Theft

Is found guilty of any said crimes for third time or oftener.

Criminal liability under the repealed law subsists, when:

1. The provisions of the former law is *reenacted*;
2. The repeal is by *implication*; or,
3. When there is a saving clause;

No retroactive effect of penal laws as regards to jurisdiction.

Art. 23. Effect of pardon by the offended party. — A pardon of the offended party does not extinguish criminal action except as provided in Article 344 of this Code; but civil liability with regard to the interest of the injured party is extinguished by his express waiver.

Pardon by under Article 344 is only a bar to criminal prosecution.

In the crimes of **Adultery, Concubinage, Seduction, Abduction, Rape and Acts of Lasciviousness (ACSARAL)**, “express” pardon by the offended party relieves criminal liability.

Pardon, as well as compromise, afforded by the offenders must come *before* the institution of criminal proceedings.

Art. 24. Measures of prevention or safety which are not considered penalties. — The following shall not be considered as penalties:

1. The arrest and temporary detention of accused persons, as well as their detention by reason of insanity or imbecility, or illness requiring their confinement in a hospital.

2. The commitment of a minor to any of the institutions mentioned in Article 80 and for the purposes specified therein.

3. Suspension from the employment of public office during the trial or in order to institute proceedings.

4. Fines and other corrective measures which, in the exercise of their administrative disciplinary powers, superior officials may impose upon their subordinates.

5. Deprivation of rights and the reparations which the civil laws may establish in penal form.

Art.24(1) refers to confinement by “accused persons” only and not those already convicted.

They are not penalties, because they are not imposed as a result of judicial proceedings but merely preventive measures before conviction of the offenders.

Fines under Art.24(4) should not be imposed by Courts, otherwise it will appear that such constitute a penalty.

Example of Art.24(5) is when parents are deprived of their parental authority if found guilty of the crime of corruption of their minor children, in accordance with Art.332 of the New Civil Code.

Chapter Two CLASSIFICATION OF PENALTIES

Art. 25. Penalties which may be imposed. — The penalties which may be imposed according to this Code, and their different classes, are those included in the following:



Scale
Principal Penalties

Capital punishment:
Death.

Afflictive penalties:
Reclusion perpetua,
Reclusion temporal,
Perpetual or temporary absolute disqualification,
Perpetual or temporary special disqualification,
Prision mayor.

Correctional penalties:
Prision correccional,
Arresto mayor,
Suspension,
Destierro.

Light penalties:
Arresto menor,
Public censure.

Penalties common to the three preceding classes:
Fine, and
Bond to keep the peace.

Accessory Penalties
Perpetual or temporary absolute disqualification,
Perpetual or temporary special disqualification,
Suspension from public office, the right to vote and be voted for, the profession or calling.
Civil interdiction,
Indemnification,
Forfeiture or confiscation of instruments and proceeds of the offense,
Payment of costs.

Simply said, no penalty shall be imposed not bearing the nomenclature of under Art.25 above.

R.A. 9346 prohibited the imposition of death penalty.

Signed into law June 24, 2006 and provided for the imposition of *reclusion perpetua* in lieu of death penalty when the law violated makes use of the nomenclature of the penalties of the RPC.

Principal Penalties – those expressly imposed by the court in the judgment of conviction.

Accessory Penalties – those that are deemed included in the imposition of the principal penalties.

Principal Penalties, Classification:

1. Divisible (fixed periods)
 - a. Maximum
 - b. Medium
 - c. Minimum
2. Indivisible
 - a. Death
 - b. Reclusion perpetua
 - c. Perpetual absolute or special disqualification
 - d. Public censure

CLASSIFICATION according to:	
Subject Matter	Gravity
<ul style="list-style-type: none"> • Corporal (death) • Deprivation of freedom (reclusion, prision, arresto) • Restriction of freedom (destierro) • Deprivation of rights (disqualification and suspension) • Pecuniary (fine) 	<ul style="list-style-type: none"> • Capital • Afflictive • Correctional • Light <p><i>These corresponds to classification of felonies in Art.9 of RPC (grave, less grave and light)</i></p>

Art. 26. When afflictive, correctional, or light penalty. — A fine, whether imposed as a single of as an alternative penalty, shall be considered an afflictive penalty, if it exceeds 6,000 pesos; a correctional penalty, if it does not exceed 6,000 pesos but is not less than 200 pesos; and a light penalty if it less than 200 pesos.

Penalties cannot be imposed in the alternative.

The law does not permit any court to impose a sentence in the alternative, its duty being to indicate the penalty imposed definitively and positively.

Fine/ Bond to keep the peace	PhP
<i>Afflictive</i>	<i>Over P6,000.00</i>
<i>Correctional</i>	<i>P200.00 to P6,000.00</i>
<i>Light Penalty</i>	<i>Less than P200.00</i>



If the FINE imposed is exactly P200.00:

→ What kind of PENALTY is it?

Ans. CORRECCIONAL penalty (Art.26, RPC)

→ What kind of FELONY is it?

Ans. LIGHT FELONY (Art.9, RPC)

Chapter Three

DURATION AND EFFECTS OF PENALTIES Section One. — Duration of Penalties

Art. 27. Reclusion perpetua. — Any person sentenced to any of the perpetual penalties shall be pardoned after undergoing the penalty for thirty years, unless such person by reason of his conduct or some other serious cause shall be considered by the Chief Executive as unworthy of pardon.

Reclusion temporal. — The penalty of reclusion temporal shall be from twelve years and one day to twenty years.

Prision mayor and temporary disqualification. — The duration of the penalties of prision mayor and temporary disqualification shall be from six years and one day to twelve years, except when the penalty of disqualification is imposed as an accessory penalty, in which case its duration shall be that of the principal penalty.

Prision correccional, suspension, and destierro. — The duration of the penalties of prision correccional, suspension and destierro shall be from six months and one day to six years, except when suspension is imposed as an accessory penalty, in which case, its duration shall be that of the principal penalty.

Arresto mayor. — The duration of the penalty of arresto mayor shall be from one month and one day to six months.

Arresto menor. — The duration of the penalty of arresto menor shall be from one day to thirty days.

Bond to keep the peace. — The bond to keep the peace shall be required to cover such period of time as the court may determine.

Penalty	Duration
<i>Reclusion perpetua</i>	20years + 1day up to 40years
<i>Reclusion temporal</i>	12years + 1day up to 20years
<i>Prision mayor; Temporary disqualification</i>	6years + 1day up to 12years; except when disqualification is an accessory penalty, in which case its duration is that of the principal penalty
<i>Prision correccional, suspension and destierro</i>	6months + 1day up to 6years; except when suspension is an accessory penalty, in which case its duration is that of the principal penalty
<i>Arresto mayor</i>	1month + 1day up to 6months
<i>Arresto menor</i>	1day to 30 days
<i>Bond to keep the peace</i>	Effective period discretionary on the court

When Destierro is imposed?

- Serious physical injuries or death under exceptional circumstances (Art.247)
- Failure to give bond for good behavior (Art.284)
- Penalty for concubine in concubinage (Art.334)
- In case where after reducing penalty by one or more degrees, *destierro* is the proper penalty.

Bond for good behavior (Art.284) is required of a person making grave or light threat, is not required to be given in cases involving other crimes.

Life imprisonment	Reclusion perpetua
Imposable for violation of special law	Imposable for violation of the Revised Penal Code
Has no fixed duration	Has fixed duration (up to 30 years)
Has no accessory penalties	Has accessory penalties

x x x

Preventive imprisonment – when the offense charged is non-bailable, or even if bailable, he cannot furnish the required bail. [Full or 4/5th]



Art. 34. Civil interdiction. — Civil interdiction shall deprive the offender during the time of his sentence of the rights of parental authority, or guardianship, either as to the person or property of any ward, of marital authority, of the right to manage his property and of the right to dispose of such property by any act or any conveyance *inter vivos*.

Disqualification is withholding a privilege, not a denial of a right.

Civil interdiction shall cause the following effects:

- Deprivation of the rights of parental authority or guardianship of any ward;
- Deprivation of marital authority;
- Deprivation of right to manage his property and the right to dispose such property by any act or any conveyance *inter vivos* (or donation made during lifetime).

