

Statute and its role in criminal investigation

Law



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Statute & its Role in Criminal Investigation Statute & its Role in Criminal Investigation inserts his/her Statutes A formal, written document passed by a legislative authority that direct and administers a state, city or country is called statute. A statute is typically an instrument to command or prohibit something, or declare policy. Statute, sometimes referred as legislation or black letter law, differ from law made by legislative bodies and regulations issued by government agencies. Ideally statutes must be in harmony with the constitution of the country and thus considered to be the primary source of law. Statutes are unlike common law and require force from the time of their passage unless otherwise provided. There are various kinds of statutes; namely, public or private, declaratory or remedial, temporary or perpetual.

Importance Statute law is important because it is the codified will of Parliament. As Parliament is the elected body representing the people therefore statute law is the will of the people. Statutes determine the basis of law which is then applied and expanded upon by judges in the case law. With no statutes the law would be left freely on the judges for development which could lead to inconsistency and questions of accountability. Though once a Statute becomes 'Constitutional' the actual statute isn't as important, but the themes, case law and principles it entrenches in the Constitution are of very much importance. Sarah Stroud & Christine Tappolet (2003) (p. 239) People generally refer to statutes (sometimes called codes) when they talk about " what the law says" or " what the law is". Statutes are created by the U. S. Congress and by the state legislators to lay out the ground rules of " the law." In case of disputes over the meaning of statutes, state and federal courts issue court opinions that interpret the statutes more clearly which is referred to as " case law." Statute 21-3209: Compulsion The statute which I <https://assignbuster.com/statute-and-its-role-in-criminal-investigation/>

have chosen for interpretation is taken from chapter 21 which deals with Crimes and Punishments; Article 32 which discusses the Principles of Criminal Liability. Criminal Law is defined as a collection of rules that define behavior that is not allowed because it is held to intimidate, threaten, harm or endanger the safety and wellbeing of people, and that sets out the penalty and chastisement to be imposed on people who do not obey these laws. Criminal liability is the section that defines what create charge on the accused. It identifies and distinguishes the claim of charge on an individual with respect to the real life scenarios. The Statute undertaken here for discussion deals with a similar scenario where the person is not held guilty of a crime other than murder which he performs under the coercion, compulsion or threat of the forthcoming infliction of death or bodily harm upon him or upon his immediate family members like; spouse, parent, child, brother or sister if he does not perform such conduct. Compulsion literally means an irrational behavior or mannerism that is very difficult to resist. However in law it is explained as the forcible inducement to an act. Michael Smith (2003), (p. 188) Compulsion can be lawful or unlawful; when a man is compelled by law making authority to do something which he might or might not prefer will affect the validity of the act. For example; when regulatory authorities impose taxes on individuals it is their duty to abide by them or if a court compels a party to execute a deed under the pain of attachment for contempt, the grantor cannot object to it on the ground of compulsion. Unlawful compulsion is when a person is forced or threatened to do a task. For e. g; the police men urged a person to admit undue charges and threaten him that otherwise he will be killed or his family would be hampered, the act done by such compulsion would be void. However compulsion can never be <https://assignbuster.com/statute-and-its-role-in-criminal-investigation/>

presumed. Gary Watson (1999), (p. 291) Though mostly people conceive law as a hurdle or troubling element but the truth is that law is created to make and maintain peace and harmony among mankind. Same is the case of this interesting and important statute which advocates and safeguards the right of a person. Law is a hybrid which encompasses all the possibilities a person could face and then creates a margin between the guilty and the innocent. A person cannot be claimed to charge if he has acted as a mere instrument who do something not only without will but against his will under an imminent and impending force inducing a well-grounded apprehension of death or serious bodily harm if the act is not done. In this scenario, the accused must have acted not only without a will but against his will under the irresistible force and cannot consist of an impulse or passion or obfuscation. In a case, the Supreme Court excused an accused as an accessory, after it was proved that he was smacked with the butt of a gun by the real killers to force him to bury the victim. The court found that he was not legally responsible because he acted under the compulsion of an irresistible force. A person who acts under the compulsion is like one who acts under the impulse of an uncontrollable fear of equal or greater injury is exempt from criminal liability because he does not act with. References Michael Smith, 2003, Rational Capacities, Or How to Distinguish Recklessness, Weakness, and Compulsion. Oxford: Clarendon Press Sarah Stroud & Christine Tappolet, 2003, Weakness of Will and Practical Irrationality, Oxford University Press, Clarendon Press Gary Watson, 1999, Disordered Appetites: Addiction, Compulsion and Dependence, Russell Sage Publications.