Q # 01: Discuss actus reus and mens rea as components in commission of crime?

1) INTRODUCTION

- Actus reus and mens rea are the foundations of the criminal law. A fundamental principle of Criminal Law is that a crime always consists of both a mental and a physical element. If a person knows the fact that his act is a criminal activity under the law, it comes under the mental element which is mens rea and the act itself is the physical element which is actus reus. Mens rea means to have “guilty mind” and actus reus means “guilty act.” There are different kinds of crimes being committed on a daily basis, but the basis of all of these crimes are mens rea and actus reus. An injury which is made without the mens rea is not a crime but may be an innocent act. An act does not make a man guilty of a crime unless his mind is also guilty.

2) GENERAL PRINCIPLE

- This principle is based on the fact that alone actus reus and mens rea cannot create liability because actus reus is “guilty act” and mens rea is “guilty mind”, so there should be the existence of both actus reus and mens rea to make the offender liable. For example, A since two months is carrying mens rea for killing B. One day A was driving car fast. The car of A hits a person. But A does not know at that time it was B because his back was towards A. Here this is actus reus but not mens rea. Though A has been carrying mens rea for B since two months but when A car hits B such as at the time of occurrence there was no mens rea but only actus reus, so A will not be liable for murder but will be liable for killing recklessness.

3) MEANING OF ACTUS REUS

- The word actus reus is a Latin phrase which means to have “guilty act.”

4) DEFINITION OF ACTUS REUS

- Actus reus is the Latin term which is used to describe a physical activity that harms another. In order to establish liability, the lawyers will have to prove that the criminal was responsible for the act.

5) MEANING OF MENS REA

- The word mens rea is a Latin phrase which means “guilty mind.”

6) DEFINITION OF MENS REA

- Mens rea is the Latin term which is used to describe a mental intention of the criminal for the commission of unlawful act. In order to establish liability, the lawyers will have to prove the mental intention of the criminal behind the unlawful act.
7) FORMS OF MENS REA

Following are the forms of mens rea. Details are as under. Following of the all forms make liable offender punishable under the Pakistan Penal code.

1. Intention
   - Intention is an essential element to commit an offence. Because offender knows that due to his commission of a certain act a specific result will occur. That’s why, severe punishments have been attached with the crimes which is committed intentionally because offender knows that a specific result will occur.

2. Recklessness (Ghaflat)
   - Recklessness is an essential element to commit an offence. Because offender knows the subsequent risks which will be occurred after the commission of a certain act but offender knowingly ignores them and takes the risks. That’s why severe punishments have been attached with the crimes.

3. Negligence
   - Negligence is an essential element to commit an offence. Negligence means when someone fails to give enough care for doing something that he was responsible for, is called negligence, if the offender was aware the risk and decided to take it, he was reckless if he was unaware of the risk but he must be aware of it, he was negligent, under the Pakistan penal code reckless man will liable and the negligent will not be liable.

4. Strict liability
   - Strict liability is an essential element to make offender liable. Strict liability is the case where mens rea is not required. Offender will be held responsible for the criminal offence at the same time when he committed that illegal act. They are not severe offence and have not severe punishments.

8) FORMS OF ACTUS REUS

Following are the forms of actus reus. The actus reus in criminal law consists of all elements of a crime other than the state of mind of the offender.

1. Conduct
   - The conduct is major element of any actus reus. Such conduct can be consists of some acts. If the Conduct is voluntary act, in this case severe punishments have been attached with the crimes which has been committed voluntary because offender knows that a specific result will occur.
   - If an offender conducting an act under a strong pressure or involuntary for example he is being threaten that he will be killed if he does not commit a certain act, so in this case, he will not be liable for crime.
2. Omission

• The omission is also an element of any actus reus. Omission is basically a failure to do something; according to this a person can be liable for a crime when he does not perform his duty positively as decided.

• For example, a person who has been hired on beach for saving the life of people and he is under duty but if before him a four foot tall child drown in five food deep pool, and he is not saving him from drowning, he is committing the crime by omission, and under the law he will be considered criminal.

3. Result

• The result is also an element of any actus reus because it is relate to the result of the act or omission of the offender. It is possible that the conduct may not be criminal but the result of the conduct can be criminal,

• For example, it is not a crime to throw a stone, but if it hits a person or breaks a window in this situation it would be considered as criminal act and offender will be liable for punishment under the law.

9) COINCIDENCE OF ACTUS REUS AND MENS REA

• Generally, in order to make a person liable for his wrongful act, following two things must be proved.

   Actus reus + Mens rea = Criminal liability

• It means that criminal liability only can be imposed upon a person where there is combination of actus reus and mens rea is exist, no liability can be imposed if any of them is missed at the time of occurrence. They must be in combination at the time of occurrence.

10) EXCEPTIONS TO GENERAL RULE

• Generally, it is true that criminal liability can only be imposed upon a person for his wrongful act with the presence of actus reus and mens rea. But in some cases a person can be held liable for his wrongful act in the presence of either of the element.

1. Without actus reus

• In case of conspiracy (Sazish) against state, there is no actus reus but only mens rea, in this case the person would be held liable for criminal act. There is no need to prove actus reus in this case.

2. Without mens rea

• There is no mens rea but only actus reus, in this case the person would be held liable for criminal act such as violation of traffic rules etc.
11) CONCLUSION

- There are two main elements of crime such as actus reus and mens rea. The prosecution is required to prove actus reus and mens rea and the presence of the two at the time of occurrence. Once it has been proved, the person would be held liable for this wrongful act and will be punished under the provision of laws. To impose liability upon a person there should be presence of physical involvement as well as mental intention to commit a crime.