Art. 36. Pardon; its effect. — A pardon shall not work the restoration of the right to hold public office, or the right of suffrage, unless such rights be expressly restored by the terms of the pardon.

A pardon shall in no case exempt the culprit from the payment of the civil indemnity imposed upon him by the sentence.

Pardon may be granted only after conviction by final judgment. If it is granted in general terms, it does not include accessory penalty.

Exception: Absolute pardon.

Pardon after 30 years does not remove Perpetual Absolute Disqualification.

Exception: Such right be expressly restored by the terms of the pardon.

<i>Pardon by Chief Executive (President)</i>	<i>Pardon by Offended Party</i>
Extinguishes criminal liability of offender	Criminal liability is not extinguished
Cannot include civil liability	Can waive civil liability the offender must pay
Can only be granted after conviction by final judgment	In cases provided (Art.344), it must be given prior to criminal institution

Art. 37. Cost; What are included. — Costs shall include fees and indemnities in the course of the judicial proceedings, whether they be fixed or unalterable amounts previously determined by law or regulations in force, or amounts not subject to schedule.

Costs includes:

1. Fees, and
2. Indemnities, in the course of judicial proceedings.

Cost de officio = no costs

Art. 38. Pecuniary liabilities; Order of payment. — In case the property of the offender should not be sufficient for the payment of all his pecuniary liabilities, the same shall be met in the following order:

1. The reparation of the damage caused.
2. Indemnification of consequential damages.
3. The fine.
4. The cost of the proceedings.

Article 38 is applicable in case the property of the offender should *not* be *sufficient* for the payment of *all* his *pecuniary* liabilities. The order of payment is provided above.

- If the offender has sufficient or no property, then Article 38 has no use.
- Courts cannot disregard the order of payment.
- There is reparation in the crime of rape when the dress of the woman was torn.

Art. 39. Subsidiary penalty. — If the convict has no property with which to meet the fine mentioned in the paragraph 3 of the next preceding article, he shall be subject to a subsidiary personal liability at the rate of one day for each eight pesos, subject to the following rules:

1. If the principal penalty imposed be prison correccional or arresto and fine, he shall remain under confinement until his fine referred to in the preceding paragraph is satisfied, but his subsidiary imprisonment shall not exceed one-third of the term of the sentence, and in no case shall it continue for more than one year, and no fraction or part



of a day shall be counted against the prisoner.

2. When the principal penalty imposed be only a fine, the subsidiary imprisonment shall not exceed six months, if the culprit shall have been prosecuted for a grave or less grave felony, and shall not exceed fifteen days, if for a light felony.
3. When the principal imposed is higher than prison correccional, no subsidiary imprisonment shall be imposed upon the culprit.
4. If the principal penalty imposed is not to be executed by confinement in a penal institution, but such penalty is of fixed duration, the convict, during the period of time established in the preceding rules, shall continue to suffer the same deprivations as those of which the principal penalty consists.
5. The subsidiary personal liability which the convict may have suffered by reason of his insolvency shall not relieve him, from the fine in case his financial circumstances should improve. (As amended by RA 5465, April 21, 1969).

Subsidiary penalty – is a *subsidiary personal liability* to be suffered by the convict who has no property to meet the fine, at the rate of one day for each eight pesos*.

*Amended by R.A. No. 10159

...If the convict has no property with which to meet the fine mentioned in paragraph 3 of the next preceding article, he shall be subject to a subsidiary personal liability **at the rate of one day for each amount equivalent to the highest minimum wage prevailing in the Philippines at the time of rendition of judgment of conviction by the trial court...**

→Prevailing minimum daily wage now (2012) is:
P426.00 (basic) + P20.00 (eCOLA) = **P446.00**

No subsidiary liability for nonpayment of of other pecuniary liability.

R.A. No. 5465 has retroactive application since it is favorable to the accused. Only fines are subject to subsidiary penalty. It applies only if the convict has no property to meet the fine. But

if convict has enough property to meet the fine and not exempt from execution, convict cannot choose to serve subsidiary penalty instead of paying the fine.

The word “principal” should be omitted.

The word “principal” referring to the penalty imposed is not the correct translation. As in “...when the penalty imposed...”.

Subsidiary imprisonment is not an accessory penalty.

The culprit cannot be made to undergo subsidiary imprisonment unless the judgment expressly so provides. (*People vs. Fajardo*, 65 Phil. 539, 542)

RULES AS TO SUBSIDIARY PENALTY

1. If the penalty is **Prision Correccional** or **Arresto** with **Fine**:
2. If penalty imposed is **Fine** only:
3. If penalty is higher than **Prision Correccional** – no subsidiary imprisonment.
4. If penalty imposed is *not* to be executed by *confinement* but *fixed* duration – same deprivations as 1, 2 and 3.
5. If financial circumstances of the convict *should improve*, he should still pay the fine, notwithstanding the fact that the convict suffered subsidiary personal liability therefor.

RULE 1 Example:

X is convicted of falsification by private individual (Art.172) and sentenced to 4 years 9 months and 10 days of *prision correccional* as maximum term of indeterminate penalty and pay a fine of P223,000.00.

Answer. If X has no property to meet the fine, he will have to suffer a subsidiary imprisonment at the rate of one day for every P446.00 but not to exceed 365 days:

365	days in one year
<u> x 4</u>	years
1,460	days in 4 years
270	days in 9 months
10	days

1,740	days in 4 yrs + 9 mos + 10 days



580 days which represent 1/3 of penalty imposed

P446.00/P223,000.00 → 500 days
Which is less than 1/3 of penalty imposed (580 days).

Although 500 days does not exceed 580 days (1/3 of penalty imposed), X can only be made to suffer subsidiary imprisonment of **365 days** because "*in no case shall it continue for more than one year*".

RULE 2 Example:

X is sentenced to pay a fine of P44,600.00 for a **less grave felony**. What is the subsidiary penalty?

$$P44,600/(P446.00/\text{day}) = 100 \text{ days}$$

Answer. Since this does not exceed **6 months**, the subsidiary imprisonment shall be all 100 days.

But suppose X is sentenced to pay a fine of P8,920.00 (equivalent to 20 days) for a **light felony**, he cannot be made to suffer a subsidiary penalty more than **15 days**.

RULE 4 Example:

X is sentenced to 4 years 9 months and 10 days of *destierro* and pay a fine of P223,000.00. X has no money to pay the fine. What would be the subsidiary imprisonment?

Answer. X shall suffer an additional period of *destierro* at the same rate of one day for every P446.00.

$$P223,000.00/(P446.00/\text{day}) = 500 \text{ days}$$

Same rule applies for principal penalty of suspension and fine.

But for example, the principal penalty is not to exceed P11,150.00 and censure. If the accused cannot pay the fine, there can be no subsidiary liability because the penalty of censure has no fixed duration and is not to be executed by confinement.

No subsidiary penalty for violating Tax Code.

Chapter Four

APPLICATION OF PENALTIES

Section One. — Rules for the application of penalties to the persons criminally liable and for the graduation of the same.

Art. 46. Penalty to be imposed upon principals in general. — The penalty prescribed by law for the commission of a felony shall be imposed upon the principals in the commission of such felony.

Whenever the law prescribes a penalty for a felony in general terms, it shall be understood as applicable to the consummated felony.

The penalty prescribed in *general terms* shall be imposed:

1. Upon the principals.
2. For consummated felony.

Exception: When the law fixes a penalty for a frustrated or attempted felony.

Art. 47. In what cases the death penalty shall not be imposed. — The death penalty shall be imposed in all cases in which it must be imposed under existing laws, except in the following cases:

1. When the guilty person be more than seventy years of age.
2. When upon appeal or revision of the case by the Supreme court, all the members thereof are not unanimous in their voting as to the propriety of the imposition of the death penalty. For the imposition of said penalty or for the confirmation of a judgment of the inferior court imposing the death sentence, the Supreme Court shall render its decision *per curiam*, which shall be signed by all justices of said court, unless some member or members thereof shall have been disqualified from taking part in the consideration of the case, in which even the unanimous vote and signature of only the remaining justices shall be required.

Cases where Death Penalty is not imposed:



1. When the guilty person is below 18 yrs of age at the time of commission of the crime.
2. When the guilty person is more than 70 years of age.
3. When upon appeal or automatic review of the case by the Supreme Court, the vote of eight members is not obtained for imposition of death penalty.

