

The Introduction to Criminal Law

What Criminal Law mean

- Criminal law, is the body of law (rules) that relates to crime.
- It might be defined as the body of rules that defines conduct that is not allowed because it is held to threaten, harm or endanger the safety and welfare of people, and that sets out the punishment to be imposed on people who do not obey these laws.
- Criminal law is to be distinguished from civil law.....
- Criminal law governs relationships between the individual and the state. If a person breaches a criminal law rule this is viewed as being much more serious than a breach of the civil law which governs relationships between individuals. Where there has been a breach of the criminal law, the state will intervene and bring a prosecution in a criminal court. If the defendant is found guilty of the crime then that defendant will be punished by the state.
- Criminal acts are considered offences against the whole of a community. The state, in addition to certain international organizations, has responsibility for crime prevention, for bringing the culprits to justice, and for dealing with convicted offenders. The police, the criminal courts and prisons are all publicly funded services, though the main focus of criminal law concerns the role of the courts, how they apply criminal statutes and common law, and why some forms of behaviour are considered criminal.

Words Commonly Used

Accused

Charge with an offence : Accused

Guilty

Who is Convicted

Offence

CPS

Jury

What is a Crime

- Crime is a breach of a law.
- While every crime breaches the law, not every breach of the law counts as a crime; for example: breaches of contract and of other civil law may rank as "offences" or as "infractions". Modern societies generally regard crimes as offences against the public or the state, as distinguished from torts (wrongs against private parties that can give rise to a civil cause of action).
- When informal relationships and sanctions prove insufficient to establish and maintain a desired social order, a government or a state may impose more formalized or stricter systems of social control. With institutional and legal machinery at their disposal, agents of the State can compel populations to conform to codes and can opt to punish or attempt to reform those who do not conform.
- Authorities employ various mechanisms to regulate (encouraging or discouraging) certain behaviors in general. Governing or administering agencies may for example codify rules into laws, police citizens and visitors to ensure that they comply with those laws, and implement other policies and practices that legislators or administrators have prescribed with the aim of discouraging or preventing crime. In addition, authorities provide remedies and sanctions, and

collectively these constitute a criminal justice system. Legal sanctions vary widely in their severity, they may include (for example) incarceration of temporary character aimed at reforming the convict. Some jurisdictions have penal codes written to inflict permanent harsh punishments: legal mutilation, capital punishment or life without parole.

How Criminal Law is Enforced (The Theories of Punishment)

Five objectives are widely accepted for enforcement of the criminal law by punishments: retribution, deterrence, incapacitation, rehabilitation and restitution.

Retribution – Criminals ought to suffer in some way. This is the most widely seen goal. Criminals have taken improper advantage, or inflicted unfair detriment, upon others and consequently, the criminal law will put criminals at some unpleasant disadvantage to "balance the scales." People submit to the law to receive the right not to be murdered and if people contravene these laws, they surrender the rights granted to them by the law. Thus, one who murders may be murdered himself. A related theory includes the idea of "righting the balance."

Deterrence – Individual deterrence is aimed toward the specific offender. The aim is to impose a sufficient penalty to discourage the offender from criminal behavior. General deterrence aims at society at large. By imposing a penalty on those who commit offenses, other individuals are discouraged from committing those offenses.

Incapacitation – Designed simply to keep criminals away from society so that the public is protected from their misconduct. This is often achieved through prison sentences today. The death penalty or banishment have served the same purpose.

Rehabilitation – Aims at transforming an offender into a valuable member of society. Its primary goal is to prevent further offense by convincing the offender that their conduct was wrong.

Restitution – This is a victim-oriented theory of punishment. The goal is to repair, through state authority, any hurt inflicted on the victim by the offender. For example, one who embezzles will be required to repay the amount improperly acquired. Restitution is commonly combined with other main goals of criminal justice and is closely related to concepts in the civil law, that is to say returning the victim to his original position.

Criminal Law Legislations

The jurisdiction of England and Wales does not have a Criminal Code though such an instrument has been often recommended and attempted. As of April 2009, the Law Commission is again working on the Code.

Arguments for a Code

Attorney-General Sir John Holker said:

Surely, it is a desirable thing that anybody who may want to know the law on a particular subject should be able to turn to a chapter of the Code, and there find the law he is in search of explained in a few intelligible and well-constructed sentences; nor would he have to enter upon a long examination of Russell on Crimes, or Archbold, and other text-books, because he would have a succinct and clear statement before him.

Sir John Smith was, in general an opponent of legal codes but said:

The criminal law is entirely different. It is incoherent and inconsistent. State almost any general principle and you find one or more leading cases which contradict it. It is littered with distinctions which have no basis in reason but are mere historical accidents. I am in favour of codification of the criminal law because I see no other way of reducing a chaotic system to order, of eliminating irrational distinctions and of making the law reasonably comprehensible, accessible and certain. These are all practical objects. Irrational distinctions mean injustice. A is treated differently from B when there is no rational ground for treating him differently; and this is not justice.

If there is no Criminal law How it work ?

