Legal Concepts- Crime & Civil Wrongs

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Legal Concepts

- **Legal Concepts** - General ideas/concepts uniformly followed throughout Western legal history by legislators in law-making & also by legal scholars in their reconstruction and development of law.

- **Characteristics of Legal Concepts:**
  - Certainty
  - Universal recognition
  - Uniformity in meaning
  - Reliance by courts/legislatures