



FSH-PH Publication

# CRIMINAL LAW AND JURISPRUDENCE

A comprehensive guide for public administration,  
criminology, and nursing students

public administration

criminology

nursing



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## FOREWORD

It's our pleasure to announce the publication of *"Criminal Law and Jurisprudence: A Comprehensive Guide for Public Administration, Criminology, and Nursing Students."* The authors are enthusiastic about responding to this task as a team between the Faculty of Criminal Justice Program, Western Mindanao State University, and the Faculty of Public Administration and Health Sciences at Mindanao State University-Sulu. The ambition of this guide is to provide students with a behind-the-scenes, but still “friendly” resource that can be used as a point of reference in their troubling relationship with the overly sophisticated universe of criminal law and jurisprudence—in their specific internal applications, but also within public administration structures at large and criminology paradigms.

In a world where what constitutes ‘criminal justice’ is in a sense up for grabs, this book was conceived to try and meet a need for an introduction that can discuss core ideas without simply ignoring the issues of the day. It will, consequently, take up such pressing questions as how technology has affected criminal law, the effects of social media, restorative justice and future trends in criminal law—all issues that gaze toward the future in this constantly reshaping area.

It is our hope that this Handbook will become the lecture notes of tomorrow's classroom, the introductory sections in many monographs which future workers will be required to master before setting off on their own.

The book is a bridge to inter-disciplinary learning, allowing criminology and public administration students to understand the impact of their specialized knowledge on what are commonly considered to be policy making and law abiding, that work in tandem, tempered within the much larger landscape of other functions.

The purpose of writing this book; *Criminal Law and Jurisprudence: Complete Draught for Nursing* was to address the vacuum existing between jurisprudential theory and nursing care. In the sensitive and complex world of health, nurses must deal with situations in which their action may be subject to legal scrutiny. Knowing criminal law and jurisprudence is then a must—not just to protect oneself professionally, but also to be on the side that looks after the rights, safety, and dignity of the patient.

Featuring clear explanations of the law and many examples, *The Nurse's Guide to Understanding and Applying the Law* covers such areas as confidentiality, informed consent, abortion, same sex marriage, and sexual harassment. May this body of work represent itself as a dependable aid in producing nurses who are responsible, legally aware, ethical practitioners that provide positive contributions to both the legal system and the profession.

As you read this text, We hope that you will be provided with the inspiration to continue in your pursuit of knowledge, understanding and critical thinking as we

together attempt to create criminal law along with a system of justice in our society.

## **BACKGROUND AND RELEVANCE OF THE GUIDE**

A prerequisite for criminology and public management in any event must be knowledge of the penal code and case law. Criminal law is the fundamentals of a civilized society, where justice prevails without discrimination; it safeguards personal rights and preserves societal tranquility. The jurisprudence offers far more in depth of reasoning and underlying principles/values for the laws being enacted / enforced. Together, all three these provide an incredibly rich and dynamic framework for approaching the legal challenges that today's world throws at us.

This book is participated by two higher education institutions: Western Mindanao State University and Mindanao State University-Sulu. It is written primarily with the intention to serve as a comprehensive guide for students in criminology and public administration following courses in criminal law(jurisprudence). In a climate of rapid social change, technological advancement, and an ever-shrinking world this book will encourage the formulation of theories to address criminal behaviour that can provide knowledge & establish a set of acquiring characteristics towards our everyday lives.

The chapters are based on highly-relevant topics for students and practitioners – change of criminal law, criminologist's efforts to do justice through research findings, public administration in the face of challenges &

trends influencing the future criminal justice system. Covering both traditional and new issues, this guide presents a balanced perspective to help students understand the processes of criminal law by which people are convicted - indeed even charged - with doing bad things and how these processes reflect and shape contemporary social values.

It's the presence of those students, along with young readers and other non-academic speakers who are here to learn, that makes up the next part: Reading and Language Learning. Each chapter with key concepts will be complemented by in-depth discussions, applications and exercises that relieve the reader from being passive. This volume will thus not just be a student book; it could become a pragmatic friend to the young learner ready to publish knowledge on further advancement of criminal law, criminology and public administration.

The wisdom in this book is the collective wisdom of many of the faculty contributors who provided experiences and expertise. Working together to produce a worldwide reference source that is comprehensive, accessible and visionary is testimony that this book will be holding up the shelf for generations to come.

Nursing is fundamentally a service-based profession, grounded in compassion and care. But, nurses practice in the confines of legislation. Additionally, certain conditions and special penal laws under the Revised Penal Code in the Philippines which apply to clinical nursing practice relate to patient safety, consent,

confidentiality, medication administration and documentation.

Designed to aid nursing students and practicing nurses in applying legal concepts to their practice, this text assists physicians who need a reference on the legal aspects of patient care. The text brings to life one of the most important healthcare topics in the US. It's readable and informative—legal issues made easy to understand. It explores legal considerations for your practice environment, including hospitals, long-term care facilities, and home health agencies.

This guide is useful to prepare future nurses for practicing while understanding the principles of nursing and law. Nursing students exposed to legal literacy will be well-positioned to protect themselves from liability, maintain ethical professional conduct, and advocate for accurate lawful or aligned practice that is patient-centered.



## **DEDICATION**

This book is for all students, academics and those practising toiling away daily in ensuring the justice prevails and continue development of criminal law and public administration. May this text motivate you to approach your studies with enthusiasm and wonder, as well as a deep concern for justice and fairness on the rule of law.

Faculty of the Criminal Justice Program, Western Mindanao State University and the Public Administration, Criminology and Health Sciences Faculty, Mindanao State University-Sulu, whose cooperation would make this work possible: your dedication to academic excellence was truly exceptional. This book is a tribute to the hard work, thoughtful analysis, and unswerving dedication to educate leaders of tomorrow in criminology, nursing, and public administration.

Ultimately, this book is for students-of all ages and the potential great minds it will illuminate-for the road ahead, to find justice with others that we may be more just as a world. Be inspired and guided as you go further in your academic studies and professional life through these lines.

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## **Chapter 1**

### **Introduction to Criminal Law and Jurisprudence**

#### **Definition and Ambit of Criminal Law**

*What is criminal law?*

Criminal law refers to that department of law which treats of actions or neglects harmful to society, and for the punishment whereof the state provides. It describes what is a crime, who commits one, the ways in which they will be punished, and the various types of punishments that are given.

The character Criminal Law: Criminal law's concern is primarily with such acts that are considered very seriously threatening or damaging to the public and society. It belongs to public law because the sanctions are imposed by the state for crimes against society.

The state is the plaintiff because it's considered the surrogate of society for purposes of justice. The delineation between criminal law and civil law is the latter requires boundaries being set in regards to offense against society or the state regarding an individual, whereas civil law deals with individuals purely. Criminal law is in a sense uncorrectable because it looks not only to end strife but also to prevent wrongs - and punish wrongdoers.

## Discussion Points:

\*Why does our society require laws for crime?

1. In exercise of the supervision of public order and safety.
2. To prevent people from doing things that harm other people or the public.
3. To punish criminals and deter them from committing further crimes.

## *Criminal vs. Civil Law*

Criminal law serves two main purposes: to protect society from evil and despicable characters, and to punish the guilty. It is a beautiful process by which the government takes you to trial for something that they believe you did. Civil law is an action brought by one party against another, generally seeking money or relief.

Criminal law coverage includes crimes such as violent offenses (e.g., homicide, assault), property offenses (e.g., theft, dock,) white-collar crime (e.g., fraud) and regulatory violations.(11).

## *Key Components:*

**Offenses:** What constitutes a crime.

**Punishments:** What is the punishment for crimes.

**Procedures:** The process of filing and litigating a criminal case, from investigation through trial and appeal.

## *Introduction to Jurisprudence*

**Definition of Jurisprudence:** The study and theory of law. It includes the study of the inherent philosophical and theoretical justifications for legal systems and law, such as natural law, legal positivism, critical theories in law and feminism.

### *Discussion Points:*

\*What is the nature of law, what is it for and how should we use it? This includes the likes of:

- a. What is law?
- b. What is justice?
- c. What should the laws mean?
- d. What is the responsibility of the judge in interpreting the law?

*\*Jurisprudence can be sub-divided into many different schools of thought:*

**Natural Law Theory:** The School believes that law is based on universal moral values. These are found by human reason.

**Positive Law:** Theory states that laws are rules of men and do not have a relationship with morality.

**Legal Realism:** Introduced greater focus on the realities of what law is, how it operates in practice or fact (versus some hypothetical "pure" form), and that law should be understood as applied, not just as written.

**The Place of the Jurisprudence:** The jurisprudence even allows us to know how a statement of law is elaborated, as well as being applied. Jurisprudence, however, has some realities with respect to how justice, equity and morality shall inform the law. For instance, a jurisprudential analysis might aid in determining whether the laws themselves are just and the use of power (e.g., capital punishment) is justified.

**Historical Development** is the concept of law has evolved over centuries. In Ancient Greece and Rome legal principles were founded upon natural law. During Medieval Europe, laws were closely identified with religious doctrines. The modern era has given in to a preoccupation of state legal systems and enacted statutes.

### **Importance of Criminal Law and Jurisprudence to Criminology and Public Administration Students**

*To Students of Criminology:* Knowledge of criminal law is fundamental to the study of criminology, in that it gives a broad framework within which to base the study of crime, criminal behavior, and criminal justice. Criminology concerns itself with the causes and consequences of crime, including its prevention; these causes and consequences are determined by criminal law.

*How criminal law aids criminologists:* It defines the degree of criminality and prescribes the

punishment, that enables criminologists to assess how the society legislates and enforces the rules. The scope informs about crime prevention approach and how criminal behavior is responded by the law system. Criminologists go ahead to research on how effective the criminal law is in preventing and controlling crime such as over-policing, racial profiling or discrimination in the criminal justice system.

*For Public Administration Students:* The public administration students are required to study criminal law in such a way that they can perform their duties in the field of law enforcement, regulatory agencies, and general public service arena effectively. They are required to apply laws justly, implement criminal justice policies, and also act within the precincts of legal principles.

*The role of the public administrators:* Public administrators play a part in creating, enforcing, and assessing criminal laws. They serve in government agencies such as the police, the judiciary, and in correctional facilities.

*Jurisprudence knowledge:* aids them to interpret laws and policies in such a way that they are implemented fairly and justly.

## *Criminal Law and Jurisprudence: An Introduction*

The role of criminal law in the maintenance of order in any society is very central. It outlines what constitutes a crime and stipulates the consequences for engaging in such actions. It differs from civil law in that it is aimed at punishment rather than compensation. It is, therefore, of utmost importance for students of criminology and public administration to understand the relationship of criminal law with society and how jurisprudence shapes the law.

Jurisprudence, on the other hand, takes us much deeper into the 'why' of the existence of laws, their interpretation, and whether they are just and fair. It looks at questions of morality, justice, and fairness in the law. Jurisprudence makes it possible for us to understand not only how the law should be applied but also its purpose and ethical implications. As criminology students, you'll apply this knowledge to analyze crime and criminal behavior, considering how the law may function both to deter crime and to rehabilitate offenders. For public administration students, this knowledge will help you interpret and enforce the laws under which public policies are applied—ensuring they are both effective and fair.



## **Exercises**

### *Case Study Analysis:*

Read the case study below and answer the questions that follow:

A man is charged with theft for taking an item from a store without paying for it. The store had a security guard on the premises who witnessed the act and called the police. The man claims he inadvertently walked out without paying and was unaware that he had the item in his pocket.

### *Discussion Questions:*

- a. What is the nature of the crime here and what is the potential punishment?
- b. Is there any defense that could be raised in this case, e.g. mistake of fact? Discuss under principles of criminal law.
- c. How does the mens rea (criminal intent) doctrine apply to this case?

### **Research Exercise:**

Please research the distinction between natural law theory and legal positivism. Please write a one-page comparison of the two. Explain how each would apply to a modern dilemma in criminal law, such as drug use decriminalization or capital punishment.

**Role Play Scenario:**

You have been working as a public administrator in the law enforcement department. You have been tasked with developing and implementing a new policy to help curb a growing issue of cybercrime within your jurisdiction.

***Reflective Questions:***

- a. What criminal laws and regulations will you draw upon in order to make your policy decisions?
- b. How will you strike a balance between effective enforcement and rights and privacy of individuals?
- c. How does jurisprudence assist in framing policies which are fair and just?

**Topic Discussion**

- a. How should the law treat juveniles who commit serious crimes. Should criminal law principles differ in the case of young offenders?
- b. Discuss how criminal law is applied to minors, including any defenses that may be available (for instance, age or lack of mental intent). Use jurisprudential theories to inform your discussion.

### **Group Activity**

1. Divide the class into small groups and assign each group a different crime (for instance, theft, fraud, assault).
2. Have each group: Define the crime under criminal law. Discuss the possible defenses and mitigating factors.
3. Teach the crime, the applicable statute and possible defenses to the class.

### **Conclusion**

While criminal law serves to maintain social order, jurisprudence provides the philosophy regarding how the laws should be interpreted and implemented. The concepts become very important in criminology and public administration students, since the latter derive their professional foundation on practical applications of the law, understanding its deeper philosophical underpinnings. Discussion here becomes a platform for further consideration of complexity in crime, law, and justice.

## **Chapter 2**

### **Sources of Criminal Law**

**Constitutional Framework Definition:** The Constitution is the basic law of a state that establishes the form of government, the separation of powers, and the protection of individual rights. It is, hence, the supreme law of a state; this way, all other laws are subservient to its provisions.

#### **Discussion**

**1. The Constitution as the Highest Law:** The Constitution is the ultimate source of law for any country. All other laws, including statutes and case law, have to conform to constitutional principles. In case there is any contradiction between a law and the Constitution, then the courts can always declare such a law invalid or unconstitutional.

In the Philippines, for instance, the 1987 Philippine Constitution guarantees the rights of the people, delineates the powers of the State, and commands that all laws shall conform to these constitutional rights.

The Constitution sets the legal framework by which criminal laws should function, that the fundamental rights of citizens shall be defended against illegal acts of government, including arrest, detention, and prosecution.

**Rights of the Accused Under Constitutional Law:** The Constitution makes sure that an individual who is accused of a crime is provided with certain basic protections so the State's system of criminal justice is fair and just. It commonly guarantees the right: to due process; to be informed of the charges; to be confronted with the witnesses against him; to have assistance of counsel; not to be compelled to testify against oneself.