The 1987 Constitution merely suspended the imposition of death penalty. R.A. No. 7659 restored the death penalty while R.A. No. 9346 prohibited the imposition of the death penalty.

Art. 48. Penalty for complex crimes. — When a single act constitutes two or more grave or less grave felonies, or when an offense is a necessary means for committing the other, the penalty for the most serious crime shall be imposed, the same to be applied in its maximum period.

A complex crime is only one crime.

Kinds of complex crimes:

1. When a single act constitutes two or more grave or less grave felonies. (*compound crime or delito compuesto*)
2. When an offense is a necessary means for committing the other. (*complex crime proper or delito complejo*)

Applying article 48, it follows that if one offense is light, there is no complex crime. The resulting offenses may be treated as separate or the light felony may be absorbed by the grave felony. Thus, the light felonies of damage to property and slight physical injuries, both resulting from a single act of imprudence, do not constitute a complex crime. They cannot be charged in one information. They are separate offenses subject to distinct penalties. (*Reodica vs. CA, 292 SCRA 87*)

The plaintiff of petitioner's counsel that he is charged with a crime that does not exist in the statute books, while technically correct so far as the Court has ruled that rebellion may not be complexed with other offenses committed on the occasion thereof, must therefore be dismissed as a mere flight of rhetoric. Read in the context of *Hernandez*, the information does indeed charge the petitioner with a crime defined and punished by the Revised Penal Code: simple rebellion. (*Enrile vs. Salazar, 186 SCRA 217*)

Murder, arson and robbery are mere ingredients of the crime of rebellion, as a means 'necessary' for the perpetration of the offense. Such common offenses are absorbed or inherent in the crime of rebellion. In as much as the acts specified in Article 135 constitute one single crime, it follows that said acts offers no occasion for the application Article 48, which requires therefore the commission of at least two crimes. (*People vs. Hernandez, 99 Phil. 515*)

Under R.A. No. 6968 Anti-Coup d'ETAT Law, Rebellion may be complexed with common crimes.

Single Larceny Doctrine – from the doctrine that taking of property or properties belonging to the same or different persons by a series of act or acts arising from **single criminal intent** or resolution constitutes only **one crime**. The courts have abandoned separate "larceny doctrine" which is the opposite.

- Same place
- Same time
- Single criminal impulse

Exception: use of (sub)machine gun, grenade

The trend in theft cases is to follow the so-called "single larceny" doctrine, that is, the taking of several things, whether belonging to the same or different owners, at the same time and place constitutes but one larceny. Many courts have abandoned the "separate larceny doctrine," under which there is a distinct larceny as to the property of each victim. Also abandoned was the doctrine that the government has the discretion to prosecute the accused or one offense or for as many distinct offenses as there are victims. (*Santiago vs. Garchitorea, 228 SCRA 214*)

Other kinds of Plurality with single penalty:

- Composite or Special Complex crimes
- Continued crimes (*delicto continuado*)
- Continuing crimes (transitory crimes)

Ordinary Complex Crime	Special Complex Crime
Composed of 2 or more crimes punished in different provisions of the Revised Penal Code	Made up of 2 or more crimes which are considered as components of a single indivisible offense
Penalty imposable is the most serious crime in its maximum period	Penalty imposable is specifically provided by law



Examples of Special Complex Crime

- Robbery with homicide, Art.294 par.1
- Rape with homicide, Art.335
- Kidnapping with homicide, Art.267 (as amended by R.A. No. 7659)

Cases where there are no complex crimes

- Offense committed to conceal crime
- Offense inherent, absorbed or an element of a crime
- Offense punishable by special law

Art. 49. Penalty to be imposed upon the principals when the crime committed is different from that intended. — In cases in which the felony committed is different from that which the offender intended to commit, the following rules shall be observed:

1. If the penalty prescribed for the felony committed be higher than that corresponding to the offense which the accused intended to commit, the penalty corresponding to the latter shall be imposed in its maximum period.
2. If the penalty prescribed for the felony committed be lower than that corresponding to the one which the accused intended to commit, the penalty for the former shall be imposed in its maximum period.
3. The rule established by the next preceding paragraph shall not be applicable if the acts committed by the guilty person shall also constitute an attempt or frustration of another crime, if the law prescribes a higher penalty for either of the latter offenses, in which case the penalty provided for the attempted or the frustrated crime shall be imposed in its maximum period.

Article 49 applies only to error in personae. It does not apply to aberratio ictus and praeter intentionem.

General Rule:

- Article 50 – 1 degree lower
- Article 51 – 2 degrees lower

Exceptions:

- Article 142 (*accessory punished as principal*)
- Article 250 (*penalty for frustrated parricide, murder and homicide*)
- Article 346 (*liability of ascendants, guardians, teachers, or other persons entrusted with custody of the offended party – as principals*)

Diminution of Degrees of Penalty (Art.50-57)

	Participation	Stage of Execution	Article
Degrees lower from Principal	Principal	Consummated	46
		Frustrated	50
		Attempted	51
1	Accomplice	Consummated	52
2	Accessory		53
2	Accomplice	Frustrated	54
3	Accessory		55
3	Accomplice	Attempted	56
4	Accessory		57

Art. 58. Additional penalty to be imposed upon certain accessories. — Those accessories falling within the terms of paragraphs 3 of Article 19 of this Code who should act with abuse of their public functions, shall suffer the additional penalty of absolute perpetual disqualification if the principal offender shall be guilty of a grave felony, and that of absolute temporary disqualification if he shall be guilty of a less grave felony.

Article 58 applies only to public officers who abused their public functions.

Art. 59. Penalty to be imposed in case of failure to commit the crime because the means employed or the aims sought are impossible. — When the person intending to commit an offense has already performed the acts for the execution of the same but nevertheless the crime was not produced by reason of the fact that the act intended was by its nature one of impossible accomplishment or because the means employed by such person are essentially inadequate to produce the result desired by him, the court, having in mind the social



danger and the degree of criminality shown by the offender, shall impose upon him the penalty of *arresto mayor* or a fine from 200 to 500 pesos.

Penalty for impossible crime is *arresto mayor* or a fine ranging from 200 to 500 pesos.

Art. 60. Exception to the rules established in Articles 50 to 57. — The provisions contained in Articles 50 to 57, inclusive, of this Code shall not be applicable to cases in which the law expressly prescribes the penalty provided for a frustrated or attempted felony, or to be imposed upon accomplices or accessories.

Accessories punished 1-degree lower (instead of 2-degrees)

- Knowingly using counterfeited seal or forged signature of the President (Art.162)
- Illegal possession and use of false treasury or bank note (Art. 168)
- Using falsified dispatch (Art.173 par.2)
- Using falsified document (Art.173 par.3)

Art. 61. Rules for graduating penalties. — For the purpose of graduating the penalties which, according to the provisions of Articles 50 to 57, inclusive, of this Code, are to be imposed upon persons guilty as principals of any frustrated or attempted felony, or as accomplices or accessories, the following rules shall be observed:

1. When the penalty prescribed for the felony is single and indivisible, the penalty next lower in degrees shall be that immediately following that indivisible penalty in the respective graduated scale prescribed in Article 71 of this Code.
2. When the penalty prescribed for the crime is composed of two indivisible penalties, or of one or more divisible penalties to be impose to their full extent, the penalty next lower in degree shall be that immediately following the lesser of the penalties prescribed in the respective graduated scale.

3. When the penalty prescribed for the crime is composed of one or two indivisible penalties and the maximum period of another divisible penalty, the penalty next lower in degree shall be composed of the medium and minimum periods of the proper divisible penalty and the maximum periods of the proper divisible penalty and the maximum period of that immediately following in said respective graduated scale.
4. When the penalty prescribed for the crime is composed of several periods, corresponding to different divisible penalties, the penalty next lower in degree shall be composed of the period immediately following the minimum prescribed and of the two next following, which shall be taken from the penalty prescribed, if possible; otherwise from the penalty immediately following in the above mentioned respective graduated scale.
5. When the law prescribes a penalty for a crime in some manner not especially provided for in the four preceding rules, the courts, proceeding by analogy, shall impose corresponding penalties upon those guilty as principals of the frustrated felony, or of attempt to commit the same, and upon accomplices and accessories.

