

**Topic 1: Introduction to Criminal Law ..... 1**

**Topic 2: Introduction to Criminal Procedure ..... Error! Bookmark not defined.**

**Topic 3: Murder ..... Error! Bookmark not defined.**

**Topic 4: Manslaughter ..... Error! Bookmark not defined.**

**Topic 5: Non- Fatal Offences Against the Person ..... Error! Bookmark not defined.**

**Topic 6: Property Offences..... Error! Bookmark not defined.**

**Topic 7 Sexual Offences ..... Error! Bookmark not defined.**

## Week 1

### Topic 1: Introduction to Criminal Law

- Criminal law represents a body of obligations – mostly prohibitive, but some affirmative backed by the coercive power of the state.
- Government – has monopoly on legitimate use of coercive powers.
- Important and powerful tool of society but in some context, it is a blunt instrument.
- Purpose? Create a safe and peaceful society.
- NSW – Common Law state.
- Relevant legislation – *Crimes Act 1900 (NSW)* – used the most.
- There will be flaws in the laws – impossible to account for all events and situations.

#### Social Contract

- An implicit agreement.
- People give up certain rights and freedoms in exchange for the benefit of being protected by the government.
- Relates to protection of harm and infringement upon their other rights.
- For the contract to work, people must agree to give up some freedom.

#### Normative Foundations

#### Prevention of harm

- John Stuart MILL thought the scope of criminal law should be limited to preserve individual freedom and autonomy (*On Liberty, published 1859*).
- Criminal law should be limited to conduct which harms others (harm principle) – preserving max individual liberty (liberalism) – John Stuart MILL.
- Under this principal people could do whatever they want as long as it does not harm anyone.
- Doesn't work as a standalone due to 'victimless' crime like drug use, prostitution, tax evasion etc

### **Moral Wrongness**

- Lord Devlin, 1958 – conduct to be criminalised as a vice so abominable that its mere presence is an offence.
- Covers the gap from MILL and 'victimless' crime.
- Moral wrongness is subjective and too narrow to form law around eg homosexual and adultery would still be legal today due to the view of 'moral wrongness'.

### **Community Welfare**

- Utilitarianism – Jeremy Bentham
- Utility – net sum of community well-being.
- The max outcome for the community health, wealth, happiness and safety etc.

### **To Prevent Crime**

- In common law – sentence must be proportionate to the circumstances of offences and offender.
- Deterrence – both general and specific.
- Denunciation – of criminal conduct. *Denunciation is an act of criticising someone of something strongly in public.*

### **Principles of Criminal Law**

#### **Presumption of Innocence**

- Innocent until proven guilty
- Woolmington v DPP [1935] AC 462.
- The state of must prove guilt beyond a reasonable doubt.
- Accused not required to prove their innocence.

#### **Perspectivity**

- Presumption against effect of criminal laws.

- Person cannot be charged with something if at the time of the offence was not a crime.
- Unfair to punish someone for an offence which was not a crime at the time they committed it. Eg. act was committed in 2022 and it became a law in 2024.
- Principle rebutted – actions of the Nazis in WWII as it was law at the time of the offence. Clearly exceptional circumstance.

**Clarity**

- Evans v NSW (2008) 168 FCR 576.
- Ambiguous terms and definitions – what annoys me may not annoy you.

**Promulgated**

- Ignorance of the law is no excuse.
- Ostrowski v Palmer (2004) 218 CLR 493.
- Not everyone will know all the laws, they must be able to access the laws and be able to become familiar with them or not.
- When a law is enacted, it is published for the public.