

# Civil and criminal punishments

Law



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## Civil and Criminal Punishments Civil and Criminal Punishments Introduction

In most common laws, actions are usually divided into two, namely, civil and criminal. States usually prosecute criminal actions and punish people charged with public offenses. Every other action that is not criminal is considered a civil action. Civil actions are legal actions taken to compel a civil remedy or to protect a private civil right. A civil action is any lawsuit that relates to civil matters, not criminal prosecutions. This essay will discuss the available consequences in civil actions, explaining in detail three types of remedies available in civil courts. The paper will also explain the differences between civil penalties and criminal punishments, explaining whether punishments between a case tried at criminal level and civil level should correlate.

### Question 1: Types of remedies available in civil courts

A civil court is one that deals with cases related to disputes between organizations or individuals. Civil courts award victims with compensation. Civil courts deal with civil or common wrongs that are not criminal in nature such as disputes relating to credit card payments, allegations of breach of contract, compensations disagreements between tenants and landlords (Scaros, 2004). According to Currier & Eimermann (2009), lawsuits are usually filed in civil courts by organizations or individuals who believe they have been physically and financially hurt by another organization or individual.

The types of remedies available in civil courts depend on several factors such as the type of claims made, the authority of the court, the defendant's conduct and the harm that has been suffered or may be suffered. The remedies in civil courts usually depend on the strengths of one's case and <https://assignbuster.com/civil-and-criminal-punishments/>

the opponent's case, one's resourcefulness and ability to present facts and the ability of the attorneys of both sides to represent their clients as required (Scaros, 2004). The types of remedies available in civil courts include:

i. Monetary compensations

This is normally the usual and standard remedy for damages in civil courts. They are the payments awarded by a civil court, paid as compensation for injury or loss (Currier & Eimmermann, 2009). Money damages usually consist of nominal damages, attorney's fees, interest, punitive damages and compensatory damages. They are usually intended to settle the grief of the aggrieved party in civil cases (Powell, 1993).

ii. Injunctive reliefs

These are usually given so as to stop certain conducts of the accused. The civil court orders or prohibits against conditions or acts that have been requested. The orders given are called injunctions and they require one to either do or not do a specific action ordered by the civil court (Powell, 1993). Examples of injunctive reliefs may include permanent injunctions, preliminary injunctions and temporary restraining orders (Currier & Eimmermann, 2009).

iii. Restitutional remedies

Such remedies are usually given so as to prevent one party from unjustly enriching itself. They are also meant to restore a person to the position that they would be in if the improper actions done by the other party had not been done (Powell, 1993). The civil court provides these remedies to restore a person to a position occupied by him or her before the violation of his or her rights were violated. Such remedies may include actions such as

imposition of an equitable lien, replevin, imposition of a constructive trust

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and ejection (Scaros, 2004).

Question 2: How do civil penalties differ from criminal punishments?

It is important to note that civil penalties differ from criminal punishments. As seen in the introduction, there is a clear distinction between civil wrongs and criminal wrongs. To understand how criminal penalties differ from criminal punishments, it is important to note that the nature of criminal offenses and civil offenses is different. According to Scaros (2004), civil offenses usually involve the violation of administrative issues. Criminal offenses on the other hand involve the violation of local, federal or state criminal statutes that prohibit certain conducts. The penalties for these two types of offenses are therefore different (Powell, 1993).

Currier & Eimermann (2009) note that civil penalties differ from criminal punishments in the sense that civil penalties are given when private, government or state entities seek relief or compensation against an organization or individual for their wrong doing. Examples of civil penalties include monetary compensations, injunctive reliefs and restitutive remedies. Criminal penalties on the other hand are the authoritative impositions of negative or unpleasant consequences on a person or organization to act as punishment for their wrongdoing or criminal behavior (Scaros, 2004). Examples of criminal punishments include jail terms, incarceration, capital punishments and heavy fines. The main difference between civil penalties and criminal punishments lies in the fact that the latter is usually given to reinstate or compensate the harm done to an individual or organization whereas the former is as a punishment for wrongful conduct (Powell, 1993).

Question 3: When a case is tried at both the criminal and civil levels, should

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the punishment between the two correlate in any way? Why or why not?

According to the Oxford English Dictionary, the term correlate is explained to mean 'having a mutual connection or relationship or connection, whereby one thing depends or affects the other'. In the case of trying cases at criminal and civil levels, the punishments given should not correlate in any way. This is because criminal offenses and civil offenses have been found to differ in nature (Powell, 1993). Criminal offenses involve the violation of local, federal or state statutes that prohibit certain conducts. They should therefore be punishable by jail terms, incarceration, capital punishment and heavy fines. Criminal offenses should be punished so as to avert certain criminal conducts such as rape, murder, burglary or robbery (Scaros, 2004). Civil offenses on the other hand involve violation of administrative issues such as credit card payments, allegations of breach of contract, compensations disagreements between tenants and landlords among others. The nature of these offenses is not the same. The punishments should therefore not correlate in any way because the natures of the offenses do not correlate (Currier & Eimermann, 2009).

### Conclusion

As seen in the essay, there is a difference between criminal law and civil law. This leads to the conclusion that criminal offenses are different from civil offenses and the penalties given for each of these offenses should therefore be different. The essay has revealed the types of remedies available in civil courts and given the differences of civil penalties and criminal punishments.

### References

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