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CRIMINAL LAW



Criminal law is the body of law that relates to crime. It regulates social conduct and proscribes whatever is threatening, harmful, or otherwise endangering to the property, health, safety, and moral welfare of people. It includes the punishment of people who violate these laws. Criminal law varies according to jurisdiction, and differs from civil law, where emphasis is more on dispute resolution and victim compensation than on punishment.

Objectives of criminal law

Criminal law is distinctive for the uniquely serious potential consequences or sanctions for failure to abide by its rules. Every crime is composed of criminal elements. Capital punishment may be imposed in some jurisdictions for the most serious crimes. Physical or corporal punishment may be imposed such as whipping or caning, although these punishments are prohibited in much of the world. Individuals may be incarcerated in prison or jail in a variety of conditions depending on the jurisdiction. Confinement may be solitary. Length of incarceration may vary from a day to life. Government supervision may be imposed, including house arrest, and convicts may be required to conform to particularized guidelines as part of a parole or probation regimen. Fines also may be imposed, seizing moneys or property from a person convicted of a crime.

Five objectives are widely accepted for enforcement of the criminal law by jurisdictions: retribution, deterrence, incapacitation, rehabilitation and restoration. Jurisdictions differ on the value to be placed on each.

- **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 executed 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 misdeeds. 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.
- **Restoration** – This is a victim-oriented theory of punishment. The goal is to repair, through state authority, any injury inflicted upon the victim by the offender. For example, one who embezzles will be required to repay the amount improperly acquired. Restoration is commonly combined with other main goals of criminal justice and is closely related to concepts in the civil law, i.e., returning the victim to his or her original position before the injury.

Selected criminal laws

Many laws are enforced by threat of criminal punishment, and the range of the punishment varies with the jurisdiction. The scope of criminal law is too vast to catalog intelligently. Nevertheless, the following are some of the more typical aspects of criminal law:

Elements

The criminal law generally prohibits undesirable acts. Thus, proof of a crime requires proof of some act. Scholars label this the requirement of an *actus reus* or guilty act. Some crimes – particularly modern regulatory offenses – require no more, and they are known as strict liability offenses (e.g. Under the Road traffic Act 1988 it is a strict liability offence to drive a vehicle with an alcohol concentration above the prescribed limit). Nevertheless, because of the potentially severe consequences of criminal conviction, judges at common law also sought proof of an intent to do some bad thing, the *mens rea* or guilty mind. As to crimes of which both *actus reus* and *mens rea* are requirements, judges have concluded that the elements must be proven at precisely the same moment and it is not enough that they occurred sequentially at different times.

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