

Objectives and Elements of Criminal Law and Role of Executive Organ of State

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ABSTRACT

This paper discusses about the objectives and elements of criminal law and the role of executive organ of the state in context of criminal law and justice. The study enlightens the trio parts of the research on objectives, elements and role of executive organ. The study of related literature explains the history and some events that happened in past to explain our research in a better and understandable way. The introduction of our research explains the criminal justice system and how a crime can be seen in different parts of the world and how their executive organ of state controls it. The nature of the criminal law, objectives, and logical functions of criminal law is studied in this research. In the conclusion the different ways of executive organs of the state to manage the criminal law is discussed.

Keywords: Criminal law, Objectives of criminal law, Elements of Crime, Executive organ of state

Introduction:

The modern criminal justice system is envisioned as society's institutionalized

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response to crime, involving coordination across the many criminal justice system components (such as police departments, prosecutors, courts, and correctional

institutions). Criminal laws are created by society. Violation of these criminal laws will be considered a crime, and offenders will face legal consequences. Criminality is a societal phenomenon, a learnt behavior with no personal internalization rules. When a crime is committed against someone, it not only has a sad bad impact on that victim, but it also has a negative influence on their entire family. As a result, criminal activity has had a significant impact on our way of life and interactions as a society. Punishment of criminals is essential in a system to regulate crime and maintain public order. In this regard, jail is a critical component of the criminal justice system. Similarly, the perpetrator must be punished for the crime committed in order to promote peaceful coexistence, mutual respect, social discipline, and the execution of rights and obligations between individuals. Maintain societal harmony by adhering to established rules. While harsh punishment may not be able to abolish crime, the certainty of punishment can aid in lowering a country's crime rate.

There are two aspects to criminal law: entity and procedure. The substantive components, in general, comprise the definition and comprehension of various common law and statute crime components, as well as their possible defenses. The procedure element, on the other hand, represents the enforcement mechanism, or, to put it another way, the process by which a criminal defendant is taken to court and prosecuted for suspected law infractions. Arrests, searches and seizures, illegally obtained evidence, pleadings, double criminality, subpoenas, jury selection, and sentencing are only a few examples of the criminal justice system's laws. As a result, it is evident that a thorough examination of such a broad and complex subject necessitates the creation of a lengthy and independent study. It is important to note that, because each state, territory, and federal government has its own criminal legislation, Australia's books contain thousands of offences, not to mention the common law crimes that still exist. New South Wales, South Australia, and Victoria are three common law jurisdictions. We believe that familiarizing readers with all of these common law and legal offences is neither practicable nor useful.

When attempting to define the purposes of criminal law, it is critical to comprehend the motivations for the effort as well as the nature of the issues it creates. "Almost no criminal legislation can be said to have a single essential premise to regulate it," someone once said in a complaint. However, it must be clearly understood that this is merely a reality, and that it is not ashamed of it. It would be very undesirable to have a criminal code that solely reflects a basic idea. Social goals can never be single or simple, and they can never be maintained unconditionally to the exclusion of all other social goals; attempting to do so will only lead to the sacrifice of other equally important values. To provide just one example, the goal of preventing any sort of crime or general crime is to avoid the conviction of innocent people while also increasing the overall sense of security in society. This is a significant objective. The fundamental purpose of several protections in criminal procedures in the United States. Even if the primary goal of criminal law is to rehabilitate convicts rather than to prevent crime, this is still true. Examining the commonly proposed criminal law objectives reveals that each one is complex, and none of them can be viewed as totally excluding other reasons. Assume that the primary purpose is criminal deterrence. It is nevertheless vital to recognize that offender rehabilitation, offender disability, increased society understanding of right and wrong, and social justice and vengeance fulfilment can all help to attain this aim by supporting the end result. Less... in terms of the number of crimes committed. If socialized revenge is viewed as a more orderly alternative to collective violence, it can be considered insignificant.

