

Legal English lessons for master 1 students,

Criminla law – 2nd Semester

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I)- Criminal Law, definition and Types

القانون الجنائي: المفهوم والأقسام

1 - Definition 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.

2- Criminal Law and Criminal Procedure

Crime is defined as an act of disobedience of the law forbidden under the pain punishment.

So, Criminal law generally defines the rights and obligations of individuals in society. Some common issues in criminal law are the elements of specific

crimes and the elements of various criminal defenses. Criminal procedure generally concerns the enforcement of individuals' rights during the criminal process. Examples of procedural issues are individuals' rights during law enforcement investigation, arrest, filing of charges, trial, and appeal.

1- **The penal code** is the set of the rules which determines the types of crimes (Felony, offense, misdemeanor, violation) and shows the elements of state crime and punishment. (in criminology, state crime is activity or failures to act that break the state's own criminal law or public international law).

2- **The code of criminal procedures** deals with the procedure to be followed from the time of the crime until the punishment. It shows the special procedures relating to the adjusting, arresting, inspections, prevention, detention, criminal investigation, trial, the punishment of the accused and the procedures of appeal.

II)- Definition and essential elements of an offence crime

التعريف بالجريمة وأركانها

1- Definition and essential elements of an offence crime

The word offence in English language means an unlawful act. Its technical meaning is a breach of the criminal law.

It is used to indicate criminal offence which corresponds to the word infraction in French equally: capital crime, felony or misdemeanor. **(Capital punishment, also known as the death penalty).**

In English law the offence has the same sense as crime. The two words are synonymous, but the crime is wrong doing therefore it does not involve the contraventions.

The offences or crimes in English law are classified into two categories:

1-Indictable offences: this term is used in common law as crimes which are referred to trial by jury in superior courts.

2- Non Indictable offences (Summary Offences) are crimes created by statute, summary offences are considered to be less serious than indictable offences, and generally carry a maximum penalty of no more than six months (or two years in u.s.a) imprisonment.

Common examples of summary offences include drink driving, offensive conduct or language.

2- The essential elements of a crime or offense:

- **Material Element**
- **mental element**
- **(element legal)**

- Mens rea: intent or guilty mind in relation to crime.
- Actus reus : Guilty act.
- Crime scene.

III)- Classification of Crimes

أقسام الجريمة – أصناف-

Crimes can be classified in many ways, crimes also can be grouped by subject matter. For example, a crime like assault, battery, or rape tends to injure another person's body, so it can be classified as a "crime against the person." If a crime tends to injure a person by depriving him or her of property or by damaging property, it can be classified as a "crime against property."

These classifications are basically for convenience and are not imperative to the study of criminal law, More important and substantive is the classification of crimes according to the severity of punishment, This is called grading.

Crimes are generally graded into three categories: felonies, misdemeanors, , and infractions.

A- Felonies : Felonies are the most serious crimes. They are either supported by a heinous intent, like the intent to kill, or accompanied by an extremely serious result, such as loss of life, grievous injury, or destruction of property. Felonies are serious, so they are graded the highest, and all

sentencing options are available. Depending on the jurisdiction and the crime, the sentence could be execution, prison time.

B- Misdemeanors : Misdemeanors are less serious than felonies, either because the intent requirement is of a lower level or because the result is less extreme. Misdemeanors are usually punishable by jail time of one year to two years or less per misdemeanor, a fine, or alternative sentencing like probation, rehabilitation, or community service, **in some legal systems.**

C- Infractions : Infractions, which can also be called violations, are the least serious crimes and include minor offenses such as motor vehicle offenses that result in a simple traffic ticket. Infractions are generally punishable by a fine or alternative sentencing

V)- The Purposes of Punishment

أغراض العقوبة – الهدف منها –

Punishment has five recognized purposes: deterrence, incapacitation, rehabilitation, retribution, and restitution. Specific and General Deterrence; Deterrence prevents future crime by frightening the defendant or the public.

The two types of deterrence are specific and general deterrence. Specific deterrence applies to an individual defendant.

When the government punishes an individual defendant, he or she is theoretically less likely to commit another crime because of fear of another similar or worse punishment. General deterrence applies to the public at large, when the public learns of an individual defendant's punishment; the public is theoretically less likely to commit a crime because of fear of the punishment the defendant experienced.

When the public learns, for example, that an individual defendant was severely punished by a sentence of life in prison or the death penalty, this knowledge can inspire a deep fear of criminal prosecution.

P.S: Incapacitation in the context of criminal sentencing philosophy is one of the functions of punishment. It involves capital punishment, sending an offender

to prison, or possibly restricting their freedom in the community, to protect society and prevent that person from committing further crimes. Incarceration, as the primary mechanism for incapacitation, is also used as to try to deter future offending.

IV)- The principle of legality

مبدأ الشرعية

The criminal legality is essential of the criminal law. It is meaning no offence nor a penalty except by virtue of law. There is also another principle concerning (rule non retroactivity of substantive provision

So, The principle of legality assures that **no defendant may be punished arbitrarily or retroactively by the state**. This means that a person cannot be convicted of a crime that has never been publicly announced, nor by a law that is excessively unclear, nor by a penal law that is passed retroactively to criminalize an action that was not criminal at the time it occurred. **It requires judges to always lean in favor of the defendant** when they interpret statutes, and forbids pronouncement of guilt without a clear and reasonable justification of this sentence.