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FACULTY OF JURIDICAL SCIENCES

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Lecture-16



Definition of Criminal Law

Have you ever watched the television show Law and Order? In the popular show, the first portion relates to a crime that was committed. This part of the show focuses on the police and detective work involved in trying to solve the crime and gather evidence to prove their case against the perpetrator of the crime. The second part of the show pertains to the legal system and shows how criminal law applies to the facts. Thus, you will see criminal law in action as it plays out in the courtroom. This program offers a very good insight into the body of criminal law.

Criminal law refers to a body of laws that apply to criminal acts. In instances where an individual fails to adhere to a particular criminal statute, he or she commits a criminal act by breaking the law. This body of laws is different from civil law, because criminal law penalties involve the forfeiture of one's rights and imprisonment. Conversely, civil laws relate to the resolution of legal controversies and involve money damages.

There are various theories for why we have a criminal law system. Neither theory is exclusive or dispositive. The main theories for criminal law include: to deter crime, to reform the perpetrator, to provide retribution for the act, and to prevent further crimes. There is much discussion regarding these theories of criminal law and which policy is best promoted by the body of criminal law.

Types of Criminal Laws

There are two types of criminal laws: misdemeanors and felonies. A misdemeanor is an offense that is considered a lower level criminal offense, such as minor assaults, traffic offenses, or petty thefts. Moreover, in most states, the penalty for the misdemeanor crime is typically one year or less.

In contrast, felony crimes involve more serious offenses. Some examples of felonies include murder, manslaughter, dealing drugs, rape, robbery, and arson. In

virtually every state in the U.S., felonies carry a penalty of one year or more, depending upon the particular nature of the offense and the jurisdiction where the felony crime was committed. In addition, every state has a different body of criminal laws which vary from state to state. There are also federal criminal law statutes which apply to every state in the U.S.

Parts of Criminal Law Statutes

All criminal law statutes contain two distinct parts. The first of these parts is the mens rea, which is the mental state that one must possess when committing a crime. For example, if one commits murder, it is necessary that the party committing the murder intended to engage in the act. This intention is the mens rea of the crime of murder.

The other part of a criminal statute is the actus reus. This portion of the criminal statute refers to the action taken by the perpetrator. For instance, in a drug dealing case, in order to charge the perpetrator with the crime of drug dealing, the perpetrator must have actually sold the drugs. This is the action required for the criminal statute's actus reus to exist.

Cases

All criminal law cases involve the alleged commission of a crime, and therefore, the charge, which includes an allegation that a criminal statute was broken. Some cases are determined by juries who listen to the case and determine the guilt or innocence of the party charged. Other cases are resolved by the use of a plea bargain. A plea bargain occurs where the defendant admits to the crime in

exchange for a reduced sentence or some other benefit for the admission and cooperation.

MCQ

1. Section 162 of the Code of Criminal Procedure, 1973 is for the protection of –

- A. Accused
- B. Witnesses
- C. Police officer
- D. Magistrate

Ans. A

2. The protection under section 162 of the Code of Criminal Procedure, 1973 is –

- A. Available in Civil Proceedings
- B. Available for proceedings under Article 32 and/or 226 of the Constitution
- C. Not Available in rape cases
- D. Only available in Criminal enquiry or trial in respect of the offence under investigation

Ans. D

3. Under the provisions of Code of Criminal Procedure, 1973, confessions-

- A. Can only be made to the authorised persons
- B. Only the Magistrate enjoys the power of recording confessions
- C. Made to the Police Officer are valid
- D. Made by the accuse while in police custody to a police officer is valid

Ans. B

4. Under section 164 of the Code of Criminal Procedure, 1973 –

- A. Only the statement of a person produced by the police or investigations agencies can be recorded
- B. Statement of the person approaching the Magistrate independently can be recorded
- C. The statement made need not be voluntary
- D. The police officer is authorised to record the statement

Ans. A

5. Which of the following statements does NOT hold true for the confessions made to the Magistrate under the provisions of the Code of Criminal Procedure, 1973?

- A. It is the duty of the Magistrate to exclude the presence of the police officer from the place where the confession is recorded
- B. It is obligatory for the Magistrate to warn the accused, before recording his confession that he is not bound to make it and that if he does so, it may be used as evidence against him
- C. The accused should be sent back to police custody as soon as the confession is recorded
- D. It is necessary for the confession to be signed by the accused