

The Function of Criminal Law in Maintaining both Individual Rights and Public Order

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DESCRIPTION

A corpus of legislation pertaining to crime and punishment is known as criminal law. It outlines the elements of a crime and provides the penalties for committing such acts. This area of law is important for maintaining public order and safety by setting out what behaviors are unacceptable and ensuring that those who breach these standards are held accountable. This study search into the foundations of criminal law, its main principles, the various types of crimes, and the processes involved in the criminal justice system.

Foundations of criminal law

Criminal law is founded on the principle of *lex talionis*, or the law of retribution, which suggests that the punishment should fit the crime. Historically, this principle was applied literally, with penalties mirroring the crime committed. Modern criminal law, however, is more nuanced, considering factors such as intent, circumstances, and the potential for rehabilitation.

The sources of criminal law vary by jurisdiction but generally include statutory law (laws passed by legislatures), case law (court decisions), and constitutional provisions. In many countries, criminal codes consolidate the statutory laws related to crime and punishment, providing a comprehensive guide to legal offenses and their corresponding penalties. Legality is the principle, often encapsulated in the Latin phrase *nullum crimen nulla poena sine lege, sine lege erroneum* (no illicit activity, no justice) punishment without law), dictates that an act cannot be considered a crime unless it is defined as such by law. This guarantees that people are not penalized for deeds that were not illegal at the time they were committed. Criminal liability typically requires both a guilty mind (*mens rea*) and a guilty act (*actus reus*). *Mens* simply describes the suspect's mental state at the time of the offense, such as intent or recklessness. *Actus reus* is the physical act or omission that constitutes the crime. Both elements must be present for a defendant to be found guilty.

Harm principle suggests that for an act to be criminal, it must cause harm to others or society. This concept helps to delineate the scope of criminal law, focusing on actions that pose a threat to public safety and order. Proportionality is the punishment

need to be commensurate with how serious the offense was. This principle seeks to ensure that penalties are fair and just, deterring crime without imposing excessively harsh or lenient punishments. Due process guarantees that individuals are treated fairly within the criminal justice system. This includes the right to a fair trial, legal representation, and protection against self-incrimination and double jeopardy.

Violations against individuals are those that cause bodily harm or threaten to harm individuals. Examples include murder, assault, kidnapping, and sexual offenses. These crimes are often considered the most serious due to their direct impact on victims. Crimes against property this involve interference with another person's property. Common property crimes include theft, burglary, arson, and vandalism. While they may not always involve physical harm to individuals, they can cause significant financial and emotional distress. These are crimes that were begun but not completed. Attempt, conspiracy, and solicitation are examples of inchoate offenses. These crimes are penalized because they demonstrate the defendant's intent to commit a harmful act, even if the act was not fully realized.

Statutory crimes offenses are specifically defined by legislation. Examples include drug offenses, traffic violations, and regulatory offenses. Statutory crimes can vary widely depending on the jurisdiction and the specific laws in place. White-Collar Crimes are typically non-violent and financially motivated, committed by individuals or organizations in positions of trust. Examples include fraud, embezzlement, insider trading, and money laundering. White-collar crimes can have significant economic impacts and undermine public trust in institutions.

The criminal justice process

There are multiple steps in the penal court manage, starting with the investigation of a crime to the sentencing of the offender. Each stage plays a critical role in ensuring that justice is served while protecting the rights of the accused.

Investigation in the criminal process begins with the investigation of a crime. Law enforcement agencies gather evidence, speak with witnesses, and, if required, make an arrest of a suspect. The goal is to build a case that can be presented in court.

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Charging, if sufficient evidence is found, the case is referred to a magistrate, who makes the final decision about formal charges. The prosecutor reviews the evidence and determines the appropriate charges based on the facts of the case and applicable laws. Once charges are filed, the defendant is brought before a court for an arraignment. During this initial hearing, the charges are read, and the defendant enters a plea (guilty, not guilty, or nocontest).

The judge may also set bail at this stage. Pre-Trial Proceedings before the trial, both the defense and prosecution engage in pre-trial motions and discovery. They exchange evidence, file moves to bury evidence or drop accusations, and bargain plea bargains. This stage is important for shaping the upcoming trial.