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Stages of Crime: Preparation and Attempt under the Bharatiya Nyaya Sanhita, 2023

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ABSTRACT

Criminal law sometimes intervenes before an intended offence is completed. The difficult question is how to identify the point at which planning becomes punishable execution. This article examines the conventional stages of intention, preparation, attempt and completion, with particular attention to section 62 of the Bharatiya Nyaya Sanhita, 2023. It considers three Supreme Court decisions that illuminate the boundary between preparation and attempt and assesses the value and limits of proximity as a legal test. It also examines animal cruelty as a possible context for preventive intervention where vulnerable people face credible threats. The central argument is that evidence of risk and proof of an attempted offence answer different questions. Prevention must operate through lawful powers, while conviction must rest on the mental and physical elements of an identified offence. Clear statutory analysis and reasoned evaluation of conduct offer a defensible balance between timely protection and individual liberty.

Keywords: *Stages of crime, preparation, attempt, criminal liability, Bharatiya Nyaya Sanhita, animal cruelty, prevention*

I. INTRODUCTION

The law cannot ordinarily punish a person simply for contemplating wrongdoing. Equally, it cannot always require the authorities to wait until an intended injury has occurred. Attempt liability addresses the interval between those positions. Its purpose is to attach responsibility to conduct that has entered the execution of an offence, even though completion is prevented or fails.

The familiar sequence of intention, preparation, attempt and completion helps explain this interval. It is a teaching framework rather than an exhaustive statutory formula. Offences based on negligence, prohibited possession or independently criminalised agreements may not follow a deliberate plan through all four stages. The legal ingredients of the particular offence must therefore remain the starting point.

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This article argues that the preparation–attempt boundary requires an offence-specific assessment of intention, conduct and proximity. It also distinguishes that assessment from the broader task of recognising danger. Concerns arising from animal cruelty may justify attention to a developing situation, but they cannot substitute for proof of an attempted offence against a human being. Adopting a doctrinal method, the article reads the provisions of the Bharatiya Nyaya Sanhita, 2023 (BNS) on attempt and preparation alongside Supreme Court decisions delivered under the earlier criminal law, in order to determine when an act becomes sufficiently connected with an offence to constitute an attempt and how authorities may respond to warning signs without treating suspicion as guilt.

II. THE FOUR STAGES OF CRIME

A. Intention

Intention is the decision to pursue a particular result or course of conduct. In offences requiring it, the prosecution must prove the relevant mental element. A private decision to steal, however, is ordinarily insufficient by itself: the law also requires conduct falling within a recognised offence.[1]

This limit protects freedom of thought and restrains the use of criminal punishment against ambiguous ideas. It does not mean that every expression of intention is immune. A communicated threat or an agreement may independently satisfy another offence, depending on the applicable provision. Such liability attaches to the legally defined conduct, rather than to an unexpressed thought.

B. Preparation

Preparation consists of arranging the resources or circumstances needed for an intended offence. Obtaining equipment, identifying a location or gathering information may be preparatory activities. Their significance depends on context; tools and information frequently have lawful uses.[2]

The ordinary exclusion of mere preparation from attempt liability avoids moving punishment too far from execution. Nevertheless, preparation is not a universal safe harbour. The legislature may prohibit particular preparatory acts, and an act may already constitute a separate completed

[1] *Aman Kumar v. State of Haryana*, (2004) 4 S.C.C. 379, ¶ 9 (India) ("Mere intention to commit an offence, not followed by any act, cannot constitute an offence."); *Abhayanand Mishra v. State of Bihar*, A.I.R. 1961 S.C. 1698, (1962) 2 S.C.R. 241, 245 (India).

[2] *State of Madhya Pradesh v. Mahendra*, (2022) 12 S.C.C. 442, ¶ 13 (India); *Aman Kumar*, (2004) 4 S.C.C. 379, ¶ 9 ("Preparation consists in devising or arranging the means or measures necessary for the commission of the offence.").

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offence. The correct question is therefore whether an identified prohibition applies, not whether the conduct can loosely be called planning.

C. Attempt

Attempt involves the required criminal intention together with conduct sufficiently directed towards commission. The offender has moved beyond arranging means and has begun executing the contemplated offence. The law does not invariably demand the last possible act before completion. The Supreme Court's approach instead requires attention to the relationship between what was done and the offence intended.[3]

For illustration, buying a tool to open a locked container may remain preparation. Applying it to the container as part of a dishonest effort to take its contents presents a different question. The example is not an automatic rule: the prosecution must still establish the relevant intention and statutory elements.

