



TU 122 Law in Everyday Life

Criminal Law I

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Outline

1. Definition of criminal law
2. Sources of criminal law
3. Identification of criminal law
4. Elements of crime
5. Attempt
6. Instigation
7. Principal
8. Aiding and Abetting



Outline

9. Defenses

- (9.1) Infancy
- (9.2) Consent
- (9.3) Insanity
- (9.4) Intoxication
- (9.5) Ignorance or mistake of law
- (9.6) Self- defense / Defense of others
- (9.7) Necessity
- (9.8) Duress



1. Definition of Criminal Law

Division of law which treats of crimes and their punishments (Black Law's Dictionary)

2. Sources of Criminal Law

(1) Penal Code

(2) Statutes



3. Identification of Criminal Law

Forms of Punishment

Section 18 of the Thai Penal Code

- (1) Death penalty
- (2) Imprisonment
- (3) Confinement
- (4) Fine
- (5) Forfeiture of property



3. Identification of Criminal Law

“No crime, No Punishment, Without law (*nullum crimen nulla poena sine lege*)”

Section 2

A person shall be criminally punished only when the act done by such person is provided to be an offence and the punishment is defined by the law in force at the time of the doing of such act, and the punishment to be inflicted upon the offender shall be that provided by the law.



3. Identification of Criminal Law

**No crime,
No Punishment,
Without law**

Definition of Law

Strict Interpretation

**Local Customs and Other
Unwritten Law are not applicable**

Non-Retroactive Enforcement



4. Elements of Crime

(1) Criminal act (*Actus Reus*)

(2) Criminal State of Mind (*mens rea*)

(3) Causation

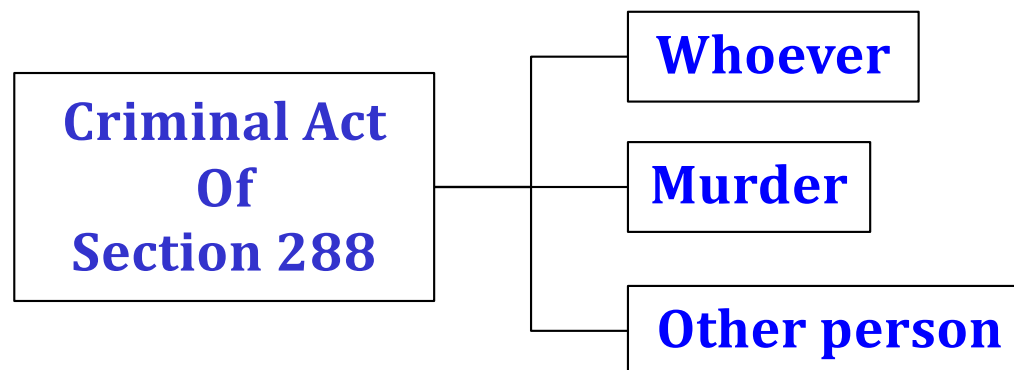


4. Elements of Crime

General rule: A crime is defined in terms of act. Intent alone poses an insufficient danger to society to justify criminal liability.

Penal Code

Section 288: Whoever, murdering the other person, shall be sentenced by death or imprisoned as from fifteen years to twenty years.





4. Elements of Crime

Q: Mr. A, the doctor, kill Mrs. B's infant by choking while the birth was not completed.

Please analyze A's criminal liability

Penal Code

Section 288: Whoever, murdering the other person, shall be sentence

Section 303 Whoever, procures abortion for a woman without her consent, shall be sentence

(Abortion is the ending of a pregnancy by removal or expulsion of an embryo or fetus before it can survive outside the uterus.)



4. Elements of Crime

Penal Code

Section 288: Whoever, murdering the other person, shall be sentenced by death or imprisoned as from fifteen years to twenty years.

Civil and Commercial Code

Section 15: Personality begins with the full completion of birth as a living child and ends with death.



4. Elements of Crime

Penal Code

Section 358 Whoever, damaging, destroying, causing the depreciation of value or rendering useless the thing belonging to the other person or which the other person to be the co-owner, such person to be said to commit mischief, and shall be sentenced...

