



Abbes Laghrou University, Khenchela

Faculty of Law and Political Sciences

Level: Master 1 : **Criminal Law**



Lessons of The First Semester

Teacher: Takouachet Djedda

DEFINITION OF CRIMINAL LAW:

Criminal law is a vital part of the legal system that deals with behaviors that are considered harmful to society. It establishes rules and regulations to govern criminal conduct and ensures that justice is served. Criminal law defines different types of crimes, outlines what elements need to be present for a crime to occur, and determines the punishments for those found guilty. It plays a crucial role in maintaining order and protecting the well-being of society.

Sources of criminal law:

The sources of criminal law encompass a rich tapestry of legal materials that lay the foundation for its functioning. These sources comprise **statutory law, case law, and common law**, each bearing its distinctive characteristics and significance. Statutory law, as a primary source, comprises written laws enacted by legislative bodies, such as the venerable Congress or state legislatures. These legislative bodies, endowed with the authority to shape the legal landscape, promulgate statutes that delineate and define specific criminal offenses and their corresponding penalties. This codified body of law serves as a fundamental pillar in the realm of criminal law, providing a clear framework within which individuals' actions are assessed and punished.

In addition to statutory law, **case law** holds a prominent position as an influential source in the development and interpretation of criminal law. Case law, often hailed as the product of judicial wisdom, emanates from legal decisions made by judges in prior court cases. These judicial pronouncements serve as binding precedents that guide and shape the course of future legal proceedings. By carefully analyzing the facts, legal arguments, and principles of law presented in previous cases, judges render judgments that crystallize legal principles, create precedents, and establish the interpretative fabric within which criminal law operates.

Furthermore, **common law** stands as a venerable source of criminal law, having evolved and refined over time through the collective wisdom of courts and legal scholars. Common law, based on judicial opinions and customary practices, embodies legal principles and rules that have transcended generations. These principles have been forged through a continuous process of reasoning, refinement, and adaptation in response to the evolving needs and challenges of society. Common law principles, often deeply entrenched in legal tradition and jurisprudence, guide the interpretation and application of criminal law by courts, ensuring a harmonious and consistent legal framework.

Criminal Law Principles and Legal Defenses:

A. Principle of Legality: The principle of legality forms the bedrock of criminal law. It emphasizes the fundamental requirement that laws defining criminal conduct must be clear, specific, and accessible to individuals. This principle serves as a safeguard against arbitrary and retroactive application of the law, ensuring that individuals have fair notice of prohibited behavior and protecting against potential abuse of power.

B. Principle of Culpability: Culpability refers to the mental state or intention behind a criminal act. It is a crucial element in determining criminal liability. Different levels of culpability exist, ranging from intent (a deliberate desire to commit the act) to knowledge (awareness of the consequences) and from recklessness (conscious disregard of a substantial and unjustifiable risk) to negligence (failure to exercise reasonable care). Understanding the varying degrees of culpability allows us to assess the severity of a crime and assign appropriate levels of punishment.

C. Principle of Proportionality: The principle of proportionality ensures that the severity of punishment is commensurate with the gravity of the offense committed. It seeks to strike a balance between the need for punishment, rehabilitation, and societal protection. By aligning punishment with the seriousness of the crime, the principle of proportionality serves as a guiding principle in the criminal justice system, promoting fairness and preventing excessive or arbitrary punishments.

Legal Defenses

A. Self-Defense: Self-defense is a well-recognized legal defense that allows individuals to protect themselves from imminent harm or danger. To successfully invoke self-defense, one must demonstrate a reasonable belief in the necessity of using force to defend oneself or others. However, it is important to note that the use of force must be proportional to the threat faced, ensuring that only the necessary amount of force is used to repel the danger.

B. Insanity Defense: The insanity defense is a legal concept that recognizes that certain individuals, due to a mental illness or defect, may lack the capacity to understand the nature and consequences of their actions or to conform their behavior to the requirements of the law. The criteria for establishing legal insanity may vary depending on the jurisdiction, but generally require a showing that the defendant's mental condition significantly impaired their cognitive or volitional abilities at the time of the offense.

C. Mistake of Fact: The defense of mistake of fact arises when an individual reasonably and genuinely believes certain facts to be true, leading them to engage in conduct that would otherwise be considered criminal. It recognizes that a mistaken belief about a crucial fact may negate the intent or knowledge required for criminal liability. However, the mistake must be reasonable and not based on a mistake of law, as ignorance of the law is generally not a valid defense.

D. Duress: The defense of duress acknowledges that individuals may be coerced or compelled to engage in criminal acts due to a well-founded fear of imminent harm or death. To successfully assert duress as a defense, one must demonstrate that the threat was immediate and credible, leaving no reasonable alternative but to commit the crime. The proportionality of the response to the threat is a crucial consideration in evaluating the validity of this defense.

Crime:

Crime can be defined as an act or omission that violates established laws and regulations within a particular jurisdiction and is punishable by the state. It encompasses a wide range of behaviors that are considered morally and socially unacceptable, posing a threat to the safety, well-being, and order of society. Crimes are not only committed against individuals but also against the state or society as a whole, thereby warranting intervention and punishment by the criminal justice system.