**Right to a fair and speedy trial :** The right to be tried within a reasonable time and before an impartial judge.

**Right to remain silent :** The accused cannot be forced to testify against himself/herself

**Right to legal counsel :** The accused has the right to be represented by an attorney.

**Right to bail (in some cases) :** In many cases, the accused may be granted bail before the trial

**2. Statutory Law ( Legislation ) Statutory Law:** It is created through a legislative body, such as Congress or Parliament. Written down and codified, these laws are thus clear, accessible, and, therefore, enforceable. In the criminal context, statutory law defines what constitutes a crime and prescribes penalties for violations.

## **Major Discussion**

### *Key Criminal Statutes:*

#### **Penal Code (e.g., Revised Penal Code of the Philippines):**

The Penal Code enumerates the fundamental criminal laws, including what constitutes crimes like theft, homicide, and assault, and prescribes penalties for these acts. It is the fundamental source of criminal law.

**Anti-Drug Law (e.g., Republic Act No. 9165):** This law regulates the use, possession, selling, and trafficking of illegal drugs with heavy penalties for violators.

**Anti-Terrorism Act (e.g., Republic Act No. 11479):** This Act defines and punishes acts of terrorism in the country, including acts intended to cause harm to the public and the state.

#### **The Legislative Process of Enacting Criminal Statutes:**

Proposed criminal statutes are presented, debated and enacted by a legislative authority (e.g., Congress or Parliament). *The process generally goes through the following stages:*

**Bill Presentation:** A proposed legislation is presented by a member of the legislature.

**Committee Review:** The bill is studied and, if need be, revised in a legislative committee.

**Debate and Voting:** The bill is discussed on the floor of the legislative house and voted on.

**Passage in Both Houses:** In the case of bicameralism, the bill has to secure the approval of the lower and upper houses.

**Presidential Approval:** The bill will become an act once the President or head of state assents to it.

**Publication:** The law is published in the official gazette and thereby becomes enforceable.

### **3.Case Law (Judicial Precedents)**

#### **Definition**

Judicial precedents or case law is that body of law developed by judges' decisions in individual cases. The decisions interpret statutes, regulations and the Constitution and lay down the general legal principles that may be applied in future cases.

#### **Discussion**

**Courts Shape Criminal Law:** By way of interpretation and application of criminal law, courts decide on particular disputes. In this way, judicial decisions can make possible the elucidation of ambiguities in statutes, the creation of new legal principles, or the adaptation of the law to changed social conditions.

For instance, a judgment by the Supreme Court can establish a new standard that stipulates how a specific offense is defined or under which conditions a certain law will be applied.

**Importance of Judicial Decisions in Criminal Jurisprudence:** Judicial precedents are significant, since this ensures that there is a guarantee of consistency in

the application of the law and that similar cases are treated in a similar way. This further develops the law by allowing courts to interpret statutory provisions in light of changing social and legal norms.

*Stare Decisis* - the doctrine that courts must follow precedents-provides for the predictability and stability of the law, thereby making it a lot easier for both people and law enforcers to know the legal consequences of their acts.

#### **4. Administrative Regulations and Executive Orders**

##### **Definition**

**Administrative rules** are legislation enacted by government agencies or administrative bodies that have the force of the law. **Executive orders** are official documents from the President or head of state that gives instructions to government agencies or departments, which execute legislation.

##### **Discussion**

*How Public Administrators Apply Criminal Laws in Their Regulatory Functions?* Public administrators are supposed to ensure the effective enforcement of criminal laws. They do this through the issuance of regulations and policies by government agencies, for example, the Philippine National Police for law enforcement or the Bureau of Jail Management and Penology for correctional services.



**Regulatory Agencies** The legislature creates these agencies by law to regulate certain aspects of criminal law, including drug enforcement, immigration, or environmental protection. These agencies can issue rules and regulations to carry out the law's provisions. Executive Orders signed by the President can establish new criminal statutes or clarify existing ones. For instance, an executive order might be issued to deal with such issues as improved anti-terrorism initiatives or new types of cybercrime.

**Sources of Criminal Law** - Criminal law is not an isolated self-claimed entity; on the contrary, it is manufactured, defined, and operated by various sources: constitution, statutory law, case law, and administrative rules and regulations. Each of them has their imperative role in the way the criminal justice system was being carried out.

The Constitution acts like the highest law of the land, establishing citizens' rights, including that of the accused, and directs how criminal law is applied. For example, it guarantees that no one shall be deprived of life, liberty, or property without due process.

Statutory law includes criminal codes and the laws passed by the legislature. These define criminal behavior, establish punishments, and direct enforcement. Criminal statutes make it clear what

conduct is criminal and what are the punishments for that conduct.

Thus, case law allows the judiciary to interpret the laws in relation to specific cases, hence making their application clear and setting the precedent that guides future legal decisions. Courts, through case law, create new interpretations of criminal law, especially in situations where the statutes are ambiguous or where society's understanding of certain issues changes.

Lastly, administrative regulations and executive orders support the enforcement and execution of criminal laws. The highest-ranking public administrators wield these instruments to perform law enforcement and ensure the proper functioning of criminal laws.

### **Exercises**

**Research and Report:** Research a landmark case law, say a landmark judgment by the highest court in your country which transformed criminal law. Write a report on the case and its implication on criminal law.

**Case Study Discussion:** Imagine that a new criminal law has just been enacted, say, an **Anti-Cybercrime Law**, trace the legislative process for the said law from bill stage to its final approval and promulgation. How does this affect criminal law making?

Courtroom Simulation hold a mock trial in class where one group defends a law and the other group challenges its constitutionality. Focus on the constitutional framework discussing the rights of the accused and how case law can influence the interpretation of criminal statutes.

### **Debate**

*Debate the role of judicial precedents in the criminal justice system.*

*To what extent should courts be permitted to interpret laws in such a way as to either expand or contract the scope of criminal law, as opposed to adhering strictly to legislative intent?*

### **Regulatory Review**

Choose a regulatory agency (e.g., Drug Enforcement Agency), and research how they enforce criminal laws pertinent to their jurisdiction. Analyze the role of public administrators in the application of criminal law and how they interpret and enforce regulations.

### **Conclusion**

There are some very significant sources that give shape to criminal law and form a wide framework

within which justice can be administered effectively. The Constitution makes sure that criminal law respects people's rights; the statutory law defines criminal offenses and their corresponding penalties; case law provides clarification and interpretation; and administrative regulations help public administrators in carrying out the effective implementation of the laws. Understanding how these sources interrelate is fundamental to anyone studying criminal law and public administration.

### **Chapter 3:**

## **Fundamental Principles of Criminal Law**

## **Principle of Legality (Nullum Crimen, Nulla Poena Sine Lege)**

**Definition:** The Legality Principle is the core principle of criminal law, which can be stated by the Latin maxim, Nullum Crimen, Nulla Poena Sine Lege, literally meaning "No crime, no punishment without law." It states that an individual cannot be prosecuted or punished for any act unless under what is explicitly and specifically termed a crime in written law at the time of its perpetration.

## **Discussion**

**Importance of the Written Law in Criminal Justice** The principle of legality ensures that citizens know what the law is and are able to adjust their behavior accordingly. It ascertains the rule of law and thereby eschews arbitrary or retroactive prosecution. Otherwise, one could be prosecuted for things that were not yet declared crimes at the time of their commission with all the concomitant unfair and perhaps unjust legal consequences.

The law has to be clear, accessible, and predictable so that the legal system does not behave in an arbitrary manner.

It also safeguards persons against "ex post facto" laws-those which make criminal acts committed before the passing of such laws. This ensures that the law is not used as a tool of oppression or political

maneuvering.

### **Due Process Principle**

**Definition:** Due process is a fundamental constitutional principle guaranteeing fair treatment through the normal judicial system. It requires that legal proceedings be conducted under predetermined rules and principles to ensure fairness, justice, and equality before the law.

### **Discussion**

**Constitutional Guarantees of Fairness in Legal Proceedings:** Due process is protected under the constitution of most democracies. For example, the Fifth and Fourteenth Amendments in the United States guarantee that no person shall be deprived of life, liberty, or property without due process of law. This includes notice of charges and legal actions and a fair hearing before an impartial judge.

**Right to legal representation and a chance to provide evidence in defence**

**Right to a speedy trial, so that no one is held without being tried indefinitely.**

**Rights of the Accused and Legal Safeguards:**

Due process ensures that the rights of the accused are upheld during criminal proceedings. *Some of these safeguards include:*

The right to remain silent.

The right to a fair and impartial trial  
The right to confront witnesses against them.  
The right to a trial by jury (in some systems).

### **Presumption of Innocence**

Definition: Presumption of innocence is a principle in criminal law which presumes that a person accused is innocent until proven otherwise in a court of law. It is the cornerstone for any criminal justice system in the world.

### **Discussion**

**The Legal Basis of Innocence Until Proven Guilty:** This is the rule that saves people from unfair conviction and punishment. This rule shifts the burden of proof onto the prosecution; that is, the onus is on the state to prove the guilt of the accused person beyond reasonable doubt. The accused is not obliged to prove his innocence but rather the justice system has to prove his guilt.

This principle stops wrongful convictions and makes certain that the criminal justice system has the objective that it is better for a guilty person to go free rather than an innocent person being wrongfully convicted.

This also keeps individuals from being prejudged upon their arrest or charges, this holds the integrity and fairness of the criminal process intact.

## **Proportionality in Punishment**

**Definition:** The principle of proportionality in criminal law is the concept that the severity of the punishment must be directly linked to the gravity of the crime committed. This means that the punishment for a crime must be fitting to the nature and seriousness of the offense.

## **Discussion**

**Relationship Between the Severity of a Crime and Its Penalty:**

Through proportionality, fairness is brought into sentencing, whereby punishments that are either unduly severe or inordinately lenient for criminal behavior are avoided.

It is an insurance against cruel or unusual punishment, and proportionality connects the penalty to the moral and social weight of the offense. The punishment for murder, for example, must be severer than that for theft or vandalism because the former is far graver.

*Aims of Criminal Punishments in Society:* These are different aims of criminal punishments, such as jail, fines, and even death.

*Deterrence:* A punishment must deter others from committing the same offence

*Rehabilitation:* Punishment can also centre on



reforming offenders and transforming them into law-abiding citizens back into society

*Retribution:* Criminal law seeks to impose penalties, which are just and reflect the damage caused by crime

*Incapacitation:* Criminal sanctions prevent offenders from committing further crimes during the period of the sentence.

### **Fundamental Principles of Criminal Law**

Any criminal law system is premised on the basis of set fundamental principles to ensure a balanced, just, and weighted system in dispensing laws. They are particularly quite necessary as they play a huge part in the integrity of preserving any legal system and assurance for the security of individual rights.

**Legality:** The important principle, which was emphasized in that respect was *Nullum Crimen, Nulla Poena Sine Lege*-nobody to be convicted for any crime unless there was a very clear definition of such crime according to the law. It therefore saves an individual from an arbitrary punishment but holds him responsible for such acts only if it was known or should have been known as illegal by the act doer acting as an essential safeguard against the state's overreaching authority.

The Due Process principle ensures that the law

treats everyone on equal footing. This will save people from arbitrary acts by the government and ensure that justice is administered in a transparent manner. Due process protects the rights of the accused and guarantees that no one can be deprived of their liberty or convicted unjustly. It forms an integral part in the prevention of wrongful convictions and in ensuring that not only is justice done, but that it is seen to be done.

Another cornerstone of criminal law is the Presumption of Innocence. It provides that a person is assumed to be innocent until proven guilty and, as such, places the burden of proof on the prosecution. This prevents wrongful convictions based on circumstantial or unreliable evidence and ensures that individual liberties are not encroached upon. This brings into light the need for the protection of rights for the accused, which further cements the belief in fair justice.

Lastly, the Principle of Proportionality in Punishment requires that the punishment be proportionate to the crime; this prevents the system of law from being over-harsh and under-harsh. It simply means that the penalties to be meted out are to be in consonance with the objectives they can achieve: deterrence, retribution, rehabilitation, and incapacitation. This means the individual gets a just and proper sentence for the crime committed.

They form together the bedrock of criminal law, always ensuring that the system is just, fair, and protective of individual rights. They are accordingly of great importance in the functioning of the criminal justice system and in keeping order in society, as well as the protection of persons from unjust treatment.

### **Exercises:**

#### **Case Analysis:**

Select an actual case where the Principle of Legality was applied. In your discussion, analyze how the court has applied this principle in such a way as to avoid prosecution or punishment. Explain what the case means for the protection of rights and why certainty in law is so important in criminal cases.

#### **Due Process Debate:**

Divide the class into two teams. One team argues that due process is well protected in the criminal justice system; the other shows how it is violated. Using examples from case law, either national or international, argue both sides. This will go a long way in ensuring that the students understand how due process is interpreted differently and applied differently in context.

#### **Scenario Discussion on Presumption of Innocence:**

Describe a case in which a defendant has been publicly charged with an indictable offense. Divide into small groups and consider how the presumption of innocence should apply in that type of case. What steps can police and the courts take to ensure that the rights of the accused are fully observed —especially in high profile cases in which public opinion may be affected?

### **Sentencing Exercise:**

Present to the class a number of crimes, such as theft, assault, and murder. Ask students to suggest an appropriate sentence for each crime, keeping in mind the principle of proportionality. Discuss why some sentences might be considered too lenient or excessively harsh and how proportionality ensures the punishment fits the crime.

### **Research a Country's Criminal Code:**

Find one instance in your own, or another country, in which there is current controversy over whether a certain punishment is proportional to the offense.

Your paper will focus on the case identified as per above, citing all specific legal reforms or debates taking place or occurred regarding the proportionality issue of the punishment among scholars and practitioners.

## **Conclusion**

The basic principles of criminal law, namely, legality, due process, the presumption of innocence, and proportionality, are the basis for fairness, justice, and equality in the criminal justice system. Those principles guarantee that the law will operate not only to protect social order but also to safeguard individual rights. Students can learn more about their values that lie behind criminal law and its essence in preventing any person from being unjustly punished or having their rights violated. These principles must be at the heart of any legal system to ensure that justice is served, not just for the accused but for society at large.

The criminal law is based on the very basic notions of fairness and justice. The Principle of Legality ensures that no one can be punished for an act considered a crime unless it is explicitly determined by law, thereby saving individuals from arbitrary punishment. Due Process guarantees equal treatment under the law and protects individuals from unfair government actions and wrongful convictions. The Presumption of Innocence guarantees that every person is considered innocent until proven guilty and therefore shifts the burden of proof to the prosecution and individual rights. Proportionality in Punishment—proportion of the punishment to match the seriousness of the crime so as not to be very lenient or very harsh.