Literature Review

There is no commonly acknowledged definition of what constitutes a crime, unlike other sorts of legal infringement (such as infringement, breach of contract, and so on). Professor Granville Williams defines crime as "legal injury that can be prosecuted through criminal procedures": "Criminal Law Textbook" by G Williams (2nd edition, 1983)²⁷. The main distinction between crime and other legal torts, according to this definition, is that the former is pursued using criminal rather than non-criminal proceedings. Given that each jurisdiction in Australia reserves the power to determine which legal errors should be pursued through this

method, the fact is that a crime is any act that a court or legislature chooses to define. However, according to Louis Waller and CR Williams, the distinction between criminal and non-criminal activity is not simply based on arbitrary classification: Criminal Code (9th Edition, 2001) 2, 3. L Waller and CR Williams, Criminal Code (9th Edition, 2001) They specifically accept the following viewpoint: Aside from "strict" or "absolute" liability crimes (discussed below), the choice to define activity as a crime is usually dependent on the presence of two characteristics that are inherent in all crimes: the behavior in issue and the perpetrator. It must be harmful to the general population, not simply to one or more individuals, and the relevant behavior must include moral lapses.

The "Indian Law Commission" was established by the Governor of British India to deal with substantive criminal law and court procedures. The Law Commission of India drafted the Criminal Procedure Law of 1898 after collating and compiling numerous legislations. Although the criminal legislation was enacted in 1837, it did not take effect until January 1, 1862. This is a massive Indian committee that operates outside of the law. The committee was given instructions in 1847 to produce an accusation and procedural plan in the form of accusations in line with the Criminal Code's requirements in 1848. Following that, the committee reviewed and changed the initial draught of the Criminal Procedure Law, which was passed in 1854, abolishing the original Law No. 25 of 1854 and the revised Law No. 8 of 1869, resulting in the Criminal Procedure Law of 1872 (Law 1872 X). The code, like its predecessor, does not apply to specific courts, which is a problem. To control the processes of the Presidential Palace City Sheriffs Court, the "Presidential Palace Sheriff Act" (fourth version in 1877) was enacted. Although they are not written in the same language, certain sections of these three laws: X in 1872, X in 1875, and IV in 1877 are comparable. As a result, it was decided to combine these three statutes into a single criminal procedure law that would apply throughout British India. As a result, Law X of 1882 was passed, repealing the previous three laws. The 1882 Criminal Procedure Law lasted 16 years before being repealed and replaced with the 1898 Criminal Procedure Law. For the prevention of crime in British India, the Indian Penal Code (XLV 1860)

and the Evidence Acts of 1898 and 1872 (Act No. 1 of 1872) were enacted. To deal with criminals, the Pakistan Criminal Code (XLV 1860), the Criminal Procedure Code of 1898 (V version 1898), and the Evidence Act of 1872 (1st edition 1872) were changed to the Pakistan Criminal Code (XLV 1860), the Criminal Procedure Code of 1898 (V version 1898), and the Evidence Act of 1872 (1st edition 1872).

Nature of Criminal Law

Is there a pattern to the behaviors that are labelled as criminal? What do we mean when we say "crime"? The basic answer is that a crime is anything that is declared a crime by the law and is punishable by a punishment. The problem with this strategy is that not all criminal convictions result in fines or jail time. Instead of punishing the criminal, the judge can only warn him not to commit the offence again. The majority of commentators agreed that a key aspect of crime is behavior that is explicitly condemned by society and associated with shame. Professor Henry M. Hart, Jr. defines crime as "conduct, indeed... that will lead to" the community's formal and serious moral censure." 8 Professor Hart's concept is based on the idea that crime should be officially denounced by the judge and jury who represent the public in court. This distinguishes criminal activity from that which the majority of people find offensive and which is generally not prosecuted or punished by the state. We can, for example, criticize someone who has cheated on their marriage, but we normally leave the solution to the appropriate individual. Other matters are left to the agency's discretion; schools typically take disciplinary action against pupils who cheat or disrupt the classroom, but criminal charges are rarely brought. Players in professional baseball, basketball, and football leagues are subject to their own disciplinary procedures. Most states leave it up to people to decide whether or not to recycle rubbish, relying on peer pressure to enforce compliance.