The lower penalty shall be taken from the graduated scale (no. 1) in Article 71:

- | | |
|--------------------------------|-----|
| 1. Death | |
| 2. <i>Reclusion Perpetua</i> | RP |
| 3. <i>Reclusion Temporal</i> | RT |
| 4. <i>Prision Mayor</i> | PM |
| 5. <i>Prision Correccional</i> | PC |
| 6. <i>Arresto Mayor</i> | AMa |
| 7. <i>Destierro</i> | D |
| 8. <i>Arresto Menor</i> | AMe |
| 9. <i>Public Censure</i> | C |
| 10. <i>Fine</i> | F |

The indivisible penalties are (1) death, (2) reclusion perpetua and (3) public censure.



Illustration of rules:

First Rule: when the penalty is single indivisible.

Reclusion perpetua (ex. Kidnapping and failure to return a minor, Art.270). The penalty immediately following the lesser of penalties is *reclusion temporal*.

Second Rule: when penalty is composed of two indivisible penalties.

Reclusion perpetua to death (ex. Parricide, Art.246). The penalty immediately following the lesser of the penalties is *reclusion temporal*.

Third Rule: when the penalty is composed of two indivisible penalties and the maximum period of a divisible penalty.

The penalty for murder (Art.248) is *reclusion temporal* in its maximum period to death. *Reclusion perpetua*, being between *reclusion temporal* and death, is included in the penalty. The proper divisible penalty is *reclusion temporal*. The penalty immediately following *reclusion temporal* is *prision mayor*. Under the 3rd rule, the penalty next lower is composed of the medium and minimum periods of *reclusion temporal* and the maximum of *prision mayor*. (*People vs. Ong Ta*, 70 Phil. 553, 555)

Death		(1) Penalty for principal in consummated felony.
<i>Reclusion Perpetua</i>		
<i>Reclusion Temporal</i>	Maximum	(2) Penalty for accomplice or principal for frustrated felony
	Medium	
	Minimum	
<i>Prision Mayor</i>	Maximum	
	Medium	
	Minimum	

Fourth Rule: When the penalty is composed of several periods.

The word "several" in relation to the number of periods, means consisting in more than two periods. Hence, this applies only to penalties with at least 3 periods. The several periods must correspond to different divisible penalties. The penalty which is composed of several periods corresponding to different divisible penalties is *prision mayor* in its medium period to *reclusion temporal* in its minimum period. The two periods of *prision correccional*, the penalty next following in the scale prescribed in Article 71 since it cannot be taken from the penalty prescribed.

<i>Reclusion Temporal</i>	Maximum	(1) Penalty for principal in consummated felony.
	Medium	
	Minimum	
<i>Prision Mayor</i>	Maximum	(2) Penalty for accomplice or principal for frustrated felony
	Medium	
	Minimum	
<i>Prision Correccional</i>	Maximum	
	Medium	
	Minimum	

Fifth Rule: (by analogy, because "not specifically provided for in the four preceding rules").

Other analogies: When penalty has two periods. Ex. (1) For Abduction (Art. 343) *Prision correccional* in its minimum and medium periods.

<i>Prision Correccional</i>	Maximum	(1) Penalty prescribed for the felony.
	Medium	
	Minimum	
<i>Arresto Mayor</i>	Maximum	(2) Penalty next lower
	Medium	
	Minimum	

Art. 62. Effect of the attendance of mitigating or aggravating circumstances and of habitual delinquency. — Mitigating or aggravating circumstances and habitual delinquency shall be taken into account for the purpose of diminishing or increasing the penalty in conformity with the following rules:

1. Aggravating circumstances which in themselves constitute a crime specially punishable by law or which are included by the law in defining a crime and prescribing the penalty therefor shall not be taken into account for the purpose of increasing the penalty.
2. The same rule shall apply with respect to any aggravating



circumstance inherent in the crime to such a degree that it must of necessity accompany the commission thereof.

3. Aggravating or mitigating circumstances which arise from the moral attributes of the offender, or from his private relations with the offended party, or from any other personal cause, shall only serve to aggravate or mitigate the liability of the principals, accomplices and accessories as to whom such circumstances are attendant.
4. The circumstances which consist in the material execution of the act, or in the means employed to accomplish it, shall serve to aggravate or mitigate the liability of those persons only who had knowledge of them at the time of the execution of the act or their cooperation therein.
5. Habitual delinquency shall have the following effects:
 - (a) Upon a third conviction the culprit shall be sentenced to the penalty provided by law for the last crime of which he be found guilty and to the additional penalty of prision correccional in its medium and maximum periods;
 - (b) Upon a fourth conviction, the culprit shall be sentenced to the penalty provided for the last crime of which he be found guilty and to the additional penalty of prision mayor in its minimum and medium periods; and
 - (c) Upon a fifth or additional conviction, the culprit shall be sentenced to the penalty provided for the last crime of which he be found guilty and to the additional penalty of prision mayor in its maximum period to reclusion temporal in its minimum period.

Notwithstanding the provisions of this article, the total of the two penalties to be imposed upon the offender, in conformity herewith, shall in no case exceed 30 years.

For the purpose of this article, a person shall be deemed to be habitual delinquent, is within a period of ten years from the date of his release or last conviction of the crimes of serious or less serious physical injuries, *robo*, *hurto*, estafa or falsification, he is found guilty of any of said crimes a third time or oftener.

Examples:

Article 62.

Par. 1 – dwelling in trespass, means of fire in arson, derailment of locomotive in Art.330;

Par. 2 – public officer in malversation of funds, dwelling in robbery, evident premeditation in robbery and theft;

Par. 3 – moral attributes of the offender; private relations with the offended party;

Par. 4 – material execution of the act; means to accomplish crime;

Par. 5 – Habitual delinquent

<i>Habitual delinquency</i>	<i>Recidivism</i>
<i>Crimes committed are specified: S/L/T/R/E/F</i>	<i>Crimes under the same title of RPC</i>
<i>Within 10 years</i>	<i>No time fixed by law</i>
<i>Must be found guilty the 3rd time or oftener</i>	<i>Second conviction</i>
<i>Additional penalty is imposed</i>	<i>Not offset by mitigating circumstances; increases penalty to maximum</i>

Article 63 may be disregarded. In any case, it simply fixes the penalty regardless of any mitigating/ aggravating circumstances present.

Art. 64. *Rules for the application of penalties which contain three periods.*— In cases in which the penalties prescribed by law contain three periods, whether it be a single divisible penalty or composed of three different penalties, each one of which forms a period in accordance with the provisions of Articles 76 and 77, the court shall observe for the application of the penalty the following rules, according to whether there are or are not mitigating or aggravating circumstances:



1. When there are neither aggravating nor mitigating circumstances, they shall impose the penalty prescribed by law in its medium period.
2. When only a mitigating circumstance is present in the commission of the act, they shall impose the penalty in its minimum period.
3. When an aggravating circumstance is present in the commission of the act, they shall impose the penalty in its maximum period.
4. When both mitigating and aggravating circumstances are present, the court shall reasonably offset those of one class against the other according to their relative weight.
5. When there are two or more mitigating circumstances and no aggravating circumstances are present, the court shall impose the penalty next lower to that prescribed by law, in the period that it may deem applicable, according to the number and nature of such circumstances.
6. Whatever may be the number and nature of the aggravating circumstances, the courts shall not impose a greater penalty than that prescribed by law, in its maximum period.
7. Within the limits of each period, the court shall determine the extent of the penalty according to the number and nature of the aggravating and mitigating circumstances and the greater and lesser extent of the evil produced by the crime.

Outline of the rules:

1. No aggravating and no mitigating – medium period.
2. Only mitigating – minimum period.
3. Only an aggravating – maximum period.
4. Offsetting of mitigating and aggravating circumstances.
5. When there are 2 mitigating and no aggravating, next lower penalty applies.

- Courts cannot lower the penalty by a degree if with aggravating circumstance.
6. Courts cannot impose a greater penalty than prescribed by law in its maximum period; no matter how many aggravating circumstance are present.