D. Completion

Completion occurs when every ingredient of the offence has been fulfilled.[4] The relevant result is the one required by the statute, which may differ from the offender's ultimate objective. The distinction matters because liability can arise before the offender achieves everything intended.

These stages should not be confused with a fixed sentencing ladder. A legislature may attach serious punishment to an inchoate offence or define an offence around an earlier act. Statutory interpretation must precede any assumption about the legal consequences of a particular stage.

III. THE STATUTORY FRAMEWORK UNDER THE BNS

A. The general attempt provision

Section 62 of the BNS supplies a residual rule for attempts to commit offences under the Sanhita that are punishable with imprisonment for life or imprisonment. It requires an act towards commission and operates where the BNS does not expressly prescribe punishment for that attempt. The term of imprisonment may extend to one-half of the imprisonment for life or of the longest term provided for the offence, and the section also permits the fine provided for the offence, alone or with imprisonment.[5]

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[3] *Abhayanand Mishra*, (1962) 2 S.C.R. at 253; *State of Maharashtra v. Mohd. Yakub*, (1980) 3 S.C.C. 57, (1980) 2 S.C.R. 1158, 1164 (India).

[4] *Abhayanand Mishra*, (1962) 2 S.C.R. at 245; *Mahendra*, (2022) 12 S.C.C. 442, ¶ 12.

[5] Bharatiya Nyaya Sanhita, No. 45 of 2023, § 62 (India) [hereinafter BNS]. The section reproduces Indian Penal Code, No. 45 of 1860, § 511 (India) [hereinafter IPC].

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The residual character of the provision is important. Before invoking it, the applicable offence and any specific attempt provision must be identified. Section 109, for example, separately addresses attempt to murder. A general provision cannot simply replace that offence-specific inquiry.[6]

An incomplete outcome is not itself decisive. The statutory illustrations to section 62 include attempted theft from an empty box and attempted picking of an empty pocket. They show why failure caused by the absence of the intended property does not necessarily eliminate liability.[7]

B. Express criminalisation of preparation

Section 310(4) separately punishes preparation for dacoity with rigorous imprisonment that may extend to ten years and liability to fine. The provision illustrates a legislative choice to intervene before the ordinary attempt threshold.[8]

That exception must not be converted into a general authority to punish suspicious planning. Where preparation is expressly prohibited, the prosecution must prove the elements of that particular offence. Where it is not, the requirements of attempt or another applicable offence must be established.

C. Continuity with earlier authorities

The principal decisions discussed below arose under the Indian Penal Code, 1860 (IPC) or special legislation. Their treatment of intention, proximity and execution remains useful when analysing comparable questions under section 62. Nevertheless, similarity of language does not dispense with reading the present statute. Nor should a decision concerning unlawful export be treated as a universal factual template for every attempted offence.

IV. Judicial approaches to preparation and attempt

A. *Abhayanand Mishra v. State of Bihar*

The accused applied to sit a university examination as a private candidate, falsely representing that he was a graduate and a teacher and supporting the application with certificates later found to be forged. The university accepted the application and issued an admission card, but the deception was discovered before the card reached him. The Supreme Court upheld attempt liability and rejected the proposition that only the final act before completion could qualify.[9]

[6] BNS § 109 (corresponding to IPC § 307).
[7] BNS § 62, illus. (a)–(b).
[8] BNS § 310(4) (corresponding to IPC § 399).
[9] *Abhayanand Mishra*, (1962) 2 S.C.R. at 243, 253.

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The significance of the case lies in identifying an operative step in the deception. The accused had communicated the fraudulent claim rather than merely assembled materials. The broader analytical lesson is that a court must explain how the act advances the ingredients of the intended offence. The case does not make every preliminary communication an attempt.

B. *Malkiat Singh v. State of Punjab*

A lorry carrying paddy towards Delhi was intercepted within Punjab. The case concerned restrictions on export from the State. On those facts, the Supreme Court treated the conduct as preparation: the goods had not crossed the boundary, and the journey could still have been abandoned before export.[10]

The decision demonstrates that an intended destination does not automatically transform every movement towards it into attempt. Its reference to possible withdrawal must, however, be read in context. The theoretical ability to stop cannot be a complete defence once the conduct already satisfies an attempt. The relevant issue remains the legal significance of the acts performed.

C. *State of Maharashtra v. Mohd. Yakub*

Silver ingots concealed in a jeep and a truck were driven at night to a creek near the sea, and some had already been unloaded when customs officers intervened, in circumstances indicating unlawful export. The Supreme Court found sufficient proximity to the intended export even though the goods had not yet been transferred to the vessel. The assessment considered the course of conduct as a whole.[11]

The case explains why proximity is more than a measurement of distance or time. Conduct can be operationally connected with an offence before the final transfer or movement occurs. At the same time, contextual reasoning must identify proved circumstances; it cannot rest on an assumption that unusual behaviour necessarily conceals a crime.