Objectives of Criminal Law

Order, survival, security, sustaining conditions that allow advancement ("civilized conditions"), experiencing "higher" values, and finally the "happy life" are the

ultimate goals of criminal law. This encompasses the development of a rational and democratic society. They're all ideals. These long-term aims are assumed in this discussion, and the focus will be on the near-term goal of having the strongest criminal law possible, as well as key arguments and theories that support the proposed adjustment. The simplest technique is to ask: What are the most serious flaws in substantive criminal law? As a result, we'll lay out concrete objectives for reducing these constraints and moving forward in relevant directions. The most obvious fault in most jurisdictions' criminal laws is the jumble of regulations. A great number of amorphous laws and regulations, with no relationship to one another and no coherent thinking, is the conventional image. Although enterprising editors and state officials compile laws and regulations linked to various crimes, it is not rare to find criminal laws in remote locations, including non-criminal sectors, in regulation books. Only a few countries have attempted something comparable to the systematization of criminal law, far from the continuous application of any concepts or principles.

As a result, lawyers' and judges' work is hampered, and job efficiency is severely harmed. It is in stark contrast to European countries' penal codes. The "general part," which comprises theories relevant to all specific crimes, such as doctrines linked to insanity, error, coercion, and so on, and the "special part," in which the rules specify the crime, are often separated into two parts. The nature of crime determines how specific aspects are categorized. Not only may the relevant laws be quickly found by adopting this orderly organization, but unlike the difficulties of collecting disparate facts, the advantages of organized information are operational. The general public is also interested in learning about the many stages of criminal law. If lawyers have trouble using the law, the complicated circumstances should fully prevent laypeople who are limited to statute law from doing so. Furthermore, many criminals who should have been treated or punished escaped due to the current turmoil and complexity.

The criminal justice system is the pinnacle of universal significance. It's a repository of current knowledge about serious dispute resolution, as well as a commit-

ment to finding long-term solutions to large issues in any field. Because we've read stories about human beings' journeys from pure, foul-smelling, and retaliatory destruction to calm and wise trials in the criminal justice system. To be grateful. This effort's pride and dignity must also remember the lengthy history of superstition based on chance and oracles or other authorities. Modern criminal process has made nearly unthinkable development in terms of more than just professional advancement. In its most tense form, criminal trials are a community's way of life. If a reasonable solution can be found here, it should be achievable in all areas of human behavior where emotions and instinctual urges collide with restraint and intelligence. As a result, while the contemporary federal criminal procedure review business necessitates the most advanced technological abilities, it also poses a challenge to the American academic community in general to comprehend its fundamentally complicated nature and the implications of its social and legal duties. The current endeavor necessitates "revision," and it's safe to believe that "revision" entails not only change, but also reform, or a shift in the right direction. The premise is that change is achievable, and we're not just hoping for the best. Simultaneously, the experience of procedural reform should dispel any lingering naive optimism in this area. In recent years, courts in states that have adopted new criminal procedure rules have returned judgments overturning some of the most fundamental improvements (such as demanding that faults in accusations be contested before trial).

Instead of talking about it or promulgating new regulations, the lengthy heritage of current procedures, the deep imprint of professional approaches, and, most crucially, the breadth of existing thinking and evaluation, impose strong constraints on genuine purposeful changes. Nonetheless, a compelling assumption is that, after a well-thought-out reform strategy, many key aspects of the method can be updated in a reasonable amount of time. The criminal procedure must be understood as a part of the euphemistically referred to "criminal justice administration" in order to uncover these areas and establish such programs. The analysis offered to us, taken as a whole, is the organization of concepts accomplished using procedures devised for realization. The overall is divided into