Art. 65. Rule in cases in which the penalty is not composed of three periods. — In cases in which the penalty prescribed by law is not composed of three periods, the courts shall apply the rules contained in the foregoing articles, dividing into three equal portions of time included in the penalty prescribed, and forming one period of each of the three portions.

Article 65 simply provides for the alternative in obtaining artificially three periods when the penalty does not have any.

Art. 66. Imposition of fines. — In imposing fines the courts may fix any amount within the limits established by law; in fixing the amount in each case attention shall be given, not only to the mitigating and aggravating circumstances, but more particularly to the wealth or means of the culprit.

Outline of this rule:

1. The courts can fix any amount of the fine within the limits established by law.
2. The court must consider:
 - a. Mitigating and aggravating circumstance; and,
 - b. More particularly, the wealth or means of the culprit.

Article 67 applies when all the requisites of the exempting circumstance of accident (Art. 12 par. 4) are not present.

If all the conditions of Art.12 par.4 are not present, the act should be considered reckless imprudence if the act is executed without taking those precautions or measures which the most common prudence would require. This will fall under Art.365 par.1.

Article 68 has been partly repealed by Republic Act No. 9344

A child in conflict with law shall be entitled of a **penalty next lower** than that prescribed by law, but in the proper periods.



Art. 69. Penalty to be imposed when the crime committed is not wholly excusable. — A penalty lower by one or two degrees than that prescribed by law shall be imposed if the deed is not wholly excusable by reason of the lack of some of the conditions required to justify the same or to exempt from criminal liability in the several cases mentioned in Article 11 and 12, provided that the majority of such conditions be present. The courts shall impose the penalty in the period which may be deemed proper, in view of the number and nature of the conditions of exemption present or lacking.

Penalty to be imposed when the crime committed is not wholly excusable: 1 or 2 degrees lower if the majority of the conditions for justification or exemption in the cases provided in Arts. 11 and 12 are present.

Art. 70. Successive service of sentence. — When the culprit has to serve two or more penalties, he shall serve them simultaneously if the nature of the penalties will so permit otherwise, the following rules shall be observed:

In the imposition of the penalties, the order of their respective severity shall be followed so that they may be executed successively or as nearly as may be possible, should a pardon have been granted as to the penalty or penalties first imposed, or should they have been served out.

For the purpose of applying the provisions of the next preceding paragraph the respective severity of the penalties shall be determined in accordance with the following scale:

1. Death,
2. Reclusion perpetua,
3. Reclusion temporal,
4. Prision mayor,
5. Prision correccional,
6. Arresto mayor,
7. Arresto menor,
8. Destierro,
9. Perpetual absolute disqualification,
- 10 Temporal absolute disqualification
11. Suspension from public office, the right to vote and be voted for, the right to follow a profession or calling, and
12. Public censure.

Notwithstanding the provisions of the rule next preceding, the maximum duration of the

convict's sentence shall not be more than three-fold the length of time corresponding to the most severe of the penalties imposed upon him. No other penalty to which he may be liable shall be inflicted after the sum total of those imposed equals the same maximum period.

Such maximum period shall in no case exceed forty years.

In applying the provisions of this rule the duration of perpetual penalties (*pena perpetua*) shall be computed at thirty years. (As amended)

The Three-Fold Rule*

1. Maximum duration of the convict's sentence: 3 times the most severe penalty imposed
2. Maximum duration: shall not exceed 40 years
3. Subsidiary imprisonment: This shall be excluded in computing for the maximum duration.

*The three-fold rule shall apply only when the convict is to serve 4 or more sentences successively.

Art. 71. Graduated scales. — In the case in which the law prescribed a penalty lower or higher by one or more degrees than another given penalty, the rules prescribed in Article 61 shall be observed in graduating such penalty.

The lower or higher penalty shall be taken from the graduated scale in which is comprised the given penalty.

The courts, in applying such lower or higher penalty, shall observe the following graduated scales:

SCALE NO. 1

1. ~~Death,~~
2. Reclusion perpetua,
3. Reclusion temporal,
4. Prision mayor,
5. Prision correccional,
6. Arresto mayor,
7. Destierro,
8. Arresto menor,
9. Public censure,
10. Fine.



SCALE NO. 2

1. Perpetual absolute disqualification,
2. Temporal absolute disqualification
3. Suspension from public office, the right to vote and be voted for, the right to follow a profession or calling,
4. Public censure,
5. Fine.

Art. 25	Art. 70	Art. 71
<i>Penalties are classified into: (1) principal and (2) accessory penalties. The principal penalties are subdivided into capital, afflictive, correctional and light.</i>	<i>Classifies penalties for purpose of successive service of sentence, according to their severity.</i>	<i>Provides for the scales which should be observed in graduating the penalties by degrees in accordance with Art. 61</i>
<i>Destierro classified as correctional penalty; Arresto Menor is a light penalty.</i>	<i>Destierro is placed under Arresto Menor according to severity.</i>	<i>Destierro is placed above Arresto Menor.</i>

In Scale No.1 all personal penalties such as deprivation of liberty are grouped together; Under Scale No. 2 are grouped all penalties consisting in deprivation of political rights

Art. 72. Preference in the payment of the civil liabilities. — The civil liabilities of a person found guilty of two or more offenses shall be satisfied by following the chronological order of the dates of the judgments rendered against him, beginning with the first in order of time.

The order of payment of civil liabilities is not based on the dates of the commission of the crime. While criminal liability is satisfied by successive service of the sentences in order of respective severity (Art.70), civil liability is satisfied by following the chronological order of the dates of the final judgment.

Article 73 presumes that accessory penalties are deemed imposed.

The accessory penalties provided for in Article 40 to 45 are deemed imposed by the courts without the necessity of making an express pronouncement of their imposition.

Subsidiary imprisonment is not an accessory penalty and therefore, the judgment of conviction

must expressly state that the offender shall suffer the subsidiary imprisonment in case of insolvency. (*People vs. Fajardo, 65 Phil. 539, 542*)

Article 74 may be disregarded since there is no imposition of Death.

Article 75. Increasing or reducing the penalty of fine by one or more degrees. — Whenever it may be necessary to increase or reduce the penalty of fine by one or more degrees, it shall be increased or reduced, respectively, for each degree, by one-fourth of the maximum amount prescribed by law, without however, changing the minimum.

The same rules shall be observed with regard of fines that do not consist of a fixed amount, but are made proportional.

Example:

A certain crime is punished by a fine of not less than P200.00 but not more than P6,000.00. One fourth of the maximum of PP6,000.00 is P1,500.00. The fine immediately higher in degree in accordance with this article will be from P200.00 to P7,500.00.

The minimum shall not to be changed. In case the minimum is not fixed by law, the determination of amount shall be left to the sound discretion of the court.

Article 76 simply shows the manner divisible penalties are divided into three periods.

Exception: The division of *arresto mayor* into three equal parts does not follow the rule.

- Minimum – 1 month and 1 day to 2 months
- Medium – 2 months and 1 day to 4 months
- Maximum – 4 months and 1 day to 6 months

Art. 77. When the penalty is a complex one composed of three distinct penalties. — In cases in which the law prescribes a penalty composed of three distinct penalties, each one shall form a period; the lightest of them shall be the minimum the next the medium, and the most severe the maximum period.

Whenever the penalty prescribed does not have one of the forms specially provided for in this Code, the periods shall be distributed, applying by analogy the prescribed rules.



Complex penalty – if there are three distinct penalties, there shall be a minimum, medium and maximum.

**INDETERMINATE SENTENCE LAW
(Act No. 4103 as amended by Act 4225)**

- Applies to complex crimes
- Mandatory
- Applies to special laws

Steps in applying ISL

1. Determine the crime and the penalty imposable;
2. Check application of **Art.64 par.5** (2-mitigating, no aggravating = 1 degree lower), **Art. 68** (minor, 1-degree lower) or **Art. 69** (incomplete justifying and exempting circumstances, which may be 1 or 2 degrees lower);
3. Fix the Minimum: 1-degree lower "**in any of its periods**"
4. Fix the Maximum: 1-degree higher than No.3, apply the mitigating/aggravating circumstances and state penalty "**in (appropriate) period**"

Examples:

→X, with intent to kill, shot his roommate B, and eventually died. Apply ISL.

Ans.

