



## CR Art. 9

# Mens Rea, Defences, and Participation

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## TITLE 01 — GENERAL PROVISIONS · CHAPTER 03 — CRIMINAL RESPONSIBILITY

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- 1** Unless the provision creating an offence expressly provides otherwise, a person is not guilty of an offence unless the person acted with intent (*dolus*). A person acts with intent where the person:
    - a. has knowledge of the facts and circumstances that constitute the material elements of the offence; and
    - b. wills the commission of the act or omission, or is aware that the prohibited consequence is substantially certain to result from the person's conduct.
  
  - 2** Where the provision creating an offence expressly specifies that negligence (*culpa*) is sufficient, a person acts negligently where the person fails to exercise the degree of care, skill, or foresight that a reasonable person, in the same circumstances and possessing the same knowledge, would have exercised, and thereby causes or contributes to the prohibited result.
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- 3 The following defences are available to a person charged with an offence under this Code:
- a. **Necessity.** A person is not criminally responsible for an act or omission if that act or omission was committed in order to avert an imminent danger to life, bodily integrity, or the fundamental rights of the person or of another, provided that:
    - a. the danger could not reasonably have been averted by other means;
    - b. the harm caused by the act or omission was not disproportionate to the harm averted; and
    - c. the person did not voluntarily create the circumstances giving rise to the danger.
  - b. **Duress.** A person is not criminally responsible for an act or omission if the person was compelled to commit it by an imminent and credible threat of serious harm to the life or bodily integrity of the person or of another, provided that a reasonable person in the same circumstances would have been unable to resist the threat. Duress is not a defence to an offence that results in the intentional taking of life.
  - c. **Lawful authority.** A person is not criminally responsible for an act or omission that was performed in the lawful execution of official duties, pursuant to a valid and lawful order or authorisation, provided that the act or omission did not manifestly exceed the scope of the authority conferred and was not manifestly unlawful.
  - d. **Honest and reasonable mistake of fact.** A person is not criminally responsible for an act or omission if, at the time of commission, the person honestly and reasonably believed in the existence of facts which, had they existed, would have rendered the conduct lawful. This defence does not apply where the mistake was the result of negligence and the offence may be committed negligently.
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- 4 Ignorance of the law is not a defence to a charge under this Code. Every person subject to Kaharagian jurisdiction is deemed to know the law.
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- 5 However, where a person can demonstrate that, despite the exercise of due diligence, the relevant provision was not accessible or ascertainable, the competent authority may take this into account as a mitigating factor in sentencing.
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- 6 A person who, with intent to commit an offence, takes a substantial step toward the commission of that offence, beyond mere preparation, is guilty of attempt, whether or not the offence is in fact completed. A person convicted of attempt is liable to a sanction not exceeding one half of the maximum sanction prescribed for the completed offence.
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- 7** A person who intentionally aids, abets, counsels, or procures the commission of an offence is liable as if they had committed the offence as a principal. For the purposes of this paragraph:
- "Aids"** means to assist or facilitate the commission of the offence by any act or omission, whether before or during its commission.
  - "Abets"** means to encourage, support, or instigate the principal offender in the commission of the offence.
  - "Counsels"** means to advise, recommend, or solicit the commission of the offence.
  - "Procures"** means to bring about, arrange, or cause the commission of the offence through another person.
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- 8** A person who intentionally incites another to commit an offence is liable as a principal if the offence is committed or attempted. Where the incited offence is neither committed nor attempted, the inciter is guilty of incitement and is liable to a sanction not exceeding one half of the maximum sanction prescribed for the offence incited.
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- 9** Where two or more persons act in concert pursuant to a common plan to commit an offence, each participant is criminally responsible for any act done by any other participant in furtherance of the common plan, provided that the act was a foreseeable consequence of carrying out the plan.

DOCUMENT INFORMATION	
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