These principles harmonize in ensuring justice is upheld in the criminal justice system and that individuals are accorded fairness and their rights are respected. Based on these principles, students should come to realize the need for the protection of individual rights and, at the same time, how this relates to keeping social order. These are foundational principles in criminal law that make sure that justice is both done and seen to be done.

## **Chapter 4:**

### **Classification of Crimes**

#### **Crimes Against Persons**

Definition: Crimes against persons are those criminal offenses which directly attack or threaten the physical integrity or life of a human being. These crimes

typically involve deliberate injury or threat of injury to another person.

### **Types of Crimes Against Persons:**

*Homicide:* The unlawful killing of another human being. It can be classified as:

*Murder:* Intentional killing with malice aforethought (premeditation).

*Manslaughter:* The unlawful killing without malice aforethought. It may be voluntary, which is in the heat of passion, or involuntary, caused by reckless behavior.

*Assault:* The willful imposition of a bodily injury upon another person or the threat to do so. Assault may range from simple assault, which entails little injury or threat, to aggravated assault, which involves serious injury or the use of weapons.

### *Theories and Justifications for Punishment:*

**Retributive Justice:** Punishment is justified since the offender deserves to be punished. It aims at inflicting a penalty that best fits the crime committed. In specific cases, like in murder or assault.

**Deterrence:** Punishment acts as a deterrent to bar others from becoming perpetrators of such crimes.

For instance, the heavy punishment for homicide or assault may bar others from its commission.

**Rehabilitation:** Some say the aim of punishment

should be to reform the criminal. For example, a criminal convicted of manslaughter may undergo rehabilitation treatment so as to discourage any further violence in the future.

*Incapacitation:* Criminals who become dangerous to the public are put in prison to cease any further damage or crime

### **Crimes Against Property**

**Definition:** It is an unlawful interference with another person's property, whereby there is an intention to deprive permanently or temporarily.

#### **Types of Crimes Against Property:**

*Theft:* The unlawful taking of another's property with the intent to permanently deprive that person of it. This includes burglary—breaking into a home to steal—or shoplifting.

*Robbery:* A crime involving theft but with the added element of force or threat of violence. It is more serious than theft because it directly threatens the victim's safety.

*Vandalism:* Intentional damage or destruction to the property of another. This includes such acts as graffiti, window breaking, or destroying automobiles.

*Fraud:* Deceiving acts that result in monetary loss to a person or entity, which includes theft by identity, fraud in securities, and fraud in insurance.



## Property Rights and the Role of Criminal Law in Protecting Property:

*Property Rights:* These are the legal rights of individuals over their possessions. These rights, through criminal law, criminalize acts such as theft, robbery, and vandalism in circumstances where a person is deprived of their property.

*Protection under Criminal Law:* Criminal law acts as a deterrent against property-related crimes and provides punishment for those who indulge in the aforementioned offenses. Laws have been established with the intention of securing people's ownership and security over the property, as well as maintaining public order.

## Crimes Against Public Order

**Definition:** Crimes against public order are those offenses which threaten the peace, stability, or safety of a community or society as a whole. Normally, crimes of this nature involve such acts as disturbing social harmony or public safety.

### Types of Crimes Against Public Order:

*Public Disturbances:* These are rioting, breaches of peace and generally, behavior that causes significant public disturbance. The latter includes such minor acts as a breach of noise by-law or drunkenness carried in public.

*Unlawful Assemblies:* This refers to the illegal

assembly or gathering of persons for the purpose of protest or demonstration or for any other action that threatens public order; this could be accompanied by violence or destruction of property or creating danger to the public.

*Terrorism:* This is a very serious crime against public order—it is the use of violence or threats of violence in actions intended to create a state of fear, intimidation of governments, or inroads into the social or economic stability of a society, which may include bombings, assassinations, or cyberterrorism.

*Legal Frameworks for Keeping Public Peace and Order*

*Public Order Laws:* Most of the laws in respect to public order usually stipulate the circumstances under which assemblies, protests or gatherings can be allowed and the punishment for attending illegal assemblies.

*Anti-Terrorism Laws:* Most countries have enacted unique laws to deal with terrorism. These laws include provisions for surveillance, investigation and detention of suspected terrorists.

*Public Order Acts:* This covers everything from public drunkenness to rioting and is mostly towards the maintenance of peace and prevention of disturbances.

## **White-Collar Crimes**

**Definition:** White-Collar crimes are non-violent crimes done by members of a higher authority and position in society. These crimes are mostly financially related and

include elements of trickery, fraud or breach of faith.

### **Types of White-Collar Crimes:**

*Corruption:* The corrupt use of official power by government officials or any other authority for private gain. This may include activities like bribery, kickbacks, and exploiting one's public office for personal financial gain.

*Embezzlement:* The act of taking money or property that has been entrusted to a person's care or charge. Normally carried out by an employee or a public official having access to the funds of a company or government agency.

*Cybercrimes:* A fast-growing category of white-collar crime that involves the use of technology to commit offenses such as hacking, identity theft, online fraud, and cyberbullying. Most of these are associated with the theft of personal info, financial data, or intellectual property.

### *The Increasing Scope of Public Administration in Preventing These Crimes:*

*Regulatory Mechanisms:* Public administration comes into play in regulating the various industries by formulating mechanisms that ensure no fraud or corrupt activities take place, or at least minimize their occurrences.

*Anti-Corruption Bodies:* Many countries have now set up organizations or groups focused on dealing

with issues of corruption, fraud, and financial crimes, as is the case with an Office of the Ombudsman or bodies for the prevention of money laundering.

*Legal and Cybersecurity Measures:* With the increase in cybercrime, public administration ensures the drafting and implementation of legislation regarding cybersecurity, meaning that various institutions adhere to procedures to safeguard sensitive data and fraudulent activities online.

### **Classification of Crimes**

Criminal law classifies crimes into various categories depending on the nature of the crime and the harm caused by such crime. This helps not only to systematize the law but also in legislation due punishments and responses are prescribed for every category of crime.

This section majorly focuses on crimes in which a person is either killed, injured, or there are threats to do so. This hence makes crimes like homicide, assault, and manslaughter extremely punishable because they cause big losses for the victim and society in general.

Theories relating to punishment for these crimes are based on giving the victim justice and deterring such crimes in the future.

Crimes Against Property consist of illegal interference with another's property or assets. Other common property crimes, which are offences against

both economic stability and personal security, include theft, robbery, fraud, and vandalism. Criminal law protects rights relating to property and holds criminally responsible those who, by unlawful means, undertake to deprive other persons or entities of their property.

**Crimes Against Public Order:** These are crimes that threaten the general peace and stability of a society. Crimes such as public disturbance, terrorism, and unlawful assembly break social order and can threaten public safety. Legal frameworks aim at maintaining public peace while ensuring the balance of individual rights to freedom of expression.

White-collar crimes are financially motivated crimes usually perpetrated by those in a position of trust. Others include corruption, embezzlement, and cybercrime, all financially destructive for individuals, companies, or even the government. The public administrators can fight these white-collar crimes by making policies to fight financial crimes or corruption.

### **Exercises:**

#### **Case Study Analysis:**

Research a high-profile case of corruption or embezzlement case (e.g., Watergate scandal or the Imelda Marcos cases in the Philippines). Analyze and discuss the legal framework which addressed the crime its punishment and how public administration played a role in handling the case.

**Crime Comparison Exercise:**

Compare and contrast theft versus robbery by giving examples of each. Ask students to discuss how the punishment for each might differ and why robbery is generally considered more serious.

**Debate on Public Order Crimes:**

Organize a class debate where one group defends the right to free protest, even if the protest is genuinely disrupting public order. The other group should talk of keeping peace and order in public, based on the discussion of legality examples such as those coming from the Anti-Subversion Act or Public Assembly laws.

**Cybercrime Role-Play:**

In groups, have students act out some type of cybercrime scenario, such as hacking into a company's database. Ask the students to identify how the crime could be prosecuted under cybersecurity laws. Also discuss public administration's role in the prevention of the cybercrime

Design a quiz that requires students to identify various offenses as crimes against persons, property, public order, or white-collar crimes. Provide brief

descriptions of each and ask the students to identify the correct classification.

## **Conclusion**

The classification of crimes is a very important framework through which one can understand the criminal law and its application. Crimes can be distinguished into those against persons, property, public order, and white-collar crimes, depending on the type of harm they inflict and the nature of the legal reaction they require. This foundation allows students of criminology and public administration to fathom the different categories and acquire more profound knowledge of the legal and social consequences these acts bear in a specific society and how criminal law protects order and justice.

## **Chapter 5:**

### **Elements of a Crime**

#### **Actus Reus (The Criminal Act)**

**Definition:** Actus reus is the physical element or the outward component of an offense. It is the actual act or activity which constitutes the crime i.e., the behavior or act which is considered illegal.

For an offense to be committed, there must be a deliberate act (or an omission in certain circumstances)

which leads to some injury or loss.

**Actus Reus**—Definition: The actus reus may take any form, such as the nature of crime. Examples of actus reus are as follows:

**Physical acts:** Hitting, stabbing or stealing

Omissions: Failure to act where there is a legal duty to do so, like a parent failing to take care of his child or a lifeguard failing to save someone drowning.

**Possession:** Sometimes possession of an illegal thing (eg, drugs) can be the actus reus.

*Proof of the Physical Elements of Crime:*

**Voluntariness:** The defendant's action must be voluntary. The defendant may not be said to have acted if he acted under compulsion or involuntarily, eg: during an epileptic fit or when asleep.

**Causation:** The physical act must cause the harm or damage which constitutes the crime. The defendant's conduct must produce the forbidden result (e.g., a punch causing injury or death).

**Mens Rea (The Criminal Intent)**

Definition: **Mens rea** is the mental element of an offense or simply put it is criminal intent. It is that state of mind or intention by the accused at the instance of committing a criminal act. It is the state of mens rea which determines whether a person acted knowingly, in reckless disregard, or negligently, establishing thereby the degree of culpability for the offense.



### **Different Levels of Mens Rea:**

*Intent:* The defendant intentionally does an act with the intent of bringing about some result. For example, a person intentionally plots to kill another person and commits the act (e.g., murder).

*Recklessness:* The defendant is aware of a substantial and unjustifiable risk that the harm will result and nevertheless disregards that risk. The defendant does not intend to cause the harm, but he is conscious of the risk and chooses to ignore it unjustifiably. Thus, driving at high speed through a residential area might show recklessness.

*Negligence:* The defendant fails to be aware of a substantial and unjustifiable risk that the harm will occur where such failure constitutes a deviation from the standard of care a reasonable person would exercise.

*Example:* A doctor forgot to sterilize medical instruments. This mistake led one patient to obtain an infection.

### **Proof of Intent in Criminal Law**

*Direct Evidence:* Explicit statements or actions by the defendant that demonstrate intent—think of a written confession, or clear statements of purpose.

*Circumstantial Evidence:* In many cases, it is inferred from the action of the defendant, or by the surrounding circumstances. One who buys a weapon and is then found at the place where shooting occurred may be deemed to have intended the result by the jury.

## **Causation**

Definition: **Causation** is the linking of a defendant's act (actus reus) and the damage or consequence that has occurred. It addresses whether the defendant's actions are the proximate cause of the damages or injury that befell a victim.

### **Types of causation:**

*Factual Causation (But-For Test):* The injury would not have occurred "but for" the defendant's actions. For example, if the defendant shoots the victim and the victim dies, the factual cause is the shooting.

*Legal Causation (Proximate Cause):* Even if the defendant's actions were a factual cause of the harm, the court must decide whether the harm was a foreseeable consequence of the defendant's actions. If the harm was too remote or not reasonably foreseeable, then the defendant may not be legally responsible.

### *Role of Causality in Establishing Liability:*

Causation is a must to connect the actus reus (criminal act) with the result. Without causation, there can never be any criminal liability as the harm might not be the direct result of the defendant's conduct.

For instance, in murder cases, causation is very important since the prosecution must establish that the defendant's actions directly caused the death of the victim. In the latter's case, if death results from unrelated causes, then the defendant may never be held

liable for the death.

### **Concurrence of Actus Reus and Mens Rea**

**Definition:** In criminal law, the principle of concurrence means that both actus reus—the criminal act—and mens rea—the criminal intent—must occur simultaneously for someone to be held criminally liable.

This basically means that at the very moment a defendant carried out his or her physical act (actus reus), he or she must have had the state of mind required by law for that act to be considered a crime. **How Criminal Liability Requires Both the Act and the Intent**

For example, if someone hits another person while enraged, striking them (actus reus), they might have had no intent to cause harm to the person, (lack of mens rea) Hence they may not be found guilty of the more severe crime, but rather one less, such as assault.

#### **Example 1:**

A person with the intention of killing an individual (mens rea) shoots a person(actus reus). This will satisfy the condition for actus reus and mens rea thereby, the person can be criminally liable for the criminal act.

### Example 2:

For instance, one person pushes another person during an argument but the victim falls and hits their head, dying as a result. The person did not intend to kill—there was a lack of mens rea—but the act of pushing—actus reus—directly caused the death. Depending on the circumstances, the person may be charged with manslaughter rather than murder, because the mens rea—or intent—was missing.

### **Introduction to the Elements of a Crime:**

The two basic elements required to constitute a crime in general are actus reus, the criminal act, and mens rea, the criminal intent. Unless both these elements are satisfied, a person can not normally be held criminally liable. This chapter looks at how these two combine to constitute criminal liability.

Actus Reus refers to the physical action that breaks the law, which can be any intentional physical action, for instance, hitting or stealing. In some cases, omissions—failure to act when there is a legal duty to act—can give rise to criminal liability.

Mens Rea concerns the state of mind of the accused at the time of the commission of the crime. Mens rea can vary from intent (purposely undertaking criminal activity) to recklessness (ignoring a known risk) to negligence (not even being aware of a substantial risk).

Causation becomes a very critical factor in linking the defendant's conduct to the harm. For a person to be criminally liable for any result, the harm must directly flow from their actions.

Concurrence of actus reus and mens rea ensures that the defendant had the criminal act and the required criminal intent at the same time. If the act and the intention do not coincide, there may not be sufficient basis for criminal liability.

### **Exercises:**

#### **Case Study:**

Review a case in which a defendant was acquitted of murder because of the absence of mens rea, even though the actus reus was proved. For instance, suppose that a person killed another as a result of reckless driving. Consider how the court reasoned in deciding whether or not there was the element of mens rea.

### **Multiple-Choice Questions on Elements of Crime:**

What is necessary for criminal liability?