Civil and Commercial Code

Section 137: Things are corporeal objects.



4. Elements of Crime

Q: A offered buying a lottery to B, a blind person. After B accepted the offer, A had just realized that B is blind person, thus he walk away without paying money.

Please analyze A's criminal liability.

Penal Code

Section 334: Whoever, dishonestly taking away the thing of other person or which the other person to be co-owner to be said to commit the theft, shall be sentenced....

Section 341 Whoever dishonestly deceives a person with the assertion of a falsehood or the concealment of the facts which should be revealed, and, by such deception, obtains a property from the person so deceived or a third person shall be sentenced.....



4. Elements of Crime

Penal Code

Section 334: Whoever, dishonestly taking away the thing of other person or which the other person to be co-owner to be said to commit the theft, shall be imprisoned not out of three years and fined not out of six thousand Baht.

Civil and Commercial Code

Section 458: The ownership of the property sold is transferred to the buyer from the moment when the contract of sale is entered into.



4. Elements of Crime

(1) Criminal act

- Action (Affirmative physical Act)
- Omission (Failure to follow Duties of Care)
 - Legal Duty
 - Contract Duty
 - Created the danger
 - Special Relationship



4. Elements of Crime

Example 1: A posted on his Facebook that he was considering to kill B.

Example 2: A drove recklessly and crashed B; B died afterwards.

Example 3: A, a life-guard, did not rescue B, who was drowning in a pool while A was on duty, because he wanted to kill him. As a consequence B died.



4. Elements of Crime

(2) Criminal state of mind – *Mens Rea*

Modern classifications of state of mind

(a) Intent

- Knowledge
- Purpose

(b) Recklessness / negligence

(c) Strict liability



4. Elements of Crime

(3) Causation

Causation is a relation between the cause and the result: the conduct was the cause of the result.

Example 1: A set fire on B who was badly injured. B died two weeks later because of infection.

Example 2: C intentionally broke D's nose. While D was being treated at a hospital he fell off his bed. He died shortly after the accident.



5. Attempt

Thai Penal Code

Section 80 A person who commences to commit an offence

- does not carry it through; OR
- carry it through but does not achieve its end is said to attempt to commit an offence.

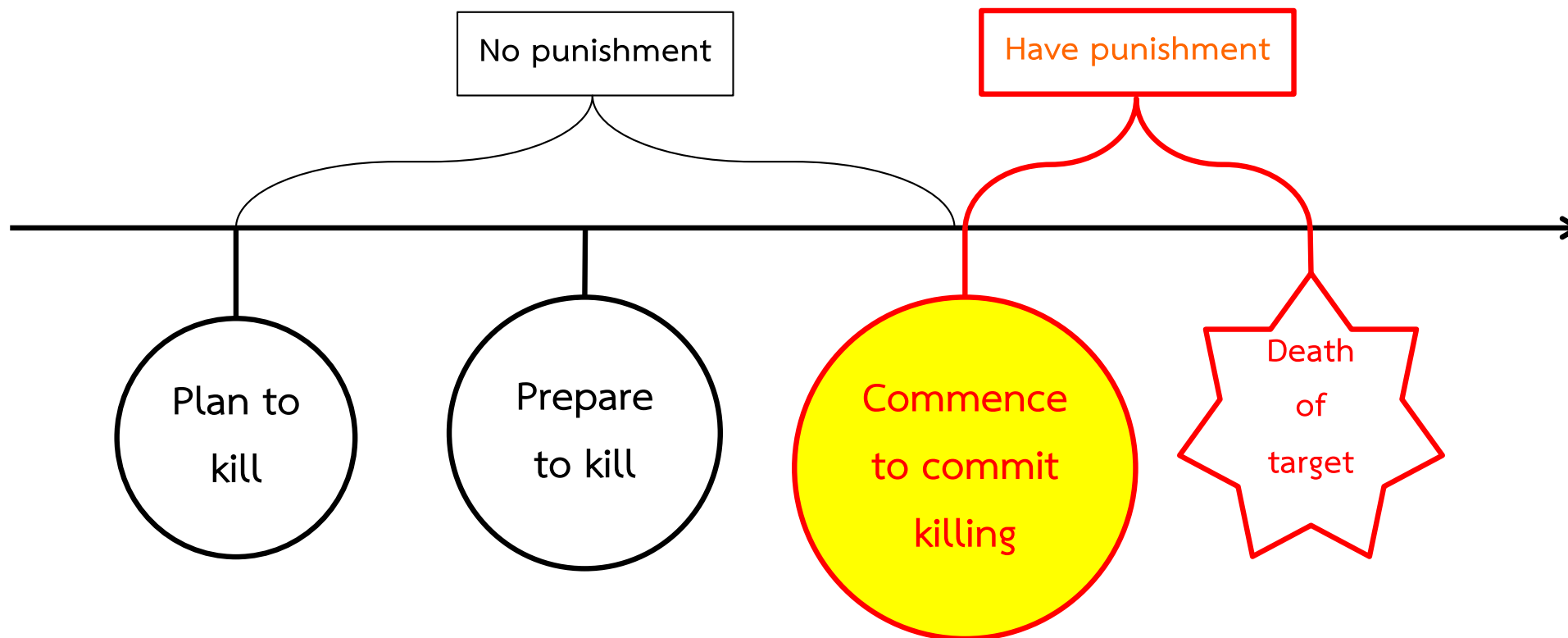
Punishment: 2 third of the max punishment of that crime

