

Criminal law



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1 Compare and contrast different definitions of crime. Crime is defined as “any act or omission proscribed by the criminal law and thus punishable by the state through the criminal justice process” (Davies, 40). What constitutes a crime is therefore defined differently in different jurisdictions. Crime is relative. An act may be a crime in the UK but is legally permissible in another country. It all depends on the sovereign state’s law-making body whether or not to declare certain actions or inactions as crime. Although there are acts which are declared as crime in all jurisdictions, for instance, murder, there will never be a universal consensus as to what constitutes a crime. Moreover, there are instances where the concept of crime within a particular country changes as society adapts to the tides of time. What used to be a crime yesterday is now legal today. A classic example for the changing concept of crime over a period of time is the case of defamation which had been decriminalized through the amendment to the Coroners and Justice Act in 2009 (OSCE). UK lawmakers have decided to relax the definition of crime insofar as defamation is concerned to make more room for the right to freedom of speech. This will remain true until the parliament decides to make further changes to the law on defamation. On the matter of relativity of crime in different jurisdictions, a good example would be possession of cannabis. There is no common consensus among the governments of the world as to the dangers and benefits of the plant and its derivatives. The countries that see more benefits have already legalized it, under certain conditions, while those who insist that cannabis does more harm than good continue to make its possession and use as a crime punishable with penalties ranging from light to life imprisonment and even death penalty. In the UK, possession and use of cannabis in any form is a crime but in Peru, it

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is perfectly legal. The only condition is that it does not exceed 8 grams and there are no other substances involved. 1. 2 Discuss the functions of criminal law. There are five generally accepted functions of criminal law, namely, to protect individuals and property, to safeguard civil liberties, to resolve disputes, to provide for smooth functioning of society, and to maintain order. These five functions of criminal law need not concur in every system, neither are they mutually exclusive. Instead, they manifest at different stages in the attainment of the end goal of all governments which is the common good. They can therefore be classified into the preventive functions, the curative functions, and the purposive functions. Under the preventive functions are the maintenance of order and the safeguarding of civil liberties. These laws are created to serve as deterrent for crimes. Prohibited acts are expressly enumerated in the laws and there are corresponding penalties for their violations. Those who do not want to incur criminal liability must avoid committing those acts. In this case, criminal laws are promulgated to inform the citizens how they can avoid committing crimes. The curative function of disputes resolution provides for a systematic approach in settling issues between the offender and the offended parties. Laws inform the parties about their rights and liabilities in a given situation. Finally, the purposive function which include the maintenance of order and smooth functioning of society serve as the guiding post for government in the enforcement of criminal laws and the citizens in complying with the duly promulgated laws of the land. They are the desired results that society wants to achieve as it strives to create the perfect laws under a perfect criminal justice system. All five functions of criminal law work together in achieving a perfectly safe society. A government cannot choose to prioritise one over the others by

building impenetrable prison walls and neglecting crime prevention tasks. Together, all five functions make up the wheel that keeps a society moving forward in peace and harmony. References: Davies, M., Croall, H., and Tyrer, J. Criminal Justice. 4th ed. Garside, Richard. The Purpose of the Criminal Justice System. Accessed on June 25, 2011. Available at <http://www.crimeandjustice.org.uk/opus548.html> OSCE. OSCE media freedom watchdog welcomes United Kingdom's decriminalization of defamation, urges other states to follow. Accessed on June 25, 2011. Available at <http://www.osce.org/fom/51593>