

## Attempt and Conspiracy Essay

### Attempting to commit a crime is as serious as conspiracy to commit a crime. Discuss.

The law of attempts is governed under the **Criminal Attempts Act 1981**. **Section 1(1)** states that there must be intent to commit the offence and that they have to commit an act that is more than merely preparatory to the commission of the offence. **Section 4(1)** states that the offence is punishable to the same extent as the substantive offence.

Conspiracy is an agreement between two or more people to commit an offence. Conspiracy was a common law offence until the passing of the **Criminal Law Act 1977**. The Law Commission believed that the offence should be confined to agreements to commit crimes but felt that certain areas of the law need to be discussed more fully. The law of conspiracy is now a mix of statutory law and common law.

The actus reus of attempt will exist when a person or party commits an act that is more than merely preparatory to the commission of an offence. The law will make a clear distinction between acts that are made before the crime has been committed and the acts that are taken after the crime has been committed which amount to the crime itself. At the stage mentioned earlier the party will not yet be guilty of committing the attempt of a crime unless the party commits an act that has a closer connection with the crime in question and clearly shows that it is more than preparatory to commit the act. **Davey v Lee 1968** took the view that the acts taken before the crime was committed had to be immediately connected with the crime in question. The House of Lords later decided that there was no formula to work out when enough had been done to amount to an act so decided that the actions taken before a crime only had to be more than merely preparatory.

In **Jones 1990** the defendant, Jones held a grudge against his ex-mistress' new boyfriend and so bought four shot guns, one of which had a shortened barrel and drove to the school where the new boyfriend was dropping off his child. He pointed the gun at the victim and said the words, 'you are not going to like this', but was disarmed of the gun before an offence was committed. The police recovered a bag that belonged to the defendant which contained objects that would assist to the commission of an offence. He appealed against his first conviction but the appeal was quashed. The judge stated the purchasing the gun, shortening the barrel and driving to the school where he knew the victim would be was more than merely preparatory to the commission of the offence.

In **Section 1(1)** states that the mental element required for the crime is an intention to bring about the offence. In **Millard and Vernon 1987**, the defendants were football supporters who were charged with criminal damage. They had pushed against a wooden fence at the football ground. The defendants pleaded not guilty but the prosecution said that they had done this in order to damage the fence and were convicted. The court of appeal quashed the convictions on the grounds that recklessness was not enough and that the prosecution had misdirected the jury. With the crime of murder the defendant can be found guilty of the full crime if intention to kill or to cause GBH is proven.

Conspiracy occurs when a person agrees with another person to pursue a course of conduct that could amount to the commission of an offence. If this takes place then this is enough to satisfy the actus reus of the offence. There must be an agreement made between two parties to pursue acts that could result in an offence being committed. This does not include parties such as spouses, children or intended victims.

**Chrastney 1991** tried to argue that she had only discussed the matter of supplying Class A drugs with her husband. The Court of Appeal rejected the appeal and stated that there were other conspirators involved in the proposed crime.

The Law Commission stated that the defendant can only be liable of an offence if they intended to commit the offence. The conspirators must intend to bring about a consequence which is an element of the offence. The conspirators must know that the facts of the circumstances exist at the time of the offence.

In the case of **Anderson 1986** the House of Lords stated obiter, that the defendant can be found guilty even if they did not intend for the plan to actually take place. In this case the accused had been in prison with a man called Andaloussi who was in prison for committing serious drug offences.

Anderson who was previously in prison with Andaloussi agreed to take part in freeing Andaloussi by supplying him with a means of escape. Anderson showed evidence that he had never intended for the plan to work and was simply going to take the money that he was to be paid and flee to another country. Lord Bridge said that by Anderson supplying the wire he had intended for Andaloussi to escape from prison. The courts took a different approach to the case of **Edwards**. They said that because he did not play a part in the crime himself that he could not be charged with conspiracy.

The **Attorney General's Reference (No1 of 1992) 1993** decided that a defendant could be found guilty of rape without the need to show evidence of the penetration of the vagina and that the evidence of attack was enough. The lowering of this actus reus, which was also the case for attempted murder, shows that attempt is a more serious crime than conspiracy and should be dealt with more seriously.