- a) Actus reus only
- b) Mens rea only
- c) Both actus reus and mens rea
- d) None of the above

**Scenario Analysis:**

Scenario 1: A person is over-speeding, loses control of the vehicle, and kills a pedestrian. The pedestrian dies. Discuss the actus reus and mens rea in this scenario.

Scenario 2: A person intentionally sets fire to a building, and the fire extensively damages the property. Analyze the concurrence of actus reus and mens rea.

**Debate:**

Should a person be held criminally responsible if they cause an injury or damage but never had the intent to do so? For example, should a person who causes injury through negligence be treated as a person who intends to cause harm to another?

**Essay:**

Write a short essay on how actus reus, mens rea, and causation interrelate. Use examples from real cases or hypotheticals.

**Conclusion:**

The elements of an offense, namely, actus reus and mens rea, try the combination that results in criminal liability. Understanding these concepts is, therefore, very important in determining whether a defendant can be held accountable for his or her acts. Thirdly, causation makes the defendant's action directly associated with the damage or harm; on

the other hand, concurrence of actus reus and mens rea provides that the act of the defendant was either intentional or reckless at the instance of acting out. That constitutes the premise of an enlarged meaning in criminal law and jurisprudence.

## **Chapter 6:**

### **Defenses in Criminal Law**

#### **Justifications vs. Excuses**

**Definition:** In criminal law, defenses can be distinguished into two groups: justifications and excuses. These groups used in determining if the defendant's act was criminal or if he should be excused

due to the existence of special circumstances.

**Justifications:**

**Meaning:** A defense of justification claims that what the defendant did was lawful in the circumstances. What he did was morally or legally justifiable, though otherwise it would be a crime. The defendant admits the act but says it was justified

**Examples:** Self-defense, defense of others, defense of property and necessity

**Meaning:** A defense of excuse admits that the accused has committed the criminal act but denies they should be held criminally responsible as they had a lack of capacity or an inability to appreciate wrongfulness of their actions.

**Examples:** Insanity, duress, infancy and mistake of fact.

**Discussion**

Key Difference: Justification defenses provide a valid reason for having committed the act (it was necessary or acceptable), whereas excuse defenses admit that the act did indeed occur, but the defendant is not



to be blamed for it due to some mitigating factor.

### **Self-Defense**

**Definition:** Self-defense is a justification defense that involves a claim by a person to have used reasonable force to defend himself or herself from imminent harm or danger, or to protect others.

*Legal Boundaries and Conditions of Justifiable Self-Defense:*

**Imminent Threat:** There had to be an immediate threat to the defendant. There would be no self-defense if the threat is not immediate, say a past threat.

**Proportionality:** Force used in self-defense has to be proportionate to the threat. Usually, deadly force is only justified when the defendant is under an imminent threat of death or serious bodily harm.

**Reasonable Belief:** The defendant must believe that they were in imminent danger. Even if their belief was mistaken, it may still be valid if the belief was reasonable under the circumstances.

**No Duty to Retreat (in some jurisdictions):** In some jurisdictions, a person has no duty to retreat when faced with danger, especially if they are in their home (Stand Your Ground laws).

**Use of Deadly Force:** Deadly force is justified only if the threat is of serious bodily injury or death. However, the use of deadly force may be called into question when the defendant has used excessive force.

## **Discussion**

Self-defense immunizes criminal liability for those who act in defense of themselves or others from harm. The force used must, however, be reasonable and proportionate, and the threat must be imminent.

## **Insanity Defense**

**Definition:** The insanity defense is an excuse defense by which the defendant claims that they should not be held criminally responsible for their actions because of a severe mental illness that prevented them from knowing the nature of their actions or being able to differentiate between right and wrong at the time of the crime.

### **Legal Standards for Insanity:**

*M'Naghten Rule (Right-Wrong Test):* The most common legal test for insanity under which a defendant is not guilty if, at the time of the offense, he either did not know the nature and quality of his act or did not know that his act was wrong, due to a defect of reason resulting from a severe mental disease.

*Irresistible Impulse Test:* Under this standard, a defendant may be found not guilty by reason of insanity if, due to mental illness, they were unable to control their behavior or conform their actions to the law, even if they knew that the act was wrong.

*Durham Rule (Product Test):* This rule holds that the defendant should be released from criminal responsibility if their illegal action was the product of a

mental disorder. This test is less used nowadays.

*Model Penal Code Test:* A hybrid test combining the M'Naghten and irresistible impulse tests, according to which a defendant is not guilty if, as a result of mental disease or defect, they lacked substantial capacity to appreciate the criminality of their conduct or to conform to the law.

*Mental Health Evaluations in Criminal Cases:*

**Psychiatric Examinations:** Usually, a defendant undergoes a psychiatric examination in order to prove insanity. Experts in mental health try to determine whether the defendant had the ability to understand his or her actions and whether he or she was suffering from a mental disorder at the time of the crime.

*Competency to Stand Trial:* Before resorting to an insanity defense, it must first be determined that the defendant is competent to stand trial (i.e., comprehends the proceedings and is capable of assisting in their defense).

**Duress and Coercion**

**Definition:** Duress is a defense where the defendant argues that he was threatened with imminent death or serious harm to himself or others, forcing him to commit a criminal act. There must be an imminent threat of serious harm.

***Legal Principles of Duress:***

*Imminent Threat of Harm:* The threat of harm

must be imminent and in such nature that it would cause a reasonable person to react in a certain way, to do acts otherwise considered criminal.

*No Reasonable Alternative:* The defendant must be able to demonstrate that there was no reasonable alternative to the commission of the crime. If the defendant could have done any other act to avoid the situation, then duress is not an available defense.

*Proportionality:* The defendant must act proportionally to the threat under which they were acting. The defense cannot be utilized if the defendant resorts to excessive force or commits an offense disproportionate to the threat under which they were acting.

*Not Available for All Crimes:* Duress is not usually a defense to crimes like murder (although it might be available for lesser offenses).

### ***Coercion vs. Duress:***

Coercion generally involves the defendant being compelled in an act by physical force, whereas duress involves generally threats of harm. The legal concepts are the same but might differ slightly in application depending on the jurisdiction.

### **Necessity and Mistake of Fact**

*Necessity*– the defendant is arguing he broke the law to prevent a greater evil, in other words the defendant had

no alternative but to break the law to prevent a worse outcome.

Examples of Necessity:

Breaking into a cabin in a blizzard to escape freezing to death

Stealing medicine to save a life in a life or death situation with no alternative means

*Mistake of fact* arises when the defendant has a mistaken belief as to a fact or circumstance in relation to the act, and such mistake renders their conduct excusable under the law. One may escape criminal liability if they have committed a crime because of misunderstanding of fact or ignorance of the fact.

Examples of Mistake of Fact:

Taking another person's coat by mistake because it looks exactly like yours.

Lack of knowledge regarding a law (e.g., unknowingly violating some law concerning banned substances one was unaware were in his possession).

### **Introduction to Defenses:**

The criminal defenses are the basic rights of the defendants to challenge the charges levied against them. Some of the defenses claim that the defendant was justified in doing what they did, while others claim that they should be excused for their actions.

Justifications ( e.g. self-defense) argue that the

act was justified or permissible under the circumstances, while excuses (e.g., insanity, duress) argue that the defendant is not criminally responsible because of his or her mental state or the pressure placed upon him or her.

The function of defenses is very important in the application of justice, since it allows courts to account for special cases in which the normal rules of law do not apply.

### **Exercises:**

#### **Scenario Exercise - Self-Defense:**

Read a scenario where a defendant is charged with having assaulted a person who had provoked him or her. Based upon the facts, discuss whether the defendant might successfully argue self-defense. What must the defendant prove for the defense to succeed?

#### **Multiple-Choice Questions on Insanity:**

Under the M'Naghten Rule, a defendant will not be held responsible if:

- a) They could not control their behavior.
- b) They did not know the wrongfulness of their act.
- c) They were coerced to commit crime
- d) They made a mistake of fact about the offense

### **Essay:**

Write an essay on the moral implications of the insanity defense in criminal law. Should persons

acquitted by reason of insanity be treated any differently than those who commit crimes with full knowledge and intent?

**Case example- Duress :**

Analyze a case in which a defendant committed a crime under duress. Evaluate the validity of the defense by examining the elements of duress, including the immediacy and proportionality of the threat.

**Conclusion**

The defenses in the criminal law permit defendants to claim that they should not be held as criminals because of some extenuating circumstances. By providing for self-defense, insanity, duress, or necessity, the law provides the defendant with a way in which fairness in the application of justice is ensured. Through the conditions surrounding their application, students will gain a further understanding of how criminal liability is determined and how the law caters for those exceptional cases.

## **Chapter 7:**

### **Criminal Procedure**

#### **Investigation and Arrest**

##### **Definition:**

The initial step in criminal procedure is investigation and arrest, which involves gathering evidence, identification of suspects, and steps that lead to the detention or arrest of persons suspected of having



committed crimes. This must be done in conformity with constitutional protections against abuses.

**Investigation:** Investigation of a crime means the police gathers information to find out if a crime has been committed and who may have done it. They may gather physical evidence, statements from witnesses, and data from forensic analysis.

*Search Warrants:* In general, an independent search of private property will require a search warrant acquired by a judge or magistrate. The warrant must particularly specify the place to be searched and the evidence being sought.

*Exclusionary Rule:* Evidence obtained through illegal means, for example, an unlawful search or seizure, is to be excluded from trial. In other words, such evidence cannot be used to support a conviction. The rule thus reinforces the Fourth Amendment protections against unreasonable search and seizure.

### ***Constitutional Limits on Search and Seizure in the Philippines***

Article III, Section 2 – Bill of Rights (1987 Philippine Constitution):

The Constitution protects individuals against unreasonable searches and seizures. It states:

“The right of the people to be secure in their persons, houses, papers, and effects against unreasonable searches and seizures of whatever nature and for any purpose shall be inviolable, and no search warrant or warrant of arrest shall issue except upon probable cause to be determined personally by the judge...”

This means that law enforcement officers generally need probable cause and a warrant issued by a judge to conduct a search or seizure, except in legally recognized situations.

### *Recognized Exceptions (Philippine Setting)*

The Supreme Court of the Philippines has identified specific instances when a warrantless search or seizure is valid:

*Search incidental to a lawful arrest* – When a person is lawfully arrested, authorities may search for weapons or evidence without a warrant.

*Search of evidence in “plain view”* – When an officer lawfully enters a place and sees evidence of a crime openly visible.

*Stop-and-frisk situations* – When there is a genuine reason to believe that a person is armed and dangerous (based on Terry v. Ohio principle, adapted locally).

*Exigent circumstances (Philippine context)* – Urgent situations where delay in obtaining a warrant could result in:

A suspect escaping.

Evidence being destroyed.

Immediate harm to people.

*Consent searches* – When the person voluntarily agrees to a search without coercion.

*Customs and immigration searches* – At borders, airports, and ports of entry.

*Vehicle searches* – If there is probable cause to believe a vehicle contains contraband or evidence of a crime.

### ***Probable Cause (Philippine Definition)***

In Philippine law, probable cause means that facts and circumstances would lead a reasonable, prudent person to believe that a crime has been committed and that the person to be arrested or the place to be searched is linked to the crime.

It must be determined personally by a judge (for warrants) based on examination under oath of the complainant and witnesses.

For warrantless arrests, it is determined by the arresting officer based on the circumstances at the time.

### **Rights of the Accused**

Definition: The rights of the accused are those basic safeguards afforded by constitutional law that have to be respected during the administration of criminal justice. The rights are meant to ensure that individuals are not wrongly prosecuted and that personal freedoms are not infringed upon.

#### *Right to Remain Silent:*

Meaning: The Fifth Amendment (in the U.S.) guarantees the right of persons not to incriminate themselves—to remain silent while being interrogated by police—and that their silence cannot be used against them in court. This is more commonly known as the Miranda Warning.

Implications: The right to remain silent guarantees that persons cannot be forced to provide evidence which would incriminate them in a criminal case.

#### *Right to Counsel:*

Meaning: The Sixth Amendment (U.S.) guarantees the

defendant the right to counsel at every stage of the criminal process: during interrogation, motions before trial, during trial, and appeal. If the defendant cannot afford a lawyer, then the government must provide one—public defender.

Implications: The right guarantees that the defendant has professional legal assistance in representing and defending him or her against the charges for a fair trial.

### *Right to a Fair Trial:*

Meaning: The right to a fair trial consists of some important protections: it includes an impartial jury, the right to be confronted by witnesses, the right of self-defense, and to be tried within reasonable time.

Implications: This right gives the assurance that based on the evidence presented, there will be a fair judgment for the accused, and he shall not be convicted by bias or prejudice.

### **Pre-Trial Processes**

Definition: The pre-trial process encompasses all the procedures that occur before a formal trial commences. All these stages, therefore, are very crucial in taking a case forward to trial and ensuring readiness by both parties to present their case.

### *Bail Hearings:*

Purpose: Bail hearings determine whether a defendant

can be released before trial and under what conditions. In setting the amount of bail, the judge will take into account the risk of flight, the danger to the public, and the seriousness of the alleged crime.

***Bail Conditions:*** Where bail is granted, the defendant may be required to pay some sum of money or subject to some conditions, such as staying within the jurisdiction, wearing electronic bracelets, or surrender of passports.

***Pre-Trial Motions:***

***Motion to Dismiss:*** A motion by the defense seeking dismissal of the charges due to lack of evidence or procedures.

***Motion to Suppress:*** A motion to exclude evidence from being presented at trial, usually because it was illegally obtained (e.g. in violation of constitutional rights)

***Motion for Discovery:*** a request for the prosecution to turn over evidence and lists of witnesses that will be used in trial.

***Preliminary Investigation:***

***Purpose:*** A pre-trial hearing is used to determine if there is enough evidence to go to criminal trial. Usually, it is conducted by a prosecutor or an investigative agency in front of a judge in a pre-trial hearing.

## ***The Role of Public Administrators Regarding Pre-Trial Activities***

*Public administrators-* such as prosecutors and law enforcement officers are responsible for gathering evidence, filing charges, investigating, and determining whether a case can or should go to trial.

### **Trial Procedure**

#### **Definition:**

The trial procedure is the process where a criminal case is presented to a court of law in front of a judge and, in some instance jury, to ascertain whether a defendant is guilty beyond reasonable doubt.

#### ***Court Procedures:***

**Opening Statements:** The prosecution and defense state their cases and introduce evidence by way of opening statements.

**Presentations of Evidence:** The prosecution and defense present their cases. They call witnesses, produce physical evidence, and put on expert testimony. The prosecution presents its case first, followed by the defense.

**Cross-Examination:** The parties are allowed to cross-examine witnesses to challenge the credibility of the witness and the testimony given.