D. Reading the decisions together

The three decisions do not supply a numerical test based on how many steps remain. They illustrate the importance of identifying the intended offence, locating the accused's acts within its execution and assessing the circumstances supporting that interpretation.

The same approach continues in more recent decisions. In *State of Madhya Pradesh v. Mahendra*, decided in 2021, the Supreme Court described preparation as the deliberation, devising or arranging of the means necessary for an offence, and attempt as the execution of the

[10] *Malkiat Singh v. State of Punjab*, A.I.R. 1970 S.C. 713 (India).
[11] *Mohd. Yakub*, (1980) 2 S.C.R. at 1161–65.

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intention once preparation is complete. On the facts, it located the end of preparation at a specific point in the accused's conduct and held that his subsequent acts, deliberately done and reasonably proximate to consummation, amounted to an attempt.[12]

The apparent tension between allowing withdrawal and recognising an early attempt can be resolved by focusing on execution. The opportunity to reconsider may support a finding of preparation in one factual setting, but it does not erase an attempt already committed. Courts should explain that distinction rather than invoke either proposition as a slogan.

V. A PRINCIPLED THRESHOLD FOR LIABILITY

A. Intention and conduct must be examined separately

Strong evidence of criminal purpose cannot compensate for the absence of a legally sufficient act. Conversely, an alarming act cannot establish attempt without the mental element required for the offence. Keeping these inquiries separate reduces the risk of reasoning backwards from suspicion.

A useful judicial analysis should identify the contemplated offence, specify its ingredients, describe the acts proved and explain how those acts entered its execution. This is a proposed reasoning structure, not an additional statutory test. Its value lies in making the basis of liability visible and open to review.

B. Proximity must be explained

Proximity is helpful only when a court identifies what makes the act proximate. Relevant considerations may include the function of the act in the plan, the remaining intervening steps and whether the accused has begun carrying out an ingredient of the offence. Their weight varies with the statute and facts.

An overly remote threshold risks criminalising ordinary activities. An excessively late threshold may leave little room to respond to a dangerous act already underway. A reasoned explanation of the act's relationship to the offence is more defensible than either a universal last-act rule or a general appeal to prevention.

C. Failure and abandonment

Failure does not show that execution never began. Equally, a decision to abandon a plan does not retrospectively turn every earlier act into preparation. The stage reached must be determined

[12] *Mahendra*, (2022) 12 S.C.C. 442, ¶¶ 13, 25.

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from the acts and mental element established at the relevant time. Any independent offence committed during the course of the plan requires separate consideration.

VI. Animal Cruelty and the Limits of Preventive Inference

A. Animal cruelty as an independent wrong

Animal cruelty deserves legal attention because animals themselves can suffer harm. Section 11 of the Prevention of Cruelty to Animals Act, 1960 identifies forms of punishable cruelty, subject to its terms and exceptions. It should not be treated merely as an indirect device for identifying possible future offences against humans.[13]

This distinction improves both protection and legal accuracy. An established cruelty offence may justify prosecution on its own elements. A different charge concerning harm to a person requires its own evidence. The seriousness of the earlier cruelty does not remove that requirement.

B. What the research supports

Longobardi and Badenes-Ribera's systematic review examined thirty-two studies on childhood and adolescent animal cruelty and interpersonal violence. It found that such cruelty tends to co-occur with other violent and antisocial behaviour and reported that recurrent cruelty in childhood and adolescence was a significant predictor of later adult interpersonal violence, while also identifying significant methodological limitations in the literature. Findings of this kind support careful contextual inquiry; they do not establish an inevitable progression from cruelty to later violence in any individual case.[14]

Cleary and colleagues' review examined animal abuse in the setting of adult intimate partner violence. Its findings identify ways abuse of animals can accompany control and intimidation and can complicate a victim's decision to leave an abusive relationship.[15]

Patterson-Kane and Piper caution against overstating the predictive value of animal abuse for violence towards people. Their critique reinforces the distinction between recognising co-occurring harms and claiming that a single behaviour reliably predicts an individual's future offending.[16]

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[13] Prevention of Cruelty to Animals Act, No. 59 of 1960, § 11 (India).

[14] Claudio Longobardi & Laura Badenes-Ribera, *The Relationship Between Animal Cruelty in Children and Adolescent and Interpersonal Violence: A Systematic Review*, 46 Aggression & Violent Behav. 201 (2019), https://doi.org/10.1016/j.avb.2018.09.001.

