

Criminal Law

Lecture Title: The Nature of a Criminal Offence

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Date: 16 October 2024



Diploma in Law (Malta)



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ADVOCATES

Distinction between Criminal Offences and Civil Wrongs

- How do you distinguish between crimes and contraventions?
- The Criminal Code, Article 2 says that offences are divided into:
Crimes and contraventions
- This classification depends on the gravity of the offence.



- Book First, Part II of the Criminal Code speaks '*Of crimes and punishments*'
- Book First, Part III of the Criminal Code speaks '*Of contraventions and their punishments*'.
- Article 7 provides us with a list of punishments which may be given to crimes and punishments which may be given to contraventions.



The punishments that may be awarded for crimes are :

IMPRISONMENT



The punishments that may be awarded for crimes are :

SOLITARY CONFINEMENT



The punishments that may be awarded for crimes are :

INTERDICTION



The punishments that may be awarded for crimes are :

FINE



The punishments that may be awarded for contraventions are :

DETENTION



The punishments that may be awarded for contraventions are :

FINE (AMMENDA)



The punishments that may be awarded for contraventions are :

FINE (AMMENDA)



- There are some crimes for which the provisions (and the punishments) of contraventions apply.
- There are certain contraventions in respect of which the law clearly provides that certain provisions (and certain punishments) for crimes are to apply.



Examples of Crimes Punishable by Punishment for Contraventions

Article 161 of the Criminal Code speaks of the crime of damage to monuments

proviso to this article which says that,

“provided that the court may, in minor cases, apply any of the punishments established for contraventions.”



Examples of Contraventions Punishable by Punishment for Crimes

Article 338 (z) is a contravention when a person fails to pay maintenance within fifteen days from when this becomes due.



Why is this distinction between crimes and contraventions important?

The Consequences of the Corpus Delicti



Why is this distinction between crimes and contraventions important?



ATTEMPT

Why is this distinction between crimes and contraventions important?

VICARIOUS LIABILITY

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Vicarious Liability



Why is this distinction between crimes and contraventions important?

RECIDIVISM



Why is this distinction between crimes and contraventions important?

Prescription



FOREIGN CODES

- French code divides offences into three classes:
 - i. Crimes, triable in a court of Assize
 - ii. Delits, triable by correctional Court
 - iii. Contraventions, tried by professional magistrates

- English law divides offences into:
 - i. 'Indicatable offences' which admit trial by jury
 - ii. 'Non-indicatable offences' which are those offences which can be tried summarily by justice of the peace or other magistrates sitting without a jury.



Definition of a Criminal Offence

- A legal wrong which exposes the doer to a punishment to be inflicted upon criminal proceedings.
- A punishable wrong is one that is punished



Analysis of Definition:



- VIOLATION OF THE LAW
- OF THE STATE
- PROMULGATED
- FOR THE PROTECTION AND SAFETY OF THE SUBJECTS
- BY AN EXTERNAL ACT

Analysis of Definition:



- OF MAN
- OF COMMISSION OR OMISSION
- MORALLY RESPONSIBLE

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