**Closing Arguments:** After the evidence is presented

from each side, each party makes a closing statement that summarizes its case and ascertains the jury or the judge in bench trial to find the defendant either guilty or not guilty.

**Jury deliberation:** This is a case where the case is tried by the jury; it deliberates in private and reaches a verdict otherwise if tried by a judge, he will make the determination.

**Verdict:** The judge or jury gives a verdict of guilty or not guilty. In a few cases, there is a hung jury, which leads to a mistrial.

### ***Trial Roles***

***Judge:*** Presides over the trial, ensures the fairness of the proceedings, determines whether evidence can be admitted and sentences the defendant if convicted

***Prosecutor:*** Represents the government and has the burden of proving the defendant's guilt beyond a reasonable doubt.

***Defense Attorney:*** The attorney representing the accused. Their work is to defend their client by discrediting the case built by the prosecution

***Jury:*** In a jury trial, the evidence presented in court is reviewed by a jury, that then decides on a verdict

**Adversarial System of Justice:**

The adversarial system puts in place two opposing sides, each contending against the other before an impartial judge and possibly a jury for a



verdict. The judge keeps the game fair and applies the law, while the jury decides on the guilt or innocence of the accused based on the evidence presented before it.

*Implications:* The entire system is based on the premise that there is complete opportunity for both sides to present their case and that the burden of proof lies with the prosecution.

## **Sentencing and Punishment**

**Definition:**

Sentencing and punishment occur when a defendant is found guilty of having committed a crime. The judge then pronounces a penalty considering various aggravating and mitigating circumstances, which include the nature of the crime and the defendant's background and also based on the sentencing guidelines

### **Types of Sentences and Penalties:**

*Imprisonment:* It is the most common form of criminal punishment. The duration of imprisonment varies depending on the severity of the crime.

*Fines:* There are usually financial penalties, especially for non-violent crimes such as fraud or embezzlement, added to or as an alternative to imprisonment.

*Probation:* Instead of a prison sentence, the defendant may be placed under supervision in the community, albeit under certain conditions—for example, reporting regularly, doing community service, and attending counseling.

*Community Service:* A sentence to give back to the community for a prescribed number of hours can also be handed down, especially for minor offenses.

*Death Penalty:* In some jurisdictions, the death sentence may be imposed where the offense is particularly serious, for example, in cases of murder.

**Judges' Discretion and Sentencing Guidelines:**

*Judicial Discretion:* While judges are granted discretion in deciding what sentence to impose, they are always limited by the law, nature of the crime, and aggravating and mitigating circumstances.

*Sentencing Guidelines:* There are sentencing guidelines in many jurisdictions that standardize, to some extent, the sentence to be imposed on certain offenses to promote consistency and fairness in the sentencing.

## **Discussion**

*Criminal Procedure:* The rights of an accused person are protected throughout a criminal procedure while safeguarding the public's interest in prosecuting offenders. Knowing the procedures relevant to criminology and public administration students concerns those involving investigation and arrest through to trial and sentencing.

*Key Concepts:* Constitutional protections such as the right to remain silent, the right to a fair trial, and the right to counsel are the backbone of the criminal justice system. Pre-trial and trial procedures make certain that both sides of a case are presented fairly.

**Exercises:*****Case Scenario - Search and Seizure:***

A defendant is arrested without a warrant, and his dwelling is searched without his permission. Argue for and against the constitutionality of the search and seizure under the Fourth Amendment.

***Simulation–Trial Process:***

Divide the class into the prosecution, defense and the judge. Thereafter conduct a mock trial where the students make opening statements, examine and cross-examine witnesses and make closing statements.

***Multichoice Questions–Due Process-Rights of the Accused***

Which of the following rights protects a person from testifying against themselves?

- a) Right to counsel
- b) Right to a fair trial
- c) Right to remain silent
- d) Right to due process

***Essay - Sentencing Discretion:***

Write an essay on the ethical implications of sentencing discretion. Should judges be allowed more or less discretion in sentencing criminals, or should sentencing guidelines be more strictly applied?

**Conclusion**

Criminal procedure ensures that the rights of the accused are weighed against the needs of society. From investigation and arrest to trial and sentencing, the process must be fair and just. The critical stages of criminal procedure allow criminology and public administration students to navigate through the complexities of the criminal justice system.

## **Chapter 8:**

### **The Role of Jurisprudence in Criminal Law**

This chapter examines the foundation of theories and principles that underpin criminal law. It also explores jurisprudence in shaping up the interpretation and application of criminal law, especially in balancing justice, fairness, and observing protection of human rights. Jurisprudence basically refers to the philosophy or science of law. Within criminal law, its relevance lies in understanding the main tenets leading to legal reasoning, ethics, and its

interpretation. Now, let's take each one of them point by point and discuss their outline in detail.

## **Philosophical Foundations of Criminal Law**

### **Definition and Meaning:**

The philosophical foundations of criminal law discuss various ethical and moral questions arising when a society determines what constitutes crime and what are the appropriate responses. Criminal law is more than a system of rules accompanied by sanctions; it expresses the values and moral norms of society.

### **Discussion**

#### *Moral Justifications for Criminal Law:*

*Social Contract:* Criminal law is often seen as part of the social contract whereby individuals give up some freedoms in order to be protected and have order. A breach of this contract, by the commission of a crime, justifies punishment.

*Utilitarianism:* This approach considers that criminal law aims at the maximization of societal welfare; punishment, therefore, serves to prevent greater harm or promote public safety.

*Deontological Ethics:* This is an approach based on a belief that certain acts are, by nature wrong, regardless

of their results. Accordingly, criminal law punishes offenders because through the act, they have disregarded moral rights

*Role of Ethics in Criminal Law* : Ethical theories greatly form and inform the nature and content of criminal laws as "Ethics will show that is just or unjust what is meted what is harm what would appropriate remedy or punishments".

## **Theories of Punishment**

### *1. Retribution :*

**Definition:** Retribution is that theory of punishment that places emphasis on the idea of giving offenders what they deserve, based on the precept of moral desert. **Meaning:** It seeks to balance the scales of justice by ensuring that those who commit crimes suffer consequences proportionate to their wrongdoing.

**Discussion:** Retribution stems from the notion that "punishment should be a moral requirement, an obligation of restoring moral balance rather than simply preventing crime. It's not concerned with the future and deterrence; it's concerned with justice now."

### *2. Deterrence:*

**Definition:** "Deterrence aims to prevent future crimes by deterring specific offenders and the general public

from committing illegal activities.

Meaning: There are two types of deterrence: specific deterrence-which prevents the individual criminal from ever again committing crime; and general deterrence-which discourages the general public from ever committing crime.

Discussion: Deterrence is usually linked with utilitarianism. It gives importance to the role of punishment in reducing criminal incidence and thereby maintaining public safety.

### *3. Rehabilitation:*

Definition: Rehabilitation is a process of changing the offenders so that they become reformed and return to society as law-abiding citizens.

Meaning: This theory tries to deal with the root cause of criminal behavior, like mental illness or poverty or addiction, and helps the offenders to transform their behavior

Discussion: Rehabilitation has been one of the most important concepts in modern criminal justice systems. It is more towards treatment rather than punishment and reducing recidivism.

### *4. Restitution :*

Restitution

Definition: Restitution refers to the direct compensation of victims by the offender for the

damages resulting from his actions, whether monetary or otherwise, through community service or other means.

Meaning: It is restoring the original status of the victim in an attempt to heal and let justice be done by actively addressing the damage caused.

## **Discussion**

Restitution implies restorative justice, whereby the offender accepts that he has caused damage and tries to make amends.

### **The Relation of Moral Philosophy to Criminal Law**

Definition: Moral philosophy means the study of what's right and wrong, just and unjust, of what it means to hold people responsible. From there came the making of criminal law to help decide which actions are punishable and why. Both go hand in hand since criminal law mirrors society's moral views.

Sometimes there is a clash between law and personal morality. Debates on issues of legality in euthanasia, for example, or mitigation of sentences in view of mitigating circumstances such as mental illness raise ethical questions as to how laws correspond to human beliefs.



**Jurisprudence:** It is the study and philosophy of law. In criminal law, jurisprudence is how the laws of the state are applied while keeping in mind legal principles and human rights as a means to achieve justice.

**Discussion:** Criminal law has to strike a balance between keeping order in society and respect for human rights. Human rights favor criminal procedural fairness, ensuring a fair trial, freedom from torture, and the right to be presumed innocent until proven otherwise.

International treaties, such as the European Convention on Human Rights and the International Covenant on Civil and Political Rights, have an impact on national criminal law. It sets the standards of minimum treatment and due process of human rights across different countries.

### **The Relationship between Criminal Law and Human Rights**

**Definition and Explanation:** This relationship looks at how international human rights principles affect criminal justice systems at the domestic level and whether criminal law adheres to or contravenes the idea of human rights.

#### **Discussion**

The criminal law has to protect the public, but also observe the principle of human dignity. Sometimes,

though, punitive measures contravene some of those rights, like those against unfair trial or cruel punishment.

Many human rights groups call for criminal justice reforms to meet international norms. These may include reducing the application of the death penalty, improving prison conditions, and ensuring that everybody is fairly tried.

## **Legal Realism Versus Formalism in Criminal Law**

### **Definition & Meaning:**

**Legal Formalism:** The underlying notion of this school of thought is mechanically to apply the law and view it objectively, sidelining any other extraneous factors not justified by the law itself, including social, moral and political consequences.

**Legal Realism:** The theory agrees that the law is never isolated from the social, political, and economic contexts; as such, the mentioned aspects are often allowed by judges to weigh in on their decisions.

## **Discussion**

Legal formalism is a theory that emphasizes the establishment of clear and predictable rules in criminal law, so as to ensure uniformity and stability to the fullest extent.

On the other hand, legal realism allows flexibility in the laws and accepts that judges' decisions are influenced by broader societal forces such as personal biases, public opinions, or existing social norms.

## **Different Schools of Thought in Interpreting Criminal Laws**

**Definition and Meaning:** There are various jurisprudential schools of thought which view the criminal law from a different perspective in its interpretation. These include the schools that look at the original meaning of the law, the intentions of the lawmakers, and others that consider the law in its general social impact.

## **Discussion**

*Originalism:* An approach to interpreting the law according to its original meaning or the intentions of its framers; an approach that applies the law in the way it would have been understood at the time of its enactment, viewing through a fixed historical lens.

*Living Constitutionalism:* This school of thought, on the other hand, espouses the need for the amendment of the law in line with changes within society. It basically holds that the law has to be adapted to the contemporary environment and incorporate prevailing values in society.

*Pragmatism:* Pragmatism focuses on the practical consequences of legal decisions. It considers real effects of laws on actual life results and looks for workable and just solutions in practice considering both the text of the law and results of its application.

### **Practical Implications of Jurisprudential Approaches**

Definition and Meaning: Jurisprudence is of great importance to the interpretation of criminal law—interpretations that carry massive practical implications for systems of justice. These implications include the way that laws are enforced and offenders punished.

### **Discussion**

*In Practice:* Legal formalism produces, on the whole, much more predictable legal decisions; this is because of the literal application of the text of the law. This at times leads to unfair decisions since the change in the needs of society or context of the case is not put into consideration. Legal realism makes room for a great deal of flexibility since it takes into consideration

the general social context, but it may very often lead to inconsistency allowing personal judgment to have a great influence on the outcome of the legal case.

*Balancing Justice and Fairness:* Jurisprudence, therefore, impacts the balance that the justice system strikes between the need for punishment and fairness. While justice seeks to punish wrong doers, fairness ensures an individual's rights. Different approaches in the interpretation of the law create a balance in which one is weighted more than the other thus affecting the general outcomes in criminal cases.

### **Exercises:**

**Case Study Analysis:** Take any renowned criminal law case and analyze it in the light of the four major theories of punishment: retribution, deterrence, rehabilitation, and restitution. Evaluate whether the case tends to support or challenge these theories. For example, is the punishment in proportion to the crime in terms of seeking justice, that is, retribution, or is it aimed at preventing future crime, that is, deterrence? Is the case focused upon the rehabilitation of the offender or restorative justice through restitution to the victim?

**Discussion:** The former, retributive justice system, focuses on the punishment of the wrongdoer, while the latter emphasizes the rehabilitation of the offender. Of the two, which one do you think is most just? Using arguments, justify your answer with regard to the issues of fairness, effectiveness, and the general purpose of the justice system.

**Research Paper:** Analyze how a specific international human rights treaty, such as the International Covenant on Civil and Political Rights (ICCPR), impacts criminal law in a given country. Discuss any potential conflicts or contradictions between the principles of human rights and local criminal law practice. For example, how would the criminal justice system of that particular country need to change to conform to international standards on human rights?

**Role Play:** Simulate a court case in which the defendant has been accused of some petty offense. Bring arguments of both Legal Realism and Formalism to bear upon the case through presenting the prosecution and the defense. How will each of these interpretations of the law mold the outcome of the case? What role should flexibility or rigidity in applying the law play in efforts to achieve justice?

It would provide deep knowledge of the major problems of the jurisprudence of criminal law and furnishes diverse ways in which such laws should be

interpreted and applied in society. Various approaches will help us to understand it better and to appreciate how criminal law, and notions of justice and fairness interlink.

## **Chapter 9:**

### **Special Topics in Criminal Law**

The present chapter deals with newly arising complex challenges facing criminal law due to the constantly changing nature of crime in today's digital world. In this respect, the sophistication of crimes and their enhanced link with technology raises an apparent need for new strategies and legal frameworks. The main areas that are tackled in this regard include cybercrime, human trafficking, organized crime, and environmental offenses. Each challenges the boundaries of traditional

criminal law and demands new thought in legislation, its enforcement, and international cooperation.

## **Cybercrimes and Technology**

**Definition and Meaning:** Cybercrimes are crimes where computers or the Internet play a significant role in their perpetration. Hacking, identity theft, online fraud, cyberbullying, and spreading malicious software are examples of this. The new technologies have brought new threats and complexities to the criminal justice system, and updating the legal frameworks is important in dealing with such crimes.

## **Discussion**

*Rise in Cybercrimes and the Need for Modern Legislation:* With every new technology comes a new sophistication in crimes committed by cybercriminals. Cybercrimes have developed from simple hacking and personal information theft to more sophisticated cyberstalking, online fraud, and massive attacks employing ransomware, with either individual people or organizations—or even national security—at target.