- Crime is Homicide; Penalty is *reclusion temporal*;
- N/A
- **Indeterminate sentence of *prision mayor* in any of its period as minimum**; and
- ***Reclusion temporal* in its medium period as maximum.**

→X, with intent to kill, shot his roommate B using unlicensed firearm. But because of timely medical assistance, B survived. What is the crime committed and stage of execution. Determine participation. Apply ISL.

Ans. Crime is frustrated homicide. Accused committed the crime by direct participation.

- Frustrated homicide is one degree lower (Art.50); Penalty is *prision mayor*;
- N/A
- **Indeterminate sentence of *prision correccional* in any of its period as minimum**; and
- ***Prision mayor* in its maximum* period as maximum.**

*due to the presence of special aggravating circumstance.

"If homicide or murder is committed with the use of an unlicensed firearm, such use of an unlicensed firearm shall be considered as an aggravating circumstance." (*People vs. Narvasa, 298 SCRA 637*)

Reason for fixing the MINIMUM and MAXIMUM penalties in the indeterminate sentence:

1. Whenever any prisoner shall have served the *minimum* penalty imposed on him, and it shall appear to the Board of Indeterminate Sentence that such prisoner is fitted for release, said Board may authorize the release of such prisoner on parole, upon such terms and conditions as may be prescribed by the Board.
2. Whenever such prisoner released on parole shall, during the period of surveillance, violate any of the conditions of his parole, the Board may issue an order for his arrest. In such case, the prisoner so rearrested shall serve the remaining unexpired portion of the maximum sentence.
3. Even if a prisoner has already served the *minimum*, but he is not fitted for release on parole, he shall continue to serve the sentence until the end of the *maximum*.
4. To prevent unnecessary and excessive deprivation of liberty (According to A. Estrada);
5. To enhance the economic usefulness of the accused since he may be exempted from serving his entire sentence depending upon his behavior in his physical, mental and moral record (*People vs. Onate, 78 SCRA 43*)

Case where ISL is not applicable to:

1. Offenses punished by death or life imprisonment;
2. Convicted of treason (Art.114), conspiracy and proposal to commit treason (Art.115);
3. Convicted of misprision of treason (Art.116), rebellion (Art.134), sedition (Art.139) and espionage (Art.117);
4. Those convicted of piracy (Art.122);
5. Habitual delinquents (Art.62 par.5);
6. Those who escaped from confinement or those who evaded sentence (Art.157)



7. Those who violated the terms of conditional pardon (Art.159);
8. Those who are already serving final judgment upon the approval of Indeterminate Sentence Law.
9. Penalties other than imprisonment.

3. While serving sentence, No.1 and No.2 shall be observed.
4. But payment of civil or pecuniary liabilities shall not be suspended.

➔ **If the offender was insane at the time of the commission of the crime, he is exempt from criminal liability (Art.12 par.1)**

**Chapter Five
EXECUTION AND SERVICE OF PENALTIES
Section One. — General Provisions**

Art. 78. When and how a penalty is to be executed. — No penalty shall be executed except by virtue of a final judgment.

A penalty shall not be executed in any other form than that prescribed by law, nor with any other circumstances or incidents than those expressly authorized thereby.

In addition to the provisions of the law, the special regulations prescribed for the government of the institutions in which the penalties are to be suffered shall be observed with regard to the character of the work to be performed, the time of its performance, and other incidents connected therewith, the relations of the convicts among themselves and other persons, the relief which they may receive, and their diet.

The regulations shall make provision for the separation of the sexes in different institutions, or at least into different departments and also for the correction and reform of the convicts.

The judgment must be final before it can be executed, because the accused may still appeal within 15 days from its promulgation. But if deendant has expressly waived in writing his right to appeal, the judgment becomes final immediately. (Rule 120, Sec.7, Rules of Court)

Article 79 merely reiterated Art.12 par.1

Rule regarding execution and service of penalties in case of insanity:

1. Becomes imbecile after final sentence, execution is suspended (personal penalty);
2. If he recovers his reason, sentence shall be executed unless the penalty has *prescribed*;

Article 80 is repealed by Sec.38 of R.A. No. 9344, under suspended sentence of a minor.

SEC. 38. Automatic Suspension of Sentence. - Once the child who is under eighteen (18) years of age at the time of the commission of the offense is found guilty of the offense charged, the court shall determine and ascertain any civil liability which may have resulted from the offense committed. However, instead of pronouncing the judgment of conviction, the court shall place the child in conflict with the law under suspended sentence, without need of application: Provided, however, That suspension of sentence shall still be applied even if the juvenile is already eighteen years (18) of age or more at the time of the pronouncement of his/her guilt.

Upon suspension of sentence and after considering the various circumstances of the child, the court shall impose the appropriate disposition measures as provided in the Supreme Court Rule on Juveniles in Conflict with the Law.

X X X

SEC. 40. Return of the Child in Conflict with the Law to Court. - If the court finds that the objective of the disposition measures imposed upon the child in conflict with the law have not been fulfilled, or if the child in conflict with the law has willfully failed to comply with the conditions of his/her disposition or rehabilitation program, the child in conflict with the law shall be brought before the court for execution of judgment.

If said child in conflict with the law has reached eighteen (18) years of age while under suspended sentence, the court shall determine whether to discharge the child in accordance with this Act, to order execution of sentence, or to extend the suspended sentence for a certain specified period or until the child reaches the maximum age of twenty-one (21) years.

Articles 81-85 pertaining to administration of death penalty are no longer applicable.

Article 86 provides the place or penal establishment for execution of sentence



provided by Administrative Code or which may be provided by a law in the future.

Art. 87. Destierro. — Any person sentenced to destierro shall not be permitted to enter the place or places designated in the sentence, nor within the radius therein specified, which shall be not more than 250 and not less than 25 kilometers from the place designated.

In *destierro*, entering the prohibition area is evasion of service of the sentence.

Art. 88. Arresto menor. — The penalty of *arresto menor* shall be served in the municipal jail, or in the house of the defendant himself under the surveillance of an officer of the law, when the court so provides in its decision, taking into consideration the health of the offender and other reasons which may seem satisfactory to it.

Penalty that may be served in the house of the defendant, “when the court so provides in its decision” by reasons of health or ther satisfactory to the court.

Title Four
EXTINCTION OF CRIMINAL LIABILITY
Chapter One
TOTAL EXTINCTION OF CRIMINAL LIABILITY

Art. 89. How criminal liability is totally extinguished. — Criminal liability is totally extinguished:

1. By the death of the convict, as to the personal penalties and as to pecuniary penalties, liability therefor is extinguished only when the death of the offender occurs before final judgment.
2. By service of the sentence;
3. By amnesty, which completely extinguishes the penalty and all its effects;
4. By absolute pardon;
5. By prescription of the crime;
6. By prescription of the penalty;
7. By the marriage of the offended woman, as provided in Article 344 of this Code.

Remember:

1. Extinction of criminal liability does not automatically extinguish civil liability.
2. That criminal liability is totally extinguished is a ground for *motion to quash*.
3. Criminal and civil liability is extinguished only when the offender dies *before* final judgment.
4. As a *general rule*, a pending appeal of conviction extinguishes criminal and civil liability based solely on th offense committed.
5. As an *exception* to No.4 above, claim for civil liability survives the death of offender if the same may be predicated on a source of obligation other than delict (*i.e. laws, contracts, quasi-contracts and quasi-delicts*);
6. Right of the offended party to file separate civil action is not lost by *prescription* when accused dies pending appeal.
7. Death of the offended party does not extinguish criminal liability because the offense is committed against the State.

Amnesty – an act of the sovereign power granting oblivion or a general pardon for past offense.

Pardon – an act of grace proceeding from the power entrusted with the execution of the laws which exempts the individual on whom it is bestowed from the punishment the law inflicts for the crime he has committed.

Amnesty	Pardon
<i>A blanket pardon to classes of persons or communities</i>	<i>Exercised individually by the President</i>
<i>Involves political crimes</i>	<i>Involves any crime</i>
<i>Exercised even before trial or investigation</i>	<i>Exercised only when person is convicted</i>
<i>Looks backward and abolishes and puts into oblivion the offense itself as though no offense was committed</i>	<i>Looks forward and relieves the offender from the consequences of an offense he has been convicted</i>
<i>Private act of President; must be pleaded and proved by the person pardoned</i>	<i>By proclamation of the President with concurrence of the Congress</i>
<i>Both do not extinguish the civil liability of the offender</i>	



Prescription of the crime – is the forfeiture or loss of the right of the State to prosecute the offender after the lapse of a certain time.