Ex: A unlawfully entered the building and was searching for valuable things. A was arrested before he touched anything.

Ex: B wanted to steal a motorcycle. He tried to unlock every vehicle he passed by. He was arrested before could successfully unlock a motorcycle.



5. Attempt





5. Attempt

Attempt to murder

Ex: A pointed a gun at B and was preparing to pull the trigger. He was arrested before he could kill B.

Attempt to rape

Ex: A punched B's face and abdomen and torn off her skirt. B shouted for help. A was arrested before he could rape A.



5. Attempt

Section 276 Whoever has sexual intercourse with other against his/her will, by threatening by any means whatever, by doing any act of violence, by taking advantage of the condition of inability to resist, or by causing other to mistake for the other person, shall be punished with imprisonment of four to twenty years and fined of eight thousand to forty thousand Baht.



6. Instigation (Solicitation)

Section 84 “Whoever cause another person to commit an offense, whether by employment, compulsion, threat, hire, asking as favour or instigation is said to be an instigator.

If the employed person commit a crime, an instigator shall receive the punishment as principal. If the offence is not committed, an instigator shall receive one third of the punishment provided for such offence.”



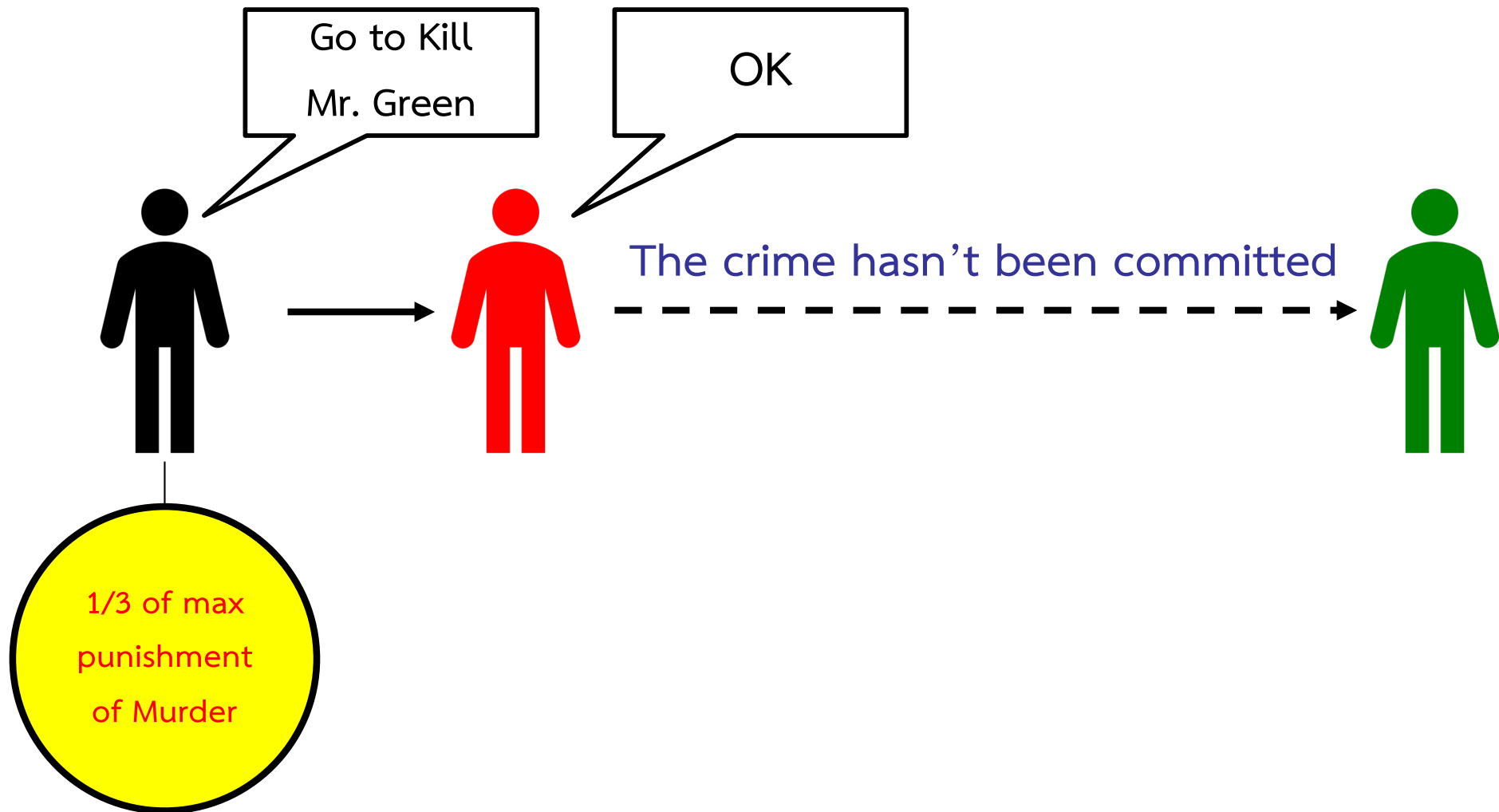
6. Instigation (Solicitation)

Punishment

- Solicitation punishable to the same degree as is authorized for the offenses solicited.
- If offenses is not committed, the solicitor will receive one third of the punishment for such offence .