*Legislative Challenges:* Much of traditional criminal law is ill-constructed to deal with the multitudinous dimensions of cybercrime. Transnational in nature, these crimes involve perpetrators from different countries and complex technological methods that might be difficult to trace. The speed of the



internet and anonymity may make it impossible to track down and prosecute offenders. In addition, the existing laws do not normally cover the newest forms of cybercrime, hence leaving large gaps in the legal system.

**Modern Legislation:** In trying to keep pace with the digital age, most countries have updated their laws or passed new legislation dealing with the issue of cybercrime. Came to be in the United States, the Computer Fraud and Abuse Act, while within Europe, the General Data Protection Regulation was inaugurated. That aim for such legislation is to shield personal data, regulate on-line activities and set a norm to have proper penalties spelled out for cybercrime perpetration. Most of such legislations are targeted toward the protection of personal information, regulation of behavior on the Internet, and ensuring that appropriate penalties are meted out to offenders.

This change in legislation is important for ensuring that the criminal justice system can prosecute cybercrimes effectively and adapt to new challenges brought about by changes in technology. How Public Administrators Handle Cybersecurity Laws:

**Role of Public Administrators (Philippine Setting):**

Public administrators in the Philippines are responsible for enforcing cybersecurity laws,

coordinating responses to cybercrime incidents, and ensuring compliance with national and international standards. They work closely with specialized agencies such as the **Department of Information and Communications Technology (DICT)**, the **National Bureau of Investigation – Cybercrime Division (NBI-CCD)**, and the **Philippine National Police – Anti-Cybercrime Group (PNP-ACG)**. They may also collaborate with international partners like **INTERPOL** and the **ASEAN Cybersecurity Cooperation Strategy** to address cross-border cyber threats and strengthen the country's cyber defense capabilities.

**Cybersecurity Programs and Policies:** Administrators implement cybersecurity policies to protect critical infrastructure and sensitive data. These policies include conducting regular security audits, monitoring potential cyber threats, educating businesses and citizens about cybersecurity, and responding to incidents.

## **Human Trafficking and Organized Crime (Philippine Setting)**

### **Definition and Meaning**

Human trafficking in the Philippines refers to the recruitment, transportation, transfer, harboring, or receipt of persons, by means such as threat, use of force,

coercion, abduction, fraud, deception, abuse of power, or exploitation, for purposes including forced labor, sexual exploitation, slavery, servitude, or the removal of organs.

Organized crime refers to structured groups engaged in serious criminal activities for profit, which may include drug trafficking, arms smuggling, cybercrime, and human trafficking. In the Philippine context, these activities often involve both local and transnational syndicates that exploit vulnerable individuals, especially women and children, for financial gain.

## **Legal Frameworks for Addressing Modern Forms of Organized Crime**

### ***1. International Treaties and Conventions***

The Philippines is a signatory to the United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children (Palermo Protocol), which provides international standards for prevention, victim protection, and prosecution of offenders. The country is also a party to the United Nations Convention against Transnational Organized Crime (UNTOC), which addresses organized criminal activities globally.

## *2. National Laws*

Republic Act No. 9208 (Anti-Trafficking in Persons Act of 2003), as amended by Republic Act No. 10364 (Expanded Anti-Trafficking in Persons Act of 2012) – criminalizes human trafficking in all forms and provides comprehensive measures for prevention, victim protection, and offender prosecution.

Republic Act No. 10175 (Cybercrime Prevention Act of 2012) – addresses online sexual exploitation and cyber-facilitated trafficking.

Republic Act No. 9165 (Comprehensive Dangerous Drugs Act of 2002) – criminalizes drug trafficking, which is often linked to organized crime syndicates.

These laws impose severe penalties on offenders and grant law enforcement agencies broad authority to dismantle trafficking networks and organized crime groups.

### **Criminalizing Organized Crime**

The Philippines, through R.A. 9208 and the Revised Penal Code provisions on conspiracy and

criminal associations, criminalizes participation in organized crime. Penalties are harsher when crimes are committed by syndicates or in large-scale operations. Law enforcement agencies such as the Philippine National Police – Women and Children Protection Center (PNP-WCPC), National Bureau of Investigation – Anti-Human Trafficking Division (NBI-AHTRAD), and the Philippine Center on Transnational Crime (PCTC) are tasked with dismantling these groups.

## **International Cooperation in Fighting Human Trafficking**

### ***1. Collaboration Between Countries***

Given the transnational nature of human trafficking, the Philippines works closely with INTERPOL, the ASEANAPOL (ASEAN Chiefs of National Police), and the United Nations Office on Drugs and Crime (UNODC) to coordinate investigations, rescue victims, and arrest perpetrators abroad. Bilateral agreements with countries like the United States, Australia, and Middle Eastern nations enhance anti-trafficking efforts.

### ***2. Extradition and Prosecution***

The Philippines is a party to several extradition treaties that allow suspects involved in human trafficking and organized crime to be surrendered for prosecution. The Philippine Extradition Law (Presidential Decree No. 1069) facilitates this process.

### *3. NGO Involvement*

Non-governmental organizations such as the Visayan Forum Foundation, International Justice Mission (IJM), and the Coalition Against Trafficking in Women – Asia Pacific (CATW-AP) actively assist in victim rescue, legal support, rehabilitation, and reintegration, while also raising public awareness on human trafficking prevention.

## **Environmental Crimes: Understanding and Addressing the Impact**

### *What Are Environmental Crimes?*

Environmental crimes are unlawful activities whereby the environment is damaged in different ways. This includes illegal logging, pollution, poaching, and inappropriate waste disposal. Such crimes not only destroy the ecosystems but also threaten biodiversity and public health, with most of these actions being irreparable and having long-lasting effects. These damages can be avoided by the creation of environmental laws for the regulation of human

activities with the aim of ensuring responsible use of natural resources and protection of the planet for future generations.

#### The Various Types of Environmental Crimes:

**Pollution:** Industrial processes, transportation, and poor management of waste promote pollution. This has consequences on air quality, water quality, as well as soil quality. The act of polluting the environment is criminal and those who pollute are severely fined. They are charged and required to clean up the pollution they have caused.

**Illegal Logging:** The felling of trees and harvesting of timber in an unlawful way lead to deforestation. This causes loss of habitats, extinction of species, and changes in climate. Strict laws have been set against illegal logging; very harsh fines are faced by exploited forest violators.

**Wildlife poaching:** Illicit hunting and trade in wildlife imperil many species. It is an activity that undermines conservation efforts and threatens the balance of ecosystems. Most countries have promulgated laws to protect wildlife and make illegal hunting an offense against the law, such as the Endangered Species Act.

#### The Role of Public Administrators in Protecting the Environment:

First in the list of enforcement of environmental laws are public administrators. These administrators work in close collaboration with agencies like the EPA and NOAA to help them in the implementation and enforcement of laws set to prevent pollution, promote conservation, and manage waste.

**Monitoring and Compliance:** They ensure that industries and private businesses are abiding by set environmental regulations. This includes routine inspections, issuing licenses on the use of land, and ensuring that industrial emissions are within the set limits. Legal action is taken against those found violating the set rules.

Environmental education is headed by public administrators who are at the top of the list in creating awareness among the public on protection of the environment and the serious repercussions awaiting those engaging in activities such as pollution, poaching, and logging. With this awareness, members of the public start taking responsibility for their actions and moving towards practices that are more sustainable within the community.

Also, by supporting the focus on enforcement and public education of environmental laws, administrators take up a very critical role in fighting environmental crimes, protection of natural resources, and preservation of a safe Earth for future generations.



## **Exercises:**

### **Case Study: Cybercrime**

With regard to a recent high-profile case of cybercrime, such as the Equifax breach or WannaCry ransomware attack, provide an in-depth analysis. Investigate how the breach or attack was carried out: what methods or techniques the criminals used. Discuss the response from authorities: what, if any, actions were taken to mitigate damage and hold perpetrators accountable. Also, reflect on what more could have been done to stop such attack from occurring in the first place. Were there any prevention opportunities missed, and what can be done in the future to improve acting against cyber threats?

### **Human Trafficking Debate**

For this group discussion, students will be divided into two teams. One team argues for international conventions—like the Palermo Protocol—efficiency and effectiveness in dealing with human trafficking. The opposition team will not argue for its effectiveness but show the challenges or limitations of this kind of cooperation because of the lack of political, social, legal, and economical capacity. With the challenges facing the fight against human trafficking being on a global scale, ranging from differences in laws between different countries, to

enforcement issues and complexity in international coordination.

### **Environmental Crimes Simulation**

This is a simulation; the class will be divided into two groups. The first group, the environmental criminals, will represent illegal loggers or poachers; the other group will represent law enforcement officials and public administrators trying to put an end to these crimes. The latter group will have to investigate, gather evidence, and build a case to prosecute the criminals. From then, the class will discuss the challenges encountered by law enforcement in the prosecution of environmental crimes and the challenges public administrators face in making people comply with environmental laws.

### **Research Paper on Cybercrime**

Research various countries' attempts to adapt their criminal laws in relation to the growing menace of cybercrime. Compare the legal frameworks of at least three countries, such as the United States, the European Union, and China. Analyze how each country deals with issues such as data privacy, cyberbullying, and hacking. What strengths and weaknesses does the approach have, and what can be learned from these differences to help in creating better and more efficient cybercrime legislation around the world?

## **Designing an Environmental Policy**

Design a policy to reduce illegal logging or poaching in a specific region. Consider the role of public administrators in ensuring the policy is successfully implemented and that stakeholders, including local communities and businesses, adhere to the new rules. How would you ensure the policy's enforcement, and what can be done to encourage the spread of knowledge on and adherence to the policy in the region?

## **Conclusion**

Modern criminal law faces very serious challenges, especially in the areas of cybercrime, human trafficking, and environmental crimes. The problems associated with these issues demand not only new legislation but also effective enforcement and international cooperation. Public administrators have a very important role in making sure that these laws are actually implemented and followed. Through the examination and analysis of these issues in the following exercises, a greater understanding develops as to how criminal law needs to change to meet new and emerging threats while maintaining fairness and justice.

## **Chapter 10:**

### **The Relationship Between Criminal Law and Public Administration**

In this chapter, we are going to consider the most important relationship in criminal law to public administration. Public administration is the implementation of government policies in the management of public programs that play a core role in the application of criminal law in the dispensation of justice and in the upkeep of order within society. It talks about how the professionals of public administration take part in criminal justice, the consequences of criminal justice policies, and real-life illustrations of the crossing of public administration and criminal law.

#### **The Role of Public Administration in Criminal Justice**

**Definition and Meaning:**

Public administration in criminal justice refers to the processes, procedures, and structures through which the government agencies and officials enforce criminal law, uphold justice, and maintain the safety of society. Public administrators in criminal justice are responsible for managing the resources, overseeing the agencies of law enforcement, prosecution of crimes, administration of courts, and administration of correctional systems.

### **How Public Administration Professionals Enforce Criminal Laws:**

*Law Enforcement Agencies:* Public administration professionals in law enforcement, such as police officers, detectives, and prosecutors, are directly involved with the enforcement of criminal laws. They investigate crimes, collect evidence, make arrests, and collaborate with the judiciary to see that criminals are prosecuted.

*Role of Courts:* The public administrators in the judiciary, such as judges, court clerks, and all other legal officers, have to interpret the laws, hold trials, and pronounce sentences. They ensure that the defendant is given a fair trial and that justice is meted out according to the law.

*Correctional System:* Public administrators also manage correctional facilities, probation services, and parole boards. They are responsible for the rehabilitation and reintegration of the offenders into society, making sure

that punishment is both just and deterrent in nature but focused on rehabilitation.

### **Relationship Between Police, Courts, and Public Administration Agencies:**

*Police:* The police and other law enforcement agencies are the basic units in the enforcement of criminal law. They investigate crimes, apprehend suspects, and gather evidence. Their work forms the foundation for criminal prosecution.

*Courts:* Courts are where justice is dispensed as a result of a process. They apply and interpret criminal law to the facts of a case. Judges and prosecutors work together in courts to determine whether a crime has been committed and what, if any, penalty should be imposed.

*Public Administration Agencies:* The Department of Justice, probation offices, and parole boards form the backbone of a criminal justice system. These execute the functions relating to prosecution and overseeing corrections, while ensuring that criminal laws are executed justly and harmoniously.

The Police, Courts, and Public Administration Agencies complement each other in their role of ensuring that laws against crime are enforced effectively but justly in line with due process of the constitution.

### **Criminal Justice Policy and Reform**

## Definition and Meaning:

Criminal justice policy is the body of laws, regulations, and practices governing the administration of the criminal justice system with respect to preventing, prosecuting, and punishing offenders for crimes. On the other hand, criminal justice reform refers to an attempt by people or groups of people to change or improve these policies because of certain concerns regarding fairness, efficiency, and effectiveness within the system. The policies governing how justice is served should change with the changing needs of society.

## **How Policy Decisions Affect the Practices of Criminal Law**

### *Policy Decisions Made by Law Enforcement:*

The policies that legislators make and the law enforcement agencies put into practice give shape to the direct enforcement of laws. For example, policies regarding police practices—like how officers conduct investigations or engage with the public—give shape to their everyday operations. Policies about the use of force, surveillance tactics, and community policing bear on the relationship between law enforcement and the communities they serve. These decisions ultimately affect public trust and the effectiveness of the criminal justice system.

### *Sentencing and Punishment Policies:*

It was because of the influence of decisions like sentencing—sticking to a mandatory minimum sentence and decriminalization of some offense, such as drug possession—that helped shape criminal justice. Another area in which policy shapes outcomes is striking a balance in a rehabilitative rather than punitive approach to sentencing; should opportunities at rehabilitation be available to offenders only to a small extent, many offenders would lead to high rates of recidivism and failed re-entry into society.

*Rehabilitation vs. Punishment:*

The criminal justice policies also define the system's stance on rehabilitation versus punishment. Some may be geared towards rehabilitation where there is an attempt to make the offenders adjust to mainstream society through education or therapy. Others may be more punitive in nature where the focus becomes one of punishing individuals for their actions rather than finding the causes of crime. The way these policies are shaped directly impacts whether those who have spent time in jail are likely to reoffend.

**Criminal Justice Reform: Continuing Controversies in Its Impact on Society**

*Mass Incarceration:*

The most contentious issues in criminal justice reform have to do with mass incarceration—especially



regarding the overrepresentation of minorities and low-income persons in the prison system. This has led to sharp criticism, with many calling for reforms that will reduce prisoner populations. Therefore, changes in bail reform, sentencing practices, and decriminalization of some offenses are argued to be very important steps in solving this problem. This may help to reduce the devastating effects mass incarceration has had on already fragile communities.