Prescription of the penalty – is the loss or forfeiture of the Government to execute the *final sentence* after the lapse of a certain time.

- there be final judgment
- period of time prescribed by law for its enforcement has lapsed.

Marriage of the offender with the offended woman... must be contracted in good faith. Hence, marriage contracted only to avoid criminal liability is devoid of legal effects. (*People vs. Santiago, 51 Phil. 68, 70*)

Art. 90. Prescription of crime. — Crimes punishable by death, reclusion perpetua or reclusion temporal shall prescribe in twenty years.

Crimes punishable by other afflictive penalties shall prescribe in fifteen years.

Those punishable by a correctional penalty shall prescribe in ten years; with the exception of those punishable by arresto mayor, which shall prescribe in five years.

The crime of libel or other similar offenses shall prescribe in one year.

The crime of oral defamation and slander by deed shall prescribe in six months.

Light offenses prescribe in two months.

When the penalty fixed by law is a compound one, the highest penalty shall be made the basis of the application of the rules contained in the first, second and third paragraphs of this article. (*As amended by RA 4661, approved June 19, 1966*)

Penalty (RPC)	Prescription
Death, Reclusion Perpetua or Reclusion Temporal	20 years
Perpetual or Temporary Absolute/Special Disqualification, Prision Mayor	15 years
Prision Correccional, Suspension, Destierro	10 years
Arresto mayor	5 years

Libel	1 year
Oral defamation; Slander by deed	6 months
Arresto Menor, Public Censure (including Simple Slander, fines not exceeding P200.00)	2 months

[T]he Rules of Court is explicit that an order sustaining a motion to quash based on prescription is a bar to another prosecution for the same offense. Article 89 of the Revised Penal Code also provides that "prescription of the crime" is one of the grounds for "total extinction of criminal liability." (*Cabral vs. Puno, 70 SCRA 606*)

Under Act No. 3763 amending Act No. 3326

Penalty (Special Laws)	Prescription
Fine or imprisonment or not more than 1 month, or both	1 year
Imprisonment 1 month to less than 2 years	4 years
Imprisonment of 2 years to less than 6 years	8 years
Imprisonment of 6 years or more	12 years
Offenses under Internal Revenue Law	5 years
Violations of Municipal Ordinances	2 months
Violation of the regulations or conditions of certificate of convenience by the Public Service Commission	2 months

When the defense failed to move to quash before pleading, he must be deemed to have waived all objections, and cannot apply to the defense of prescription thereafter.

The accused cannot be convicted of an offense lesser than that charged if lesser offense had already prescribed at the time the information was filed.

Art. 91. Computation of prescription of offenses. — The period of prescription shall commence to run from the day on which the crime is discovered by the offended party, the authorities, or their agents, and shall be interrupted by the filing of the complaint or information, and shall commence to run again when such proceedings terminate



without the accused being convicted or acquitted, or are unjustifiably stopped for any reason not imputable to him.

The term of prescription shall not run when the offender is absent from the Philippine Archipelago.

The prescription shall be interrupted when the proceedings are instituted against the guilty person, and shall begin to run again if the proceedings are dismissed for reasons not constituting jeopardy. (Sec. 2, Act No. 3326)

Outline of the provisions:

1. Period of prescription shall run from the day the crime is discovered by the offended party, the authorities or their agents.
2. It is interrupted by filing of the complaint or information.
3. It commences again when such proceedings terminate without the accused being convicted or acquitted or are unjustifiably stopped for any reason not imputable to him.
4. The term of prescription shall not run when the offender is absent from the Philippines.

Article 92 refers to prescription of penalty

Penalty (RPC)	Prescription
Death, Reclusion Perpetua	20 years
Other afflictive penalties	15 years
Correctional penalties (except Arresto Mayor)	10 years
Arresto mayor	5 years
Light penalties	1 year

Q1: X committed a crime for which the law provides a fine of P200.00 as penalty. What is the prescriptive period of crime

A1: Two months. The issue here is not prescription of penalty.

If Prescription of Crime → Article 9 prevails over Article 26

Q2: X was convicted, cannot pay the fine of P200.00 and was made to serve subsidiary imprisonment. While serving sentence, he escaped, evading the sentence. What is the prescriptive period?

A2: Ten years. The issue here is prescription of penalty.

If Prescription of Penalty → Article 26 prevails over Article 9.

Art. 93. Computation of the prescription of penalties. — The period of prescription of penalties shall commence to run from the date when the culprit should evade the service of his sentence, and it shall be interrupted if the defendant should give himself up, be captured, should go to some foreign country with which this Government has no extradition treaty, or should commit another crime before the expiration of the period of prescription.

Evasion of service of the sentence is an essential element of prescription of penalties.

Chapter Two PARTIAL EXTINCTION OF CRIMINAL LIABILITY

Art. 94. Partial Extinction of criminal liability. — Criminal liability is extinguished partially:

1. By conditional pardon;
2. By commutation of the sentence; and
3. For good conduct allowances which the culprit may earn while he is serving his sentence.

Conditional Pardon	Parole
May be given any time after final judgment	May be given after the prisoner has served the minimum penalty
For violation of pardon, the convict may be ordered rearrested or reincarcerated by the President	The convict cannot be prosecuted under Art. 159; he can be rearrested and reincarcerated to serve the unserved portion of the original penalty

Article 95 speaks of obligations incurred by person granted a conditional pardon.

Article 96 speaks of the effects of commutation of service, i.e. substituting the original sentence with lesser periods.

Art. 97. Allowance for good conduct. — The good conduct of any prisoner in any penal



institution shall entitle him to the following deductions from the period of his sentence:

1. During the first two years of his imprisonment, he shall be allowed a deduction of five days for each month of good behavior;
2. During the third to the fifth year, inclusive, of his imprisonment, he shall be allowed a deduction of eight days for each month of good behavior;
3. During the following years until the tenth year, inclusive, of his imprisonment, he shall be allowed a deduction of ten days for each month of good behavior; and
4. During the eleventh and successive years of his imprisonment, he shall be allowed a deduction of fifteen days for each month of good behavior.

<i>(During) Sentence</i>	<i>Deduction (for every month of good conduct)</i>
<i>0-2 years</i>	<i>5 days</i>
<i>3-5 years</i>	<i>8 days</i>
<i>6-10 years</i>	<i>10 days</i>
<i>11 year +</i>	<i>15 days</i>

No allowance for good conduct while prisoner is released under conditional pardon.

Article 98 provides for a deduction of 1/5 of the period of sentence if after evading a sentence under Art. 158 gives himself up to authorities within 48 hours after the passing of calamity.

Art. 157. Evasion of service of sentence. — The penalty of prison correccional in its medium and maximum periods shall be imposed upon any convict who shall evade service of his sentence by escaping during the term of his imprisonment by reason of final judgment. However, if such evasion or escape shall have taken place by means of unlawful entry, by breaking doors, windows, gates, walls, roofs, or floors, or by using picklocks, false keys, deceit, violence or intimidation, or through connivance with other convicts or employees of the penal institution, the penalty shall be prison correccional in its maximum period.

Art. 158. Evasion of service of sentence on the occasion of disorder, conflagrations, earthquakes, or other calamities. — A convict who shall evade the service of his sentence, by leaving the penal institution where he shall have been confined, on the occasion of disorder resulting from a conflagration, earthquake, explosion, or similar catastrophe, or during a mutiny in which he has not participated, shall suffer an increase of one-fifth of the time still remaining to be served under the original sentence, which in no case shall exceed six months, if he shall fail to give himself up to the authorities within forty-eight hours following the issuance of a proclamation by the Chief Executive announcing the passing away of such calamity.

Convicts who, under the circumstances mentioned in the preceding paragraph, shall give themselves up to the authorities within the above mentioned period of 48 hours, shall be entitled to the deduction provided in Article 98.

