

DRESSLER CRIMINAL LAW OUTLINE

I. INTRODUCTORY POINTS

A. Sources of Criminal Law.

1. Common Law.
2. Statutes Derived from Common Law.
3. Model Penal Code.
4. (Bill of Rights)

B. Criminal Law v. Civil Law

1. Criminal
 - a. Defendant is punished (incarcerated)
 - b. The criminal conviction itself says defendant is a moral wrongdoer. It is a condemnation by the community/ "a morality play." → (Moral blameworthiness)
 - Usually about things you are not supposed to do as opposed to things you must do
 -
2. Civil
 - a. Defendant pays victim. (compensation)
 - b. Defendant is not morally stigmatized. (tort claims)

C. Theories of Punishment.

1. *Retributivism* "Is it more about desert?"
 - a. People should get what they deserve.
 - b. Humans have free will. If they choose to do wrong, it is appropriate to punish them.
 - c. Looks backwards. Only punishes to the extent of the wrongdoing.
 - d. Justice for the victim
 - The moral desert of an offender is a sufficient reason to punish him or her which is a necessary condition of punishment
 - Wouldn't want to punish someone mentally ill bc they are not morally culpable
 - Rests on moral culpability
2. *Utilitarianism* – "What good does it do?"
 - Focuses on what punishing that particular person accomplishes
 - a. All forms of pain are bad. Punishment is not good, but neither is crime.
Punishment is proper if imposition of pain will reduce the likelihood of future crimes.
 - b. Punishment is justified in so far as it produces some net social benefit. Forward Looking
 - c. Forms of utilitarianism.
 - i. General deterrence:
 - convince the general community to avoid criminal conduct in the future
 - ii. Specific deterrence:
 - deter the individual from committing additional crimes in the future
 - iii. Rehabilitation:

Matric Study Guide For Sa Criminal Law

Ying Liu



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