substance, procedure, and practice (discretionary), but without delving into the differences at this time, we can say that procedure and substance are related to clearly prescribed prescriptions, and “practice” (for example, personal choice, state attorney's office) is related to trials that are open to the public. It is important to note that each of the first three sections of criminal justice must adapt to the conditions and changes of the others. As a result, it is commonly understood that if the substantive legislation is very harsh, the allegations will be reviewed as thoroughly as possible—technical issues abound. As a result, criminal procedures have a significant impact on the societal effects of criminal law. If the police are inept, legislators will be quick to introduce substantive laws to quell the crime wave, just as if known criminals sneak into the maze of phony improvement procedures, the police and prosecutors' thoroughness will be questioned. Obviously, the natural temptation to expand the program and any important special analysis must be limited, but the relationship between the program and the other essential aspects of the entire process can be explored, at least the unique difficulties generated by this interdependence.

Objectives and Logical Functions in Criminal Law

The current draught revision of federal criminal procedure has the potential to be so broad and significant that it not only calls into question unique and immediate issues and goals, but it also calls into question the fundamental functions and purposes of any rational system. Criminal charges are being pursued. In fact, these two sorts of problems are intertwined. The review's goals should be founded on the goals of criminal proceedings; "objectives" transcend "functions," albeit they are sometimes articulated in similar ways; the first's conclusions are dependent on the knowledge of the second: these are the initial basic premises of our research. Professionals occasionally believe that the programme was made for their specific interests, particularly to provide the amusement of a fascinating task, and they are not uncommon. As a result, the first obvious remark regarding "functions and purposes" is that criminal processes are likewise a public enterprise, at least in terms of providing better services in proportion to their rationality. To call a method "rational," one must first demonstrate that individuals can and do think;

second, there is a significant difference between thinking and using another sound finding approach; and third, the method is planned. It's easier to find out the truth than to wait for it. It's important to remember that criminal procedure is a means of discovery rather than proof of accepted truth. To grasp the program's logical function, keep in mind that we start with the question, not the answer—the entire gadget is only defensible and understandable if we seek answers that we didn't have at first, in the middle. We seek out the most appropriate response. It is also obvious that the technique might be logical even if the substantive law is unfair or illogical. To put it another way, the process fulfils some logical functions, yet the end product isn't always ideal.

"It is not his gifts, but his moral aim that makes a person a 'sophistry,'" Aristotle observed. Regardless of the final decision's fairness, the rational process gives the answers needed to find the optimal tool. The types of questions we must ask are determined by substantive criminal law; reasonable processes based on logical principles dictate what measures we must take and how we will take them to achieve the required response. The ultimate goal is set by the general description of facts contained in substantive law, that is, the assumptions or aspects of the behavioral environment. The purpose of criminal procedures is to apply these broad rules to individual circumstances and to describe the steps that lead to such implementation in a variety of ways. It is to discover, arrest, prosecute, convict, and treat criminals from the perspective of full power management. These terms are ineffective from a procedural standpoint. The intellectual (and authoritative) process of establishing answers to inquiries based on substantive criminal law is what we're focusing on here. Judgments, assuming the correct technique has been brought to the court's attention, raising substantive law issues, and giving evidence to the court that must make the decision in some forms are the processes required to make such a decision. And then make decisions based on that information. As a result, the norms of process predominate to a considerable amount in a particular form of debate, which differs more in the potential for practical impacts than in any underlying argument.

Elements of Crime

Criminal activities, or criminal acts or omissions, and criminal intent, are examples of crimes. The convicted person is required for the conviction of criminal charges. In a nutshell, I'll describe how omission or failure to act becomes a crime. At the moment, we're concentrating on criminal activity. Between *actus reus* and *mens rea*, there must be a match. For instance, a burglary occurs when someone commits a felony at night. To get out of the heat, a traveler can force his way into the hut. He'll discover that once inside, he can't resist the desire to steal mountaineering gear. Our backpackers did not have the crime of burglary, thus the requisite intent to steal was developed after the backpack broke in. The California Criminal Code mandates concurrency, stating that "in all crimes... there must be a combined or joint execution of actions and intentions."