Art. 159. Other cases of evasion of service of sentence. — The penalty of prison correccional in its minimum period shall be imposed upon the convict who, having been granted conditional pardon by the Chief Executive, shall violate any of the conditions of such pardon. However, if the penalty remitted by the granting of such pardon be higher than six years, the convict shall then suffer the unexpired portion of his original sentence.

Article 99 ensures that when lawfully justified, allowances for good conduct, once granted, shall not be revoked.

Probation Law

P.D. No. 968 as amended by P.D. No. 1257, as further amended by B.P Blg. 76 and P.D. No. 1990

Kinds of Probation:

1. Mandatory
2. Discretionary

If with pending probation, sentence is FINAL but NOT executory.

Procedure:

1. Accused must file for probation within fifteen (15) days before rendition of judgment;
2. Judge will order the Probation Officer to make an investigation report;



3. Probation Officer within sixty 60 days shall submit to the Judge the report. If favorable to the accused, the Judge will immediately set for a hearing;
4. Judge shall render a decision or a resolution on the application for probation.

Disqualified offenders (Sec.9, P.D. No. 968):

1. Sentenced to serve a maximum term of imprisonment of more than six (6) years);
2. Convicted of subversion or any crime against national security or the public order;
3. Who have previously been convicted by final judgment of an offense punished by imprisonment of not less than one month and one day and/or a fine of not less than two hundred pesos;
4. Who have been once on probation (under P.D. No. 968);
5. Who are serving sentence at the time the substantive provisions of [P.D. No. 968] became applicable (pursuant to Sec. 33, P.D. 968, as amended by P.D. No. 1990)

"The conclusion of respondent judge that "probation will depreciate the seriousness of the offense committed" is based principally on the admission by the petitioner himself, as reflected in the report of the probation officer, that he [petitioner] was actually caught in the act of selling marijuana cigarettes. x x x

The observation of the Solicitor General on this increase in penalty is apropos:

The implication is clear. The penalties were increased to take it out of the range of probationable offenses. Thus, the State has spoken and considers that this is one case where probation will depreciate the offense committed, and will not serve the ends of justice and the best interest of the community, particularly, the innocent and gullible young.
Underscoring supplied. (Tolentino vs. Alconcel, 121 SCRA 92)

Title Five CIVIL LIABILITY Chapter One PERSON CIVILLY LIABLE FOR FELONIES

Art. 100. Civil liability of a person guilty of felony. — Every person criminally liable for a felony is also civilly liable.

As a general rule, an offense causes two classes of injuries:

1. **Social injury** – produced by the disturbance and alarm which are the outcome of offense.
2. **Personal injury** – caused to the victim of the crime who may have suffered damage, either to his person, his property, his honor or his chastity.

Civil liability arising from offenses

Every person who, contrary to law, willfully or negligently causes damage to another, shall indemnify the latter for the same. (Art. 20, NCC)

Civil obligations arising from criminal offenses shall be governed by the penal laws. (Art. 1161, NCC)

Exception: If the felony committed could not or did not cause any damage, the offender is not civilly liable even if he is criminally liable.

If the person is criminally and civilly liable is acquitted, does this mean extinction of his civil liability?

The extinction of penal action does not carry with it extinction of the civil. However, civil action based on delict shall be deemed extinguished if there is a finding in a final judgment in the criminal action that the act or omission from which the civil liability may rise does not exist. (Sec.2 Par. 4 Rule 111, Revised Rules of Criminal Procedure)

Article 101 specified the rules regarding civil liability in certain cases.

Civil liability of persons exempt from criminal liability

- No civil liability in Par.4 of Art.12 which provides for injury caused by mere accident.
- Also no civil liability in Par.7 of Art.12 (when prevented by insuperable cause)
- There is no civil liability under justifying circumstances.

Article 102 refers to subsidiary civil liability of innkeepers, tavernkeepers, and proprietors of establishments.



It is not necessary that the effects of the guest be actually delivered to the innkeeper. It is enough that they are within the inn.

Article 103 refers to subsidiary civil liability of other persons (particularly schools and industries)

Elements:

1. The employer, teacher, person or corporation is engaged in any kind of industry.
2. Any of their servants, pupils, workmen, apprentices or employees commits a felony while in the discharge of his duties.
3. The said employee is *insolvent** and has not satisfied his civil liability.

**broke, impoverished*

Chapter Two WHAT CIVIL LIABILITY INCLUDES

Art. 104. What is included in civil liability. — The civil liability established in Articles 100, 101, 102, and 103 of this Code includes:

1. Restitution;
2. Reparation of the damage caused;
3. Indemnification for consequential damages.

Examples:

Restitution – in theft, the culprit is duty bound to return the property taken. (applicable only for crimes against property)

Reparation – in case of inability to return the property stolen, the culprit must pay the value of the property stolen; in case of physical injuries, the reparation of the damage caused would consist in the payment of hospital bills and doctor's fees to the offended party.

Indemnifications for consequential damages – the loss of his salary or earning.

Damages recoverable in case of death

1. In recent cases, SC raised it to **P75,000.00** (*People vs. Lucero, G.R. No. 179044, December 6, 2010*)
2. For the loss of the earning capacity of the deceased (*Art. 2206 par.1, NCC*)
3. Support in favor of the person to whom the deceased was obliged to give, such

person not being an heir of the deceased. (*Art. 2206 par.2, NCC*)

4. Moral damages for mental anguish in favor of the spouse, descendants and ascendants of the deceased. (*Art. 2206 par.3, NCC*)
5. Exemplary damages in certain cases. (*Art. 2230, NCC*)

Rape with Homicide imposed* with:

- **P100,000.00 civil indemnity**
- **P75,000.00 moral damages**
- **P25,000.00 temperate damages**
- **P100,000.00 exemplary damages**

*In *People vs. Gumimba G.R. No. 174056 Feb. 27, 2007*

Temperate damages – to be awarded if the court finds that some pecuniary loss has been suffered but its amount cannot be proven with certainty.

Art. 108. Obligation to make restoration, reparation for damages, or indemnification for consequential damages and actions to demand the same; Upon whom it devolves. — The obligation to make restoration or reparation for damages and indemnification for consequential damages devolves upon the heirs of the person liable.

The action to demand restoration, reparation, and indemnification likewise descends to the heirs of the person injured.

Art. 109. Share of each person civilly liable. — If there are two or more persons civilly liable for a felony, the courts shall determine the amount for which each must respond.

Art. 110. Several and subsidiary liability of principals, accomplices and accessories of a felony; Preference in payment. — Notwithstanding the provisions of the next preceding article, the principals, accomplices, and accessories, each within their respective class, shall be liable severally (in solidum) among themselves for their quotas, and subsidiaries for those of the other persons liable.

The subsidiary liability shall be enforced, first against the property of the principals; next, against that of the accomplices, and, lastly, against that of the accessories.



Whenever the liability in solidum or the subsidiary liability has been enforced, the person by whom payment has been made shall have a right of action against the others for the amount of their respective shares.

Art. 111. *Obligation to make restitution in certain cases.*— Any person who has participated gratuitously in the proceeds of a felony shall be bound to make restitution in an amount equivalent to the extent of such participation.

In solidum – each is liable in full payment or performance.

Chapter Three EXTINCTION AND SURVIVAL OF CIVIL LIABILITY

Art. 112. Extinction of civil liability.— Civil liability established in Articles 100, 101, 102, and 103 of this Code shall be extinguished in the same manner as obligations, in accordance with the provisions of the Civil Law.

Art. 113. Obligation to satisfy civil liability.— Except in case of extinction of his civil liability as provided in the next preceding article the offender shall continue to be obliged to satisfy the civil liability resulting from the crime committed by him, notwithstanding the fact that he has served his sentence consisting of deprivation of liberty or other rights, or has not been required to serve the same by reason of amnesty, pardon, commutation of sentence or any other reason.

Civil liability is extinguished by subsequent agreement between the accused and the offended party.

Offender is civilly liable even if stolen property is lost by reasons of *force majeure*.

SPECIAL TOPICS:

In engaging minor prostitutes

R.A. No. 7610	R.A. No. 9208
Not considered trafficking	Considered trafficking, considering: ACT, MEANS and PURPOSE

>>> END OF CRIMINAL LAW BOOK 1 <<<