### *Police Reform:*

The role of police in criminal justice continues to be debated in the face of public concern about police misconduct and racial profiling. Proposals for police reform include revising police training, creating clearer use-of-force policies, and more community-based policing practices. Another call made has been to defund or restructure police departments by redirecting resources into social services and community safety programs, which many see as a way to actually improve overall public safety and deal with systemic issues within law enforcement.

### *Restorative Justice:*

Another area of reform is the rising interest in restorative justice, an approach focusing on repairing the damage created by crime, rather than just punishing the criminal. That involves reconciliation between the victim and the offender, along with

opportunities for rehabilitation, engaging the community as well in the process of justice. Some find it a much more humane and efficient way of dealing with crime and its aftermath.

### *Racial Disparities:*

Racial disparities in the criminal justice system are widespread, and concerns about racial profiling, discriminatory sentencing, and disparities in imprisonment for minorities are very strong. Most attempts at criminal justice reform look to eliminate disparities through the review of policies, practices, and legislation likely to support systemic racism. This will give way to a fairer and more equitable criminal justice system where everyone stands on equal ground regardless of one's background.

In conclusion, criminal justice reform is a complex and continuing process focused on solving traditional issues of fairness, efficiency, and human rights. Debates over mass incarceration, police reform, restorative justice, and racial disparities represent a society grappling with its idea of justice. Such reforms are critical to setting up a system that is just, humane, and effective—one that would ensure the dignity of the vulnerable populations and truly serve justice for all.

### **Criminal Law and Public Administration in Action**

The case studies of criminal law and public administration are those that pinpoint actual instances by which criminal laws are put into practice and how public administrators take care of the criminal justice system. This, in a more practical sense, allows us to see how the law works, the role played by public administrators in ensuring its enforcement, and the challenges likely to be posed in the process.

### **Role of Public Administration in the Philippines**

Public administration in the Philippines plays a central role in shaping the nation's governance, delivering public services, and implementing policies that promote development. It serves as the practical arm of government, translating laws and political decisions into concrete programs that improve citizens' lives.

In a democratic and republican state like the Philippines (Article II, 1987 Constitution), public administration ensures that the will of the people—expressed through elected officials—is implemented efficiently, ethically, and equitably.

### **Meaning of Public Administration**

Public administration is the organization and management of men and materials to achieve the purposes of government. It encompasses all the activities involved in carrying out public policies, from national planning to local service delivery.

## **Scope**

**Policy Implementation** – Turning legislation into action.

**Public Service Delivery** – Providing goods, services, and programs to the people.

**Regulation and Enforcement** – Upholding laws, standards, and ethical practices.

**Resource Management** – Handling finances, human resources, and infrastructure for public use.

## **Core Roles of Public Administration in the Philippines**

### **Policy Implementation**

Public administration translates laws and political directives into actual services and programs.

Example: Implementing the Universal Health Care Act (R.A. 11223) through PhilHealth and the Department of Health.

## **Public Service Delivery**

Government agencies ensure essential services reach citizens—education, healthcare, infrastructure, and social welfare.

Example: Department of Social Welfare and Development's (DSWD) Pantawid Pamilyang Pilipino Program (4Ps).

## **Regulation and Control**

Public administrators enforce laws, set standards, and monitor compliance.

Example: Food and Drug Administration regulating medicines and medical devices.

## **Economic Management**

Administers fiscal policy, taxation, public spending, and development planning.

Example: Department of Finance managing revenue collection and budget allocation.

### **Social Justice and Equity Promotion**

Ensures that public resources are distributed fairly and marginalized groups are protected.

Example: National Commission on Indigenous Peoples (NCIP) programs for indigenous communities.

### **Crisis Management**

Responds to emergencies like natural disasters, pandemics, and conflicts.

Example: National Disaster Risk Reduction and Management Council (NDRRMC) disaster response operations.

### **Guiding Principles of Public Administration in the Philippines**

Accountability – Public officials must be answerable for their actions and decisions.

Transparency – Decision-making processes and public spending must be open to scrutiny.

Efficiency and Effectiveness – Use of resources must maximize public benefit.

Equity – Services must be accessible to all sectors, especially the marginalized.

Participation – Citizens have the right to be involved in governance decisions.

### **Challenges in Public Administration**

Bureaucratic Red Tape – Delays and inefficiencies in government transactions.

Corruption – Misuse of public resources for personal gain.

Capacity Gaps – Lack of skilled personnel or outdated systems.

Political Interference – Decisions swayed by political interests instead of public welfare.

Global and Local Crises – Pandemics, climate change, and economic instability.

### **The Role in Nation-Building**

Public administration is vital in nation-building because it:

Bridges the gap between government policy and citizens' needs.

Strengthens democratic institutions.

Promotes socio-economic development.

Enhances the quality of life for Filipinos.

## **Conclusion**

In the Philippines, public administration is not just about enforcing laws—it is about improving lives. It works as the engine that powers governance, ensures public service delivery, and upholds the principles of democracy. As challenges evolve, so must public administration—adopting innovation, transparency, and participatory governance to meet the demands of a modern, inclusive, and resilient nation.



## Chapter 11:

### Contemporary Issues in Criminal Law

#### Criminal Justice in the Globalized Era

The term "globalization" refers to how technological, communication, and travel advances have made nations more interdependent. The result is the proliferation of criminal activity across national borders, giving criminal law a notably large dimension.

International crime, including organized crime, terrorism, cybercrime, human trafficking, and drug trafficking, pose specific challenges for law enforcement agencies, courts, and lawmakers.

The globalization has made the criminals able to work across the borders easily and not easily detected, taking advantage of loopholes in the law. Some of the problems that law enforcement organizations face during globalization include

This is called a *jurisdictional issue* when determining which nation has the power to

prosecute a criminal when the crime takes place online or across borders.

The legal procedure by which one nation can ask another to turn over a suspect is known as extradition. However, it is not uncommon for political or diplomatic factors to make this process difficult, and laws vary between nations.

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Global criminal Networks: How transnational criminal syndicates function and the importance of cross-border enforcement procedures.

**International Law:** Overview of treaties such as the UN Convention on Transnational Organized Crime (2000) and other legal frameworks for addressing global crime.

**Technological Tools:** How technology helps in identifying and preventing international crime.

**Challenges for Domestic Legal Systems:** Effects of Globalization on National Sovereignty and the Limitations of Domestic Legal Systems in Pursuing Foreign Crimes.

**Exercises:**

**Case Study Analysis:** Choose a case that deals with an international crime, such as cybercrime or human trafficking. Discuss how international cooperation—or lack thereof—impacted the resolution of the case.

Discuss in a simulated discussion whether the current international treaties and conventions are effective in preventing transnational crime.

**Research Project:** Analyze a specific form of international crime, like cybercrime or international drug trafficking, and document how international law and cooperation is employed to address it.

**2. Social Media's Impact on Criminal Law**

**Meaning & Definition:** Online networks and platforms such as Facebook, Instagram, Twitter, and TikTok which enable its users to generate, share, and interact with the content. Social media gives numerous benefits, but at the same time, it has emerged as a mode for illegitimate acts.

Nowadays, the scope of crimes committed on digital mediums is not unfamiliar; the only new problem in the minds of the authorities is the commission or facilitation of such crime.

Social media's influence on criminal law is wide-ranging and intricate. It has affected criminal behavior, police procedures, and the criminal justice system in some of the following ways:

**Cybercrimes:** Social media is being used for cyberbullying, harassment, fraud, identity theft, and defamation, among other crimes.

The reason why such crimes can be committed with ease is because social media allows anonymity. As such, anyone in the world can be targeted.

**Criminal Investigation Evidence:** Posts, images, videos, and messages on social media can all be used as vital pieces of evidence in criminal investigations. Although they must comply with platform regulations and privacy laws, law enforcement agencies can use data from these platforms to look into crimes.

It definitely involves online harassment and hate speech since with an increase in popularity of online communication, hate speech, trolling, and even harassment increased. The laws related to hate speech, online threats, and defamation need a quick update according to the realities of social media.

**Terrorism or Incitement to Violence:** Social media has also been used for inciting violence or recruiting people for terrorist causes. Governments and law enforcement organizations have to strike a balance between addressing the possibility of harm and defending the right to free speech.

**Content Regulation:** How governments, social media firms, and international organizations work to control offensive material on platforms.

Criminal law challenges include jurisdictional issues, privacy concerns, and the difficulty of enforcing laws across multiple platforms with varying terms of service.

### **Exercises:**

Discussion: Should social media companies be responsible for monitoring their websites for harmful content and unlawful activity? Argue for and against this concept.

### **Restorative Justice**

Restorative justice refers to an alternative criminal justice process which focuses more on repairing harm done by the crime rather than punishment of the criminal. Restorative justice tends to emphasize more victim, offender, and community involvement in restoring relationships, seeking accountability, and healing.

Whereas traditional criminal justice focuses more on punishment, the aim of restorative justice is to fulfill the needs of victims and to convince offenders to admit their mistakes.

***Some of its methods include:***

Victim offender dialogue

Restitution

Community service

Restorative justice has picked up pace these past few years as a method of justice focusing more on the rehabilitation of community members rather than the individual serving the time for his crime. *Its main goals are:*

**Accountability:** Offenders are made to assume responsibility for their actions and the harm they have caused, thus promoting personal change and preventing recidivism.

**Victim-Centered:** Victims are given a chance to narrate the emotional and physical consequences of the crime, and in some cases, they may be offered restitution or reparations.

**Community Involvement:** Communities are involved in the justice process, assisting in the reintegration of offenders and supporting victims.

**Healing and Reconciliation:** The healing of both the victim and the offender through understanding and the prevention of further harm is one of the purposes of restorative justice practices.

*Common restorative justice practices include:*

**Victim-Offender Mediation:** Facilitated conversation between the victim and offender on the impact of the crime, agreeing to make amends on how to repair the harm.

**Circle Sentencing:** A group of community members, the victim, and the offender discuss the crime and agree on a sentence that promotes healing and restitution.

**Restitution and Reparation:** Offenders may be required to provide restitution to the victim, either in the form of monetary compensation or community service.

**The Principles of Restorative Justice:** A detailed explanation of the core principles and practices.

**Restorative vs. Retributive Justice:** Compare the goals of restorative justice (healing, accountability) with traditional retributive justice (punishment).

**Applications:** Where restorative justice has been applied (schools, juvenile justice systems, community justice programs).

**Challenges:** Restorative justice is not appropriate for all crimes. Discuss the types of crimes and offenders for which restorative justice is most effective.

**Exercises:**

*Case Study:* Read a case study where restorative justice was used in the criminal justice system. Discuss the outcomes and evaluate whether it was a successful approach.

*Role-Playing:* Organize a role-playing exercise where participants simulate a restorative justice circle, with one person acting as the victim, one as the offender, and others as community members.

*Research Paper:* Write a paper analyzing the effectiveness of restorative justice in reducing recidivism and promoting victim recovery.

These exercises, definitions, discussions, and lectures should provide you with a comprehensive understanding of these contemporary issues in criminal law.



## **Chapter 12:**

### **Future Trends and Challenges in Criminal Law and Jurisprudence**

#### **Development of Criminal Law**

Criminal law is the body of law that defines crimes, establishes punishments, and sets procedures for law enforcement. Like society, the criminal justice system evolves as well to contend with new challenges, social changes, and emerging issues. Evolution is thus a term used to describe the continuous development and change of principles, procedures, and policies in line with legal norms to better face crime in an emerging world.

*Key factors influencing the evolution of criminal law include:*

Technological advancements (the internet, artificial intelligence, and surveillance).

Human rights concerns (the protection of individuals' rights during criminal justice processes).

Social movements (civil rights, LGBTQ+ rights, and gender equality movements).

Globalization (the cross-border nature of crime).

Cultural shifts (changes in societal views on drugs, rehabilitation, and punishment).

The future of criminal law is being shaped by several evolving trends and external pressures:

***The Role of Technology:***

**Cybercrime:** Reliance on digital technology and the internet has developed a new face to crime: hacking, cyberbullying, identity theft, and online fraud. The criminal justice system should also develop the capacity to respond to this emerging area of crime.

**AI and Predictive Policing:** More police departments now are using AI and data analytics for predictive policing to predict crimes and prevent their commission, leading to concerns regarding privacy, discrimination, and fairness.

Advances in surveillance technology, including facial recognition, drones, and body cameras, provide law enforcement with new avenues but also challenge privacy and civil liberties.

**Human Rights:** there is an ongoing call for defense of human rights in criminal justice. International Organizations of Human rights fight for every person's welfare and treatment - whether a race minority, the refugee, a prisoner. Prison reform issues, including

dealing with over-imprisonment, will occupy much of new criminal justice direction.

### **Social Movements:**

Movements such as Black Lives Matter, campaigns by LGBTQ+ rights supporters, and equality advocates for genders have brought critical eyes to scrutinize the justice system, which includes racial discrimination, gender-based violence, and the persecution of marginalized minorities.

These movements bring about amendments in laws regarding use of force from the police force, discriminatory charges during sentencing, and the processing of sexual and domestic violence survivors.

Historical Evolution of Criminal Law : Criminal law has gone through a revolution since its inception from English common law. It grew according to the occasions in society and eventually shaped modern criminal justice systems into what is seen today, reflecting contemporary values and needs.

Technology's Effect on Crime Technology has impacted crime and law enforcement with dramatic alterations to the former landscape. Alongside the existence of cybercrime, the presence of surveillance technology and the roles that artificial intelligence will take lead the criminal justice system into previously

unimaginable obstacles of combating crimes and justice.

**Human rights in criminal law:** International frameworks of human rights, such as the European Convention on Human Rights and the Universal Declaration of Human Rights, serve as the leading forces behind the reforms of criminal law. In fact, such frameworks shape the approach of countries while creating laws and policies that will respect the dignity and rights of individuals, even within the realm of criminal justice.

Social movements have greatly impacted the criminal justice system, which has made the government review the policies of certain issues such as police brutality, racial discrimination, and sexual harassment. These social movements have generated important discussions that have led to calls for reforms.

### **Exercises**

*Research Project:* Select a recent technological advancement, such as artificial intelligence or facial recognition, and discuss how it has impacted criminal law enforcement. What legal, ethical, and privacy concerns does its use raise?

*Debate:* Should predictive policing and AI be adopted into the criminal justice system? Take a position for or

against its use, taking into account fairness, bias, and privacy issues.

*Case Study:* Examine a criminal justice reform initiative that has been pushed by a social movement. Research the reforms, their objectives, and their progress.

*Essay:* Write about the future of criminal law, considering how social movements, technological change, and human rights might reshape the justice system in the next decades.