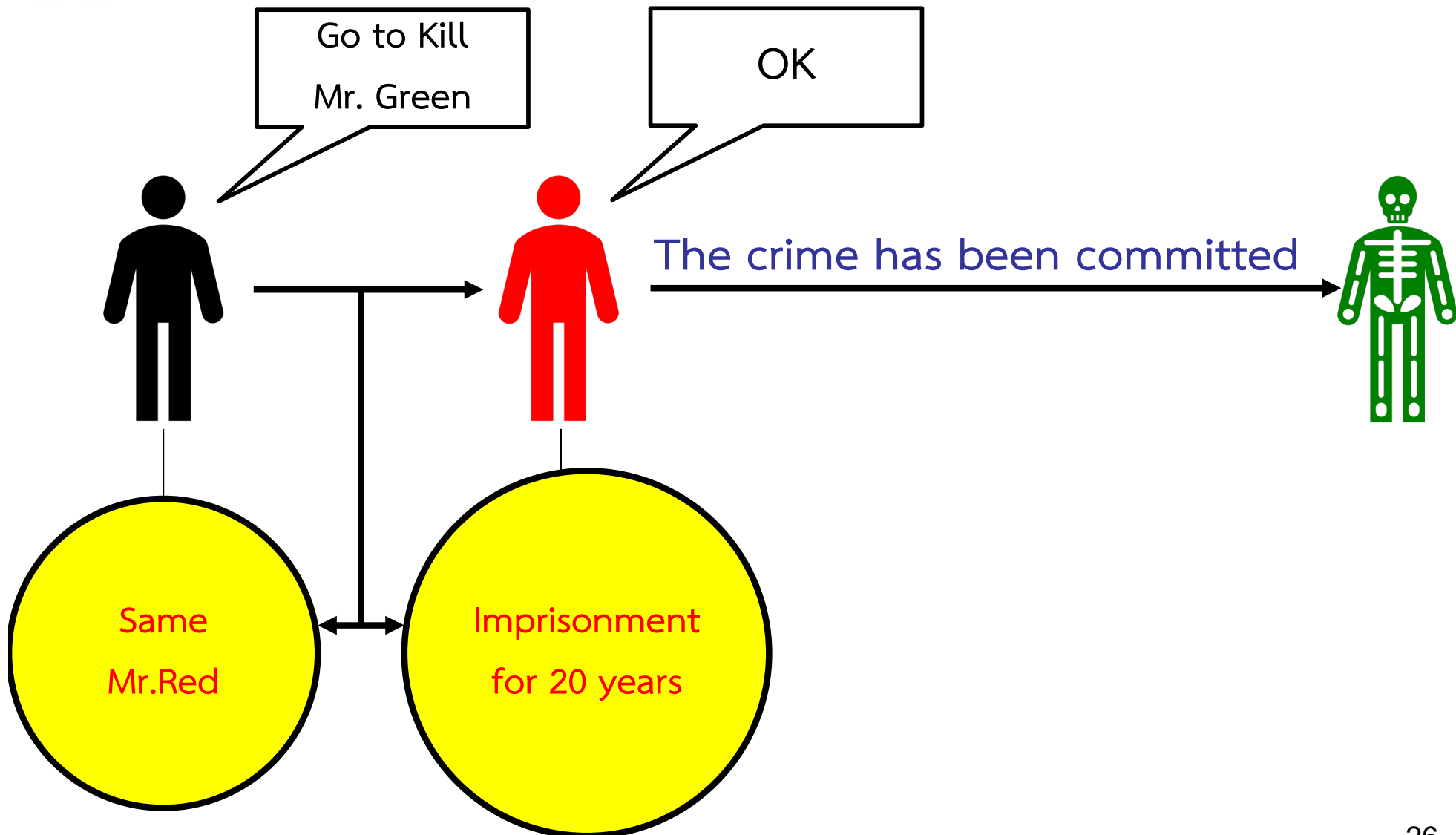


6. Instigation (Solicitation)





6. Instigation (Solicitation)





7. Principal

A principal is an agreement by two or more persons to commit a criminal act or series of criminal acts, or to accomplish an act by unlawful means.

Section 83 “Two persons participating in the commission of the offence are principals.”

Punishment

Same punishment imposed to crime committed by all other members that were reasonably foreseeable result of the conspiracy.



8. Aiding and abetting

Aiding and abetting in the commission of an offense is a person who intentionally assists another to engage in the conduct that constitutes the crime. Aiding and abetting activity may include encouraging, soliciting, advising, and procuring the commission of the offense.

Section 86 – Whoever does for any reason whatsoever as assist or facility to any other person committing an offence before or at time of committing the offence, even though such assistance or facility is not known by the offender, such assistant deemed to be supporter in committing such offence shall be punished by two-thirds of the punishment as provided for such offence.

Punishment

Two third of the punishment prescribed for such offense



Examples of 7. Principal and 8. Aiding and Abetting

Example 1: A and B conspired together to kill C. At the time of occurrence, B was killing C alone without any assistance of A.

Example 2: A and B conspired together to kill C. At the time of occurrence, B was killing C while A was looking put for others who might intervene the commission.



Examples of 6. Instigation 7. Principal and 8. Aiding and Abetting

Example 3: B planned to kill C. A knew the plan and bought a pistol for B to kill C. B killed C.

Example 4: A planned to kill C. A bought a pistol for B to kill C. B killed C.