[15] Michelle Cleary et al., *Animal Abuse in the Context of Adult Intimate Partner Violence: A Systematic Review*, 61 Aggression & Violent Behav. 101676 (2021), https://doi.org/10.1016/j.avb.2021.101676.

[16] E.G. Patterson-Kane & Heather Piper, *Animal Abuse as a Sentinel for Human Violence: A Critique*, 65 J. Soc. Issues 589 (2009), https://doi.org/10.1111/j.1540-4560.2009.01615.x.

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C. Protecting vulnerable people

Where cruelty occurs alongside specific threats against a child, an older person, a person with a disability or a partner, the combined information may warrant prompt assessment. Practical responses can include documenting reports, examining injuries, preserving communications and considering the protection the law provides: the police duty to prevent cognizable offences and the power to arrest a person known to be designing one where its commission cannot otherwise be prevented, both under the Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS), and, where the person threatened is a woman in a domestic relationship, a protection order under the Protection of Women from Domestic Violence Act, 2005, which may also prohibit violence against her dependants.[17]

For example, a threat to harm a child following an incident of animal cruelty should be assessed on its own terms. Such a threat may itself amount to criminal intimidation under section 351 of the BNS, which covers threats of injury to the person of anyone in whom the person threatened is interested and carries a higher punishment where the threat is to cause death or grievous hurt.[18] If later conduct indicates an attack has begun, the preparation–attempt inquiry becomes relevant. Earlier cruelty may provide context where the rules of evidence permit, but it cannot replace proof of the alleged offence.

D. Prevention is not conviction

The objective of a risk assessment is to decide whether protective action should be considered. The objective of a criminal trial is to determine whether a defined offence has been proved. Treating those questions as interchangeable encourages both unfair prosecution and confused prevention.

Authorities should therefore identify the legal basis for each intervention. Concern about possible escalation does not itself create an offence or confer an unrestricted power to restrain a person. Even the preventive arrest power under section 170 of the BNSS requires knowledge of a design to commit a cognizable offence and a belief that its commission cannot otherwise be prevented, and it limits detention to twenty-four hours unless further detention is authorised by law.[19] Effective protection depends on lawful, proportionate action supported by reliable information.

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[17] Bharatiya Nagarik Suraksha Sanhita, No. 46 of 2023, §§ 168, 170 (India) [hereinafter BNSS]; Protection of Women from Domestic Violence Act, No. 43 of 2005, § 18 (India).
[18] BNS § 351(1), (3) (corresponding to IPC §§ 503, 506).
[19] BNSS § 170(1)–(2).

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VII. Recommendations

First, courts should state separately their findings on intention, conduct and proximity. The reasons should explain why the acts crossed into execution, rather than merely announce that preparation had ended.

Second, investigators should identify the precise statutory basis of the proposed charge at an early stage. A residual attempt provision, a specific attempted offence and a separately punishable preparatory act must not be used interchangeably.

Third, evidence gathering should distinguish the facts establishing the alleged offence from background information relevant only to risk. This would reduce the temptation to rely on general allegations of bad character in place of proof.

Fourth, animal-welfare bodies, veterinary professionals and services supporting people at risk should develop lawful referral procedures. Reports of cruelty and credible threats should receive attention without assuming that every animal abuser will become violent towards a person.

Fifth, further Indian research should examine the contexts in which different forms of violence co-occur. Local evidence would help assess the usefulness of particular warning signs and the practical effects of intervention.

Finally, any proposal to criminalise additional preparatory conduct should define the prohibited act and mental element clearly. Earlier intervention requires a specific justification, not an undefined concern about dangerousness.

VIII. Conclusion

The boundary between preparation and attempt marks a central limit on the preventive reach of criminal punishment. The conventional four-stage account is useful, provided it remains subordinate to the ingredients of the particular offence. Section 62 offers a residual attempt provision, while express offences of preparation demonstrate that earlier liability depends on legislative choice.

Abhayanand Mishra, *Malkiat Singh* and *Mohd. Yakub* show why the inquiry must be contextual. The decisive issue is neither the offender's purpose alone nor a mechanical count of the steps remaining. It is whether proved conduct, accompanied by the required mental element, has become sufficiently connected with execution of the identified offence.

Animal cruelty adds an important protective concern but does not alter that standard. Credible warning signs should inform lawful assessment and assistance, while prosecution must remain

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tied to admissible evidence and statutory requirements. A clear distinction between prevention and conviction makes both individual protection and fair criminal adjudication more effective.

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