Actus reus normally consists of three parts or elements: (1) voluntary or non-compliance (2) resulting in (3) social harm that should be criminalized. Homicide, for example, can be defined as the intentional shooting or stabbing of people, resulting in (causal) death (social harm). According to the Indiana Criminal Code section, "a person can only commit a crime if he is free to participate in conduct that violate the laws and regulations that constitute the crime."

Please keep in mind that some offences carry strict responsibility. If it is established that a person has ruled out reasonable suspicion and has performed a criminal conduct, that person is held accountable for the strict liability offence. The presence of criminal intent is not required.

There are various other requirements to prove illegal activity in addition to behavior and purpose. Please keep in mind that the behavior could be benign or criminal depending on the context or surrounding circumstances. Depending on whether the driver is the owner or a burglar, getting in the car, turning the key, and driving down the highway might be either innocent or illegal. Second, crime necessitates a variety of circumstances. Attacking the police necessitates attacking law enforcement officers; a hazardous weapon attack necessitates the use of items

capable of causing serious harm, such as knives or firearms. The third point is that some crimes necessitate specific behaviors in order to create specific harm. Homicide, for example, includes activities that directly result in the victim's death, whereas false pretexts necessitate someone obtaining property ownership by making false assertions about one or more facts. The defendant's conduct must be the "actual cause" of the damage in these so-called consequential crimes. If the victim is still alive and his death was caused by the ambulance driver's serious negligence, the person who carried out a dangerous attack on the victim who died later cannot be charged with manslaughter.

The Purpose of Criminal Law in context of USA Region

Criminal law's primary goal or role is to ensure societal order and stability. The goal of the Texas Penal Code is to "create a system of prohibitions, sanctions, and corrective measures to deal with acts that cause or threaten outrageous and unforgivable harm to personal or public interests, and state protection is warranted," according to the Texas Penal Code. The following are the basic purposes of criminal law as stated in the New York Criminal Code.

- Harm. To prohibit conduct that unjustifiably or inexcusably causes or threatens substantial harm to individuals as well as to society
- Warning. To warn people both of conduct that is subject to criminal punishment and of the severity of the punishment
- Definition. To define the act and intent that is required for each offense
- Seriousness. To distinguish between serious and minor offenses and to assign the appropriate punishments
- Punishment. To impose punishments that satisfy the demands for revenge, rehabilitation, and deterrence of future crimes
- Victims. To ensure that the victim, the victim's family, and the community interests are represented at trial and in imposing punishments.

Role of Organ of State and Criminal Law: Study of Pakistan

Separation Of Prosecution Agency from Police

In February 1985, the then-President of Pakistan led two people to mention the

Office of the Prosecutor through a staged strategy in order to handle criminal justice and take a step toward keeping an independent judiciary from the entire administrative branch. One has to do with the provincial police, the other with the provincial legal department, and one has to do with the prosecutor's office and the police. Deputy Superintendent of Superintendents (PDSP), Prosecutor-Prosecutor (IP), and Deputy Prosecutor-Prosecutor (ISP) were all eliminated. The PDSPs who chose the Provincial Legal Department were re-appointed as Deputy District Attorneys, as were the IPs and PSIs who also chose the Provincial Legal Department. Prosecutors are no longer referred to be prosecutors, and their titles have been altered to inspectors (law). As a result, they are unable to represent the government or prosecute criminal cases in either high or lower courts.

