

Legal Concepts- Crime & Civil Wrongs

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Legal Concepts

- **Legal Concepts** - General ideas/concepts uniformly followed throughout Western legal history by legislators in law-making & also by legal scholars in their reconstruction and development of law.
- **Characteristics of Legal Concepts:**
 - **Certainty**
 - **Universal recognition**
 - **Uniformity in meaning**
 - **Reliance by Courts/legislatures/administration**
 - **Development and refining through judicial or scholarly interpretation**
- * **Eg: Rights, Possession, Ownership and Crime**

Concept of Wrong

- **Wrong** - A violation of the legal rights of another (Black's Legal Dictionary)
- The idea of *rights naturally suggests the correlative one of wrongs; for every right is capable of being violated.*
- *Eg:* A right to live in personal security, a wrong on the part of him who commits personal violence.
- Generally , the law is intended for the establishment and maintenance of *rights, in fact it deals both with rights and wrongs.*
- It first fixes the character and definition of rights, and then, with a view to their effectual security, proceeds to define wrongs, and to devise the means by which the latter shall be prevented or redressed
- **Wrongs:** Private and Public

Private and Public Wrongs

- **Private Wrong**: Result from violation of private rights or as a consequence of the duty of care
- **Denote** the injury sustained by the individual, and consequently as subjects for civil redress or compensation
- **Eg**: Torts/Civil Wrongs, Breach of Contract
- **Public Wrongs**: Violations of public rights and duties which affect the whole community
- **Eg**: Crimes and Misdemeanors

Crimes

- **Crime:** an action or omission which constitutes an offence and is *punishable by law*
- An act committed in violation of law where the consequence of conviction by a court is punishment
- An action that is deemed injurious to the public welfare and is legally prohibited
- **It is duty of the State to protect its citizens & others from crimes** (State is the custodian of law & order in the society- in Welfare State)
- **Crime – used interchangeably with offence**

Crime-Fundamental Concepts

- **Elements of Crime:** Human being, Mens rea or guilty intention, Actus reus or illegal act or omission, and Injury to another human being
[“**actus non facit reum nisi mens sit rea**” which means that, the guilty intention and guilty act together constitute a crime]
- **Stages Of A Crime:** **Intention**, **Preparation**, **Attempt** & **Accomplishment/Commission**
- **Criminal Law in India :** **IPC,1860 & Cr.P.C, 1973 etc**
- **Punishments:** **Death**, **Life Imprisonment**, **Term Imprisonment**,**Fine**,**Confiscation of Property**
- **Theories of Punishment:** **Deterrent Theory**, **Retributive Theory**, **Preventive Theory**, **Reformative Theory**, **Expiatory Theory**

Civil Wrongs/Torts

- **Civil Wrongs:** A **civil wrong** or **wrong** is a cause of action under the law of the governing body. Eg: Tort, breach of contract, and breach of trust
- **Tort:** a civil wrong involving a private party repressible by monetary compensation (*Tortum* in French=Curved/not straight)
- *Salmond*- It is a civil wrong for which the remedy is a common law action for unliquidated damages and which is not exclusively the breach of a trust or other merely equitable obligation.
- Kinds of Torts: **Intentional torts, Negligence torts, & Strict liability torts**

- Ubi jus ibi remedium
- Damnum sine injuria- *Gloucester Grammar School Case*
- Injuria sine damno -*Ashby v. White*
- **Tortious Remedies** - judicial & extra-judicial.
- **Judicial remedies** :(i) Damages, (ii) Injunction and (iii) Restitution of property
- **Extra-Judicial Remedies** :Self Help, Expulsion of Trespassers, Re-entry of Land etc
- **Tortious Liability of State in India:** Dilution of doctrine of Sovereign Functions, Vicarious liability of State for actions of its servants.

Thank you