### **The Contribution of Criminologists and Public Administrators in Future Policy Formulation**

The criminologists are professionals, specializing in research on crime-its causes and effects as well as the approach society has regarding it. Such experts analyze various crime patterns while providing recommendations through expert advice so that policies formed can minimize criminal activities and upgrade the criminal justice system.

Public administrations find work in government or public institutions to support the implementation and management of public policies. In terms of criminal justice, they serve an important role in designing, effectuating, and overseeing policies that include enforcement, corrections, rehabilitation, and legal reform.

It goes without saying that both criminologists and public administrators play essential roles in criminal law and future policies. This is because of the analysis trends, provision of expertise, ensuring fairness, effectiveness, and furtherance of justice to all citizens.

**Discussion:** The Future of Criminal Justice Policy and the Roles of Criminologists and Public Administrators

*Contributions from Criminologists:*

**Research and Analysis:** Criminologists are crucial in studying the root causes of crime, such as poverty, inequality, education, and substance abuse. Their research helps inform policies and programs aimed at preventing crime and addressing social issues that contribute to criminal behavior.

**Assessing Criminal Justice Policies:** Criminologists analyze the effectiveness of the current criminal justice policies, including sentencing guidelines and rehabilitation programs.

Their analysis may indicate the flaws and suggest better and more just policies.

**Advocacy for Reform:** Using their research, criminologists advocate for reforms in the criminal justice system, such as advocating for restorative

justice approaches or recommending alternative strategies for addressing problems like drug-related offenses.

### ***Contributions of Public Administrators:***

#### ***Policy Implementation:***

Public administrators take the research and recommendations from criminologists and turn them into actionable policies and programs. They work closely with lawmakers, government agencies, and law enforcement to enact these reforms and ensure they are effectively put into practice.

#### ***Resource Allocation:***

Administrators are responsible for ensuring law enforcement agencies and correctional institutions have the personnel, equipment, and funding to carry out the policies.

#### ***Public Engagement:***

Public administrators will contact the public and other key stakeholders in which they seek input as they build support for new policies and ensure the criminal justice system of that community reflects its values and priorities.

### *The Role of the Criminologist:*

Criminologists track crime trends, evaluate criminal justice policies, and contribute to the development of evidence-based strategies for crime prevention and justice reform.

### *Public Administrators in Criminal Justice:*

Public administrators implement and manage policies in the criminal justice system, overseeing budgets, resource allocation, and programs.

### *Collaboration:*

Many times, criminologists work in collaboration with public administrators in formulating criminal justice policies. Together, they can bring out reforms and develop the system positively.

### **Exercises:**

*Mock Policy Proposal:* Introduce a new criminal justice policy, like rehabilitating the juvenile or decriminalizing a portion of some drugs. That proposal is allied with research coming from criminology and explains how public administrators would implement that policy.



*Role-Playing:* In the simulation, there are criminologists discussing trends in crime to which public administrators explain how they will implement such recommended reforms, in operational terms.

*Case Study:* Find a real example where criminologists and public administrators collaborated on policy change, such as with community policing or prison reform. What happened, and what did we learn from the experience?

### **Conclusion:**

The future of criminal justice policy is going to change with criminal law, technology, the values of the society, and social movements constantly changing. Criminologists and public administrators continue to have significant roles in reforming and adjusting the system toward meeting today's and tomorrow's challenges. It is by knowing the roles that these professionals perform and how they interact with one another that all of us can be proactive about shaping fair and just criminal justice policies in the future.

## **Chapter 13**

### **Criminal Law and Jurisprudence in Nursing Practice**

#### **Introduction**

Nursing is a noble profession grounded in the principles of compassion, service, and ethical care. However, nurses work in complex healthcare environments where decisions may have legal consequences. An understanding of **Criminal Law and Jurisprudence** is therefore essential, not only to protect patients' rights but also to safeguard nurses from potential legal liabilities.

In the Philippines, criminal law is primarily codified under **Act No. 3815, as amended**, otherwise known as the **Revised Penal Code (RPC)**, along with various special penal laws. For nurses, these laws intersect with professional responsibilities, particularly in patient care, documentation, confidentiality, and the administration of medications.

This chapter provides nursing students with an in-depth discussion of criminal law concepts, their application in healthcare, and relevant jurisprudence that directly impacts nursing practice.

## **Concept of Criminal Law**

### **A. Definition**

Criminal law is the body of law that defines crimes, prescribes punishments, and outlines the legal procedures for prosecuting and punishing offenders. It protects society by prohibiting conduct deemed harmful, dangerous, or morally wrong.

### **B. Purpose**

**Protection of Society** – Safeguards individuals from harm.

**Punishment** – Penalizes those who commit crimes.

**Rehabilitation** – Reforms offenders for reintegration into society.

**Deterrence** – Prevents future crimes by fear of punishment.

### **Basic Principles of Criminal Liability**

Criminal liability in the context of nursing practice may arise when a nurse's act or omission constitutes a crime under the law.

## **A. Elements of a Crime**

To be held criminally liable, three elements must generally be proven:

**Criminal Act (Actus Reus)** – The physical act or unlawful omission.

**Criminal Intent (Mens Rea)** – The mental state or intention to commit the act.

**Concurrence** – The act and intent occur together.

## **B. Stages of Execution**

**Consummated** – All elements of the crime are present.

**Frustrated** – All acts of execution are performed, but the crime is not produced due to causes independent of the will of the offender.

**Attempted** – The offender begins the commission but does not perform all acts of execution.

## **Crimes Related to Nursing Practice**

### **A. Homicide and Murder**

**Definition:** The unlawful killing of another person.

**Example in Nursing:** Administering a lethal dose of medication intentionally (murder) or negligently (possible homicide through reckless imprudence).

**Jurisprudence:** In *People vs. Villacorta*, the Court ruled that intentional acts leading to patient death constitute criminal liability.

### **B. Reckless Imprudence Resulting in Homicide or Injury**

**Definition:** Failure to exercise due diligence, resulting in death or injury.

**Example:** Failing to check medication dosage, leading to an overdose.

**Note:** Nurses are expected to exercise the diligence of a “good father of a family” and adhere to standards of care.

## **C. Physical Injuries**

Causing bodily harm through negligence, such as improper patient transfer causing fractures.

## **D. Infanticide and Abortion**

In cases involving obstetric care, criminal liability may attach if the nurse participates in unlawful termination of pregnancy.

**Special Penal Laws:** R.A. 7610 (Child Abuse Law) and R.A. 9262 (Anti-Violence Against Women and Their Children Act) may also apply.

## **E. Falsification of Documents**

**Definition:** Altering or falsifying medical records, such as changing patient charts or progress notes.

**Example:** Documenting care that was never rendered.

**Jurisprudence:** In *People vs. Manansala*, falsification of hospital records was upheld as a crime punishable under the RPC.

## **F. Violation of Confidentiality**

Breaching patient privacy under **R.A. 10173** (Data Privacy Act) or divulging confidential patient information without consent.

## **Jurisprudence Impacting Nursing Practice**

Understanding how courts decide on cases involving healthcare providers is critical for nurses. Jurisprudence sets legal precedents and clarifies how laws are interpreted.

### **Professional Negligence Cases**

Example: A nurse was held liable for failing to monitor post-operative patients, leading to complications.

### **Consent and Assault**

Performing a procedure without informed consent may be considered physical injuries or even slight illegal detention in extreme cases.

### **Liability in Team Settings**

Nurses may be held liable independently or jointly with physicians when their actions directly cause harm.

### **Defenses Available to Nurses in Criminal Cases**

When accused of a crime, a nurse may invoke the following defenses:

**Lack of Intent** – Absence of criminal intent.

**Accident** – Injury or death caused by pure accident without negligence.

**Fulfillment of Duty** – Acts done in the lawful exercise of duties.

**Obedience to a Superior Order** – Provided the order is lawful.

### **Preventive Legal Strategies in Nursing Practice**

**Adhere to Standards of Care** – Follow protocols, institutional policies, and professional guidelines.

**Accurate Documentation** – Maintain truthful, complete, and timely records.

**Informed Consent** – Always secure and respect patients' autonomy.

**Continual Education** – Stay updated on laws, policies, and best practices.

**Legal Awareness** – Know your rights and duties under criminal statutes.

### **Conclusion**



For nurses, ignorance of the law is not an excuse. The intersection of criminal law and nursing practice demands that every nurse not only master the science of care but also be vigilant in understanding the legal framework that governs their profession. By internalizing these legal principles, nurses can avoid criminal liability, uphold ethical standards, and ensure that their practice remains both compassionate and compliant with the law.

### **Review Questions**

1. Differentiate between reckless imprudence and intentional felonies in the context of nursing.
2. Give two examples of crimes that a nurse may commit in relation to falsification of documents.
3. Discuss one Supreme Court case involving criminal liability of a nurse.

### **Suggested Readings**

Revised Penal Code of the Philippines (Act No. 3815, as amended)

Republic Act No. 9173 – The Philippine Nursing Act of 2002

R.A. 10173 – Data Privacy Act of 2012

Selected Supreme Court decisions on medical negligence

## **Chapter 14**

### **Special Penal Laws and Their Application in Nursing Practice**

#### **Introduction**

While the **Revised Penal Code (RPC)** is the primary source of criminal law in the Philippines, nurses must also be aware of **Special Penal Laws** — statutes outside the RPC that define crimes, prescribe penalties, and regulate specific fields.

These laws are particularly important for healthcare professionals because they govern **drug administration, child protection, patient rights, waste management, and public health safety**.

Understanding these special laws not only helps nurses comply with legal requirements but also prevents unintentional violations that could lead to criminal prosecution or administrative sanctions.

#### **Special Penal Laws Affecting Nursing Practice**

Below are the key laws every nurse should be familiar with, along with their nursing-related implications.

## **A. Republic Act No. 9173 – Philippine Nursing Act of 2002**

**Relevance:** Governs the practice of nursing in the Philippines, including qualifications, scope of practice, and ethical obligations.

### **Key Provisions for Nurses:**

Only those with a valid PRC license may practice as nurses.

Scope of nursing practice includes independent and collaborative functions.

Violations may result in criminal, civil, and administrative penalties.

**Example:** Practicing without a license or beyond authorized scope can lead to criminal charges.

## **B. Republic Act No. 9165 – Comprehensive Dangerous Drugs Act of 2002**

**Relevance:** Regulates the handling, administration, and disposal of dangerous drugs.

### **Key Points for Nurses:**

Strict rules on storage, dispensing, and recording of controlled substances.

Mandatory reporting of drug-related cases to authorities.

Criminal liability for unauthorized possession, administration, or diversion of drugs.

**Example in Nursing Practice:** Administering a prohibited drug without a doctor's valid prescription constitutes a violation.

**Jurisprudence:** In *People v. Delos Reyes*, improper handling of regulated drugs in a hospital led to criminal prosecution.

## **C. Republic Act No. 10173 – Data Privacy Act of 2012**

**Relevance:** Protects personal and sensitive patient information.

**Key Provisions:**

Prohibits unauthorized access, disclosure, or sharing of patient data.

Requires secure storage and handling of medical records.

**Example:** Discussing a patient's HIV status in public without consent violates the law.

**Penalty:** Imprisonment and/or fines depending on severity.

**D. Republic Act No. 7610 – Special Protection of Children Against Abuse, Exploitation, and Discrimination Act**

**Relevance:** Protects children from abuse, including neglect in healthcare settings.

**Application in Nursing:**

Nurses must report suspected cases of child abuse to authorities.

Failure to report may result in criminal liability.

**Example:** Not reporting repeated signs of physical abuse in a pediatric patient.

## **E. Republic Act No. 9262 – Anti-Violence Against Women and Their Children Act of 2004**

**Relevance:** Addresses abuse, neglect, and violence against women and children.

### **Nursing Implications:**

Nurses in ER, OB-GYN, or community settings often encounter abuse cases.

Mandatory documentation and referral to proper authorities.

**Example:** Concealing abuse injuries at the request of a patient's partner may result in liability.

## **F. Republic Act No. 9003 – Ecological Solid Waste Management Act of 2000**

**Relevance:** Regulates proper disposal of medical waste.

### **Application in Nursing:**

Segregate hazardous and infectious waste.

Follow institutional waste disposal protocols.

**Example:** Improper disposal of used syringes leading to public hazard may be penalized.

### **G. Republic Act No. 4688 – Clinical Laboratory Law**

**Relevance:** Regulates operation of clinical laboratories.

**Application:** Nurses performing laboratory-related tasks must ensure compliance with licensing and quality standards.

### **H. Republic Act No. 8504 – Philippine AIDS Prevention and Control Act of 1998**

**Relevance:** Protects the rights of persons with HIV/AIDS and mandates confidentiality.

**Example:** Disclosing a patient's HIV status without written consent is punishable.

### **Common Violations by Nurses under Special Penal Laws**

Administering controlled substances without proper authorization.

Mishandling patient records in violation of data privacy laws.

Failure to report child or domestic abuse cases.

Improper disposal of infectious waste.

Unauthorized practice of nursing without a valid license.

### **Jurisprudence Illustrations**

*People v. Martin* – A nurse was convicted under R.A. 9165 for diverting hospital-issued narcotics for personal use.

*DOH v. Tagaytay Hospital Nurse* – Administrative and criminal case for disclosing patient's HIV status without consent, violating R.A. 8504 and R.A. 10173.

### **Preventive Strategies for Compliance**

**Regular Legal Updates** – Stay informed on changes to health-related laws.

**Institutional Protocols** – Follow hospital SOPs aligned with the law.

**Ethical Vigilance** – Uphold patient confidentiality, dignity, and safety.



**Proper Documentation** – Ensure accuracy and security of medical records.

**Waste Management Compliance** – Adhere to proper segregation and disposal.

## **Conclusion**

Special Penal Laws serve as protective measures both for patients and healthcare providers. For nurses, these laws emphasize **accountability, confidentiality, patient protection, and public health safety**. Awareness and compliance with these laws not only prevent criminal liability but also reinforce the ethical and professional standards of nursing.

## **Review Questions**

1. Under R.A. 9165, what constitutes unlawful administration of a dangerous drug?
2. How does R.A. 10173 affect the handling of patient records?
3. Give two examples of acts by a nurse that may violate R.A. 9003.

## **Suggested Readings**

**R.A. 9173 – Philippine Nursing Act of 2002**

**R.A. 9165 – Comprehensive Dangerous Drugs Act of 2002**

**R.A. 10173 – Data Privacy Act of 2012**

**R.A. 7610 – Special Protection of Children Against Abuse, Exploitation, and Discrimination Act**

**R.A. 9262 – Anti-Violence Against Women and Their Children Act**

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