Types of Crimes

Within the realm of criminal law, a fundamental categorization arises, distinguishing crimes into three main types: felonies, misdemeanors, and violations. At the pinnacle of severity lie felonies, encompassing crimes deemed most heinous and consequential. Imposition of penalties for felonies often entails imprisonment for a period exceeding one year, coupled with fines and other sanctions. Illustrative examples of felonies include acts such as murder, robbery, and fraud, which strike at the very core of societal order and welfare.

In contrast, misdemeanors are considered less severe offenses, but nonetheless entail societal repercussions. Sentences for misdemeanors generally involve imprisonment for a period not exceeding one year, along with fines and other appropriate sanctions. These offenses encompass a wide range of transgressions, such as traffic violations and disorderly conduct, which disturb public harmony and safety to a lesser extent than felonies.

Lastly, violations represent a category of minor offenses that primarily disrupt public order or norms, albeit in a relatively insignificant manner. Punishments for violations are typically limited to fines or other minor sanctions, rather than incarceration. Examples of violations encompass acts such as jaywalking or littering, which, while not of grave concern, still warrant reprimand to maintain civic propriety.

ESSENTIAL TERMS IN CRIMINAL LAW

Felony - جنابة

Misdemeanor - جنحة

Homicide - جريمة قتل

Assault - هجوم

Battery - ضرب

Robbery - سرقة بالإكراه

Burglary - اقتحام منزل

Arson - حرق

Fraud - احتيال

Search warrant - أمر تفتيش

Arrest warrant - أمر اعتقال

Indictment - لائحة اتهام

Appeal - استئناف

Statute of limitations - مدة

القيد الزمني للمتابعة الجنائية

Embezzlement - اختلاس

Conspiracy - تآمر

Probation - إخلاء سبيل مؤقت

Parole - إخلاء سبيل مشروط

Bail - كفالة

Plea bargain - صفقة اعتراف

Acquittal - براءة

Conviction - إدانة

Sentence - حكم

Due process - الإجراءات القانونية العادلة

Double jeopardy - الملاحقة الجنائية المزدوجة

Miranda rights - حقوق ميراندا

Grand jury - هيئة المحلفين الكبرى

Jury trial - محاكمة بمشاركة هيئة المحلفين

Witness - شاهد

Evidence - دليل

Subpoena - استدعاء قضائي -

Witness protection program - برنامج حماية الشهود -

Miranda rights waiver - تنازل عن حقوق ميراندا -

Capital punishment - عقاب الإعدام -

Crime scene - موقع الجريمة -

Plea of insanity - ادعاء الجنون -

Rehabilitation - إعادة التأهيل -

Community service - الخدمة العامة -

Statutory rape - اغتصاب قانوني -

Perjury - الزور في الشهادة -

White-collar crime - جريمة الرقباء البيضاء -

Cybercrime - جريمة إلكترونية -

Extradition - تسليم المطلوب بالترحيل القسري -

Sentencing - إصدار الحكم الجزائي -

Restitution - تعويض -

Plea - استدلال -

Criminal intent - نية جنائية -

Incarceration - السجن -

Parole violation - خرق شروط الإخلاء المشروط -

Essential Definitions in Criminal Law

- **Crime:** An act committed in violation of a law that prohibits it and is punishable by the government.
- **Mens rea:** The mental state or intent of the defendant at the time of committing a crime. It refers to the guilty mind or criminal intent.
- **Actus reus:** The physical act or conduct that constitutes a crime. It refers to the guilty act.
- **Strict liability:** A legal doctrine where intent or mental state is not required to establish guilt. It holds individuals responsible for certain actions regardless of their knowledge or intent.
- **Causation:** The connection between the defendant's actions and the resulting harm or consequences. It establishes that the defendant's conduct caused the harm or crime to occur.
- **Justification:** A legal defense that argues the defendant's actions were necessary to prevent a greater harm or to protect themselves or others.
- **Excuse:** A legal defense that acknowledges the defendant's actions but asserts that they should not be held criminally liable due to certain circumstances, such as insanity or duress.
- **Inchoate offenses:** Crimes that are incomplete or in the early stages of preparation. They include attempts, solicitation, and conspiracy.
- **Felony:** A serious crime typically punishable by imprisonment for more than one year, and in some cases, by death.
- **Misdemeanor:** A less serious offense punishable by imprisonment for up to one year or by fines and other penalties.
- **Restitution:** The requirement for the offender to compensate the victim or society for the harm caused by the crime, typically through monetary payments or other actions.

- **Statute of limitations:** The time limit within which legal proceedings for a crime must be initiated. Once the statute of limitations expires, the prosecution is generally barred from pursuing charges.
- **Double jeopardy:** The constitutional protection that prevents an individual from being prosecuted twice for the same offense.
- **Miranda rights:** The rights that must be read to individuals upon arrest, including the right to remain silent, the right to an attorney, and the warning that anything they say can be used against them in court.
- **Burden of proof:** The responsibility of the prosecution to prove the defendant's guilt beyond a reasonable doubt in a criminal trial.
- **Homicide:** The act of causing the death of another person, either intentionally (murder) or unintentionally (manslaughter).
- **Assault:** The intentional act of causing apprehension or fear of immediate harmful or offensive contact, or intentionally causing physical injury to another person.
- **Battery:** The intentional and unlawful physical contact with another person without their consent, resulting in offensive or harmful contact.
- **Robbery:** The act of unlawfully taking another person's property through force, threat, or intimidation.
- **Arson:** The intentional act of setting fire to a building, property, or structure, usually resulting in damage or destruction.