Work by different independent legislations such as Murder crime : Offences Against the Person Act, 1861

Criminal Courts Structure

See Fig ; attached document

Important Case Law

Woolmington v DPP [1935] UKHL 1 is a famous House of Lords case in English law, where the presumption of innocence was first articulated in the Commonwealth.

Reginald Woolmington was a 21-year-old farm labourer from Castleton, Dorset. On November 22, 1934, three months after his marriage to 17-year-old Violet Kathleen Woolmington, his wife left him and went to live with her mother. On December 10 Woolmington stole a double-barrelled shotgun and cartridges from his employer, sawed off the barrel, throwing it in a brook, and then bicycled over to his mother-in-law's house where he shot and killed Violet. He was arrested on January 23 the following year and charged with the wilful murder of his wife.

Woolmington claimed he did not intend to kill her. He wanted to win her back so he planned to scare her by threatening to kill himself if she did not come back. When questioning her about returning, he attempted to show her the gun that he was to use to kill himself. By accident, the gun went off shooting Violet in the heart.

The Trial judge ruled that the case was so strong against Woolmington that the onus was on him to show that the shooting was accidental. At trial the jury deliberated for an hour and 25 minutes. On February 14, 1935 Woolmington was convicted and sentenced to death.

On appeal to the Court of Criminal Appeal, Woolmington argued that the Trial judge misdirected the jury. The appeal judge discounted the argument using the common-law precedent as stated in Foster's Crown Law (1762).

... In every charge of murder, the fact of killing being first proved, all the circumstances of accident, necessity, or infirmity are to be satisfactorily proved by the prisoner, unless they arise out of the evidence produced against him; for the law presumeth the fact to have been founded in malice, unless the contrary appeareth...

The issue brought to the House of Lords was whether the statement of law in "Foster's Crown Law" was correct when it said that where a death occurred it is presumed to be murder unless proven otherwise.

In articulating the ruling, Viscount Sankey made his famous "Golden thread" speech:

"Throughout the web of the English Criminal Law one golden thread is always to be seen that it is the duty of the prosecution to prove the prisoner's guilt subject to ... the defence of insanity and subject also to any statutory exception. If, at the end of and on the whole of the case, there is a reasonable doubt, created by the evidence given by either the prosecution or the prisoner ... the prosecution has not made out the case and the prisoner is entitled to an acquittal. No matter what the charge or where the trial, the principle that the prosecution must prove the guilt of the prisoner is part of the common law of England and no attempt to whittle it down can be entertained."

The conviction was overturned and Woolmington acquitted. He was released three days before his scheduled execution date.

Age of Criminal Responsibility

A child who is aged under 10 is irrefutably presumed to be incapable of committing an offence. Prior to 1998, a child aged between 10 and 14 was presumed to be incapable of committing an offence unless the prosecution were able to prove that the child knew the difference between right and wrong. Now, children between 10 and 17 are capable of committing offences and it is not possible for a child to avoid liability by showing he does not know the difference between right and wrong. However, a child should not be found guilty if he is unfit to plead.

In exceptional circumstances, most notably the case of the murder of Jamie Bulger in Liverpool in 1993, children can be tried as an adult in an adult court. This case set a precedent and maintained the age of criminal responsibility at 10.

From the age of 17 onwards, individuals are then considered an adult in the eyes of the law. Therefore, all punishment given by the courts or other law enforcement agencies will rest solely upon them.

Important Case Law

James Patrick Bulger (16 March 1990^[1] – 12 February 1993) was a boy from Kirkby, England, who was murdered on 12 February 1993, when aged two. He was abducted, tortured and murdered by two ten-year-old boys, Robert Thompson (born 23 August 1982) and Jon Venables (born 13 August 1982). Bulger disappeared from the New Strand Shopping Centre in Bootle, near Liverpool, while accompanying his mother. His mutilated body was found on a railway line two-and-a-half miles (4 km) away in Walton, two days after his murder. Thompson and Venables were charged on 20 February 1993 with Bulger's abduction and murder.

The pair were found guilty on 24 November 1993, making them the youngest convicted murderers in modern English history. They were sentenced to custody until they reached adulthood, initially until the age of 18, and were released on a lifelong licence in June 2001. In 2010 Venables was returned to prison for violating the terms of his licence of release.

Key Points To Remember

1. Criminal law governs relationships between the individual and the state. If a person breaches a criminal law rule this is viewed as being much more serious than a breach of the civil law which governs relationships between individuals. Where there has been a breach of the criminal law, the state will intervene and bring a prosecution in a criminal court. If the defendant is found guilty of the crime then that defendant will be punished by the state.
2. Crime is a breach of a law
3. Five objectives are widely accepted for enforcement of the criminal law by punishments: retribution, deterrence, incapacitation, rehabilitation and restitution.
4. There is no Criminal code in England and Wales
5. Accused is innocent until proven guilty and CPS must prove it, Woolmington case.
6. Adult age is 17 and over.

7. The age of criminal responsibility is 25 years.

By this stage you must Understand ;

Crime. Criminal Law, how to judge an offence, and principle of Woolmington case

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