

Registration No: BA.LLB/1-18/M005
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Title of Assignment: Note on Criminal Trespass

Title of Course: Criminal Law II
Name of Faculty Member: Ms. Fakhra Mubarak
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Topic:

Write a note on criminal trespass.

ANSWER SHEET

Criminal Trespass:-

The definition of 'Criminal trespass' in Black's Law Dictionary is stated as "A person who enters on the property of another without any right, lawful authority or an express or implied invitation or license"

Criminal trespass basically refers to an unlawful entry by a person into a private property of another person. Any person who enters the property of another without the owner's permission is said to have committed the offence of criminal trespass. All around the globe, trespass against the property has been recognized as a civil wrong. However, a lot of countries, including India have made it a criminal offence too. In India, Criminal trespass is ordinarily a civil wrong and usually compensation damages are granted. However, trespass with a criminal intention is treated as a criminal offence and is punishable under the PPC. The reason for making it a criminal offence is to keep the trespasser away and so that the owners enjoy their property without any interruptions.

The most specific requirement of trespass, whether civil or criminal is 'intent'. Just the unlawful presence of a person on someone else's property is not enough. It has to be shown that the person knew that he wasn't allowed to be on the property and that he still chose to go on other's land, with ill intent. Knowledge may be inferred when there's a fencing done, or when there is a 'no trespass' sign on the property. A person can be held liable for trespass in public places too, if he or she enters after the closing time or if they fail to leave even when asked to. It needs to be demonstrated that the unlawful entry was with an intention to commit an offence, or to intimidate or to annoy the person who owns the property. The intent to intimidate, insult or annoy is a must for trespass of a criminal nature.

There is a clear difference between civil and criminal trespass. Civil trespass does not require ill intent and just the unlawful presence of a person

on someone else's property is enough to hold them liable. However, when the act of trespass is accompanied by the intent to commit an offence or to intimidate or insult or annoy any person in possession of property, it is said to be criminal trespass and it is punishable under the PPC.

THE INGREDIENTS OF CRIMINAL TRESPASS:

The essentials of criminal trespass are:

1. Entry into property in the possession of another
2. If such entry is lawful, then to remain upon such property unlawfully
3. Such entry or unlawful remaining must be done with the intention to:
 - ❖ To commit an offence
 - ❖ To intimidate, annoy or insult the person in possession of the property

PROVISIONS UNDER PPC:

Section 441 of PPC defines 'criminal trespass', while section 447 provides the punishment for it. They read as under:

SECTION 441:

Criminal trespass: Whoever enters into or upon property in the possession of another with intent to commit an offence or to intimidate, insult or annoy any person in possession of such property, or having lawfully entered into or upon such property, unlawfully remains there with intent thereby to intimidate, insult or annoy any such person, or with intent to commit an offence, is said to commit "criminal trespass".

SECTION 447:

Punishment for criminal trespass: Whoever commits criminal trespass shall be punished with imprisonment of either description for a term which may extend to three months, with fine or which may extend to five hundred rupees, or with both.

The offence of criminal trespass has various forms and all of them are mentioned under the PPC. Sec. 442 defines "House-trespass". Sec. 443 defines "Lurking House-trespass". Sec. 444 defines "Lurking House-trespass by night". Sec. 445 defines "House-breaking". Sec. 446 defines "House-breaking by night". Sec. 447 prescribes punishment for Criminal trespass. Sec. 448 prescribes punishment for house trespass. Sec. 449 to Sec. 462 defines as well as prescribes various punishments for the aggravated forms of house-trespass and house breaking.

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