The district prosecutor, who is in charge of the head of the district prosecutor's office and is entirely a representative of the province government, not the provincial police, is in charge of all prosecutions (that is, verifying the current level from the lower district level). Local lawyers and deputy local prosecutors continue to oversee criminal prosecutions in circuit courts, while deputy local prosecutors handle prosecutions in local courts, including judicial judges (former attorney general and deputy police prosecutor). Prior to February 1985, Chapter 27 of the Police Regulations of 1934, Articles 27.1 to 27.39, outlined the prosecutor's and court's responsibilities, as well as the responsibilities of investigators and police personnel. In accordance with Articles 270 and 492 of the Criminal Procedure Act, all police officers, namely all superintendents, assistant superintendents, and deputy superintendents, are ex officio prosecutors in all cases Separated from their respective functions and tried in regular courts, according to Article 27.4 of Chapter 27 of the above regulations. The police appointed Financial Inspectors and Deputy Financial Inspectors in accordance with Article 27.4(2) of the aforementioned Regulations (re-designated as the statutory inspectors of the Police and Deputy District Attorney of the Ministry of Law in 1985). More prosecutors, including justices of the peace with powers under Article 30 of the Criminal (Judicial) Procedure Code, have been appointed to conduct trials in the justice courts.

Duties Of Prosecutors

The following tasks of the head of the prosecution are outlined in Article 27.15 of

the Police Regulations (this regulation has been correctly amended and put into the Ministry of Law Handbook):

The District Attorney's staff should be given as much time as possible to study the police department's challenges and intermediate references and requests involving prosecution cases, criminal arrests, bond confiscation, or security cases, including peacekeeping security (see Rule 23.32).

In district courts, handle, manage, or direct the prosecution of cases. In this view, their responsibilities should be understood to include not only filing charges, but also probing the defense's allegations and ensuring that the law's conditions and constraints are followed. All orders for adjudication and abuse prevention have been issued.

Supervise and assign duties to his junior prosecutors and cops assigned to his office or court.

Under the order of the magistrate, responsible for managing items and items related to the case received, as well as unclaimed and suspicious items received from the police station.

Separation of Judiciary from Executive

According to the Constitution of the Islamic Republic of Pakistan, Pakistan's judiciary has not been independent of the main administrative agency since 1947. This scenario persisted for an extended period of time. The administrative department blamed the judicial department for the rise in acquittal rates in various ways; the judicial department accused the administrative department of causing public disorder, particularly the failure of criminal justice, and the judicial department claimed that it could better manage judicial matters than the administrative department. Nonetheless, the Federation of Pakistan was led by the Chief Justice of Pakistan in 1996, and the Constitution of the Islamic Republic of Pakistan was amended to implement the long-term commitment to separate justice and administration. Pakistan in the year 1973. As a result, the judiciary is an immensely

significant institution that plays a crucial role in the administration of criminal justice. It is now entirely self-contained from the executive branch. The outcomes of this division are vastly varied. Administrative magistrates are currently managed by district magistrates, whereas magistrates are managed entirely by district and conference judges. Administrative judges, who are made up of judges from the first, second, and third levels, shall try the offences covered by Chapters VIII, X, XIII, and XIV of the Pakistani Criminal Code (XLV Act of 1860). Administrative judges now have the authority to consider cases in which a maximum punishment of three years in jail is imposed. The judicial magistrates who report to district and conference judges, on the other hand, are now Illaqa magistrates and judges, and can be punished to seven years in prison. The death penalty can be imposed by the judges of the High Court. Sessions Court tried the Shariah District Court and other offences in the Hudood case. It can be condemned to life imprisonment and 40 lashes in addition to the punishment of "Hadd," such as amputation, stoning, and so on.

Conclusion

The criminal justice system is society's institutionalized reaction to crime, involving police, prosecutors, courts, and criminal agencies working together. There are tens of thousands of criminal offences worldwide, not to mention common law violations. According to John Sartre, the goal of criminal law is difficult, and all other social purposes should not be discounted without reservation. The criminal justice system has been chastised for neglecting to priorities offender rehabilitation over crime prevention. The ultimate purpose of criminal law is order, survival, security, and the preservation of conditions that allow advancement. Most states' criminal laws are a jumble of statutes with little link to one another and no coherent thinking. The criminal justice system tells the chronicle of humanity's laborious journey from vengeance, stink, and total ruin to wise and peaceful trials. In its most tense form, criminal trials are a community's way of life. The allegations will be the most closely investigated if the substantive law is overly strict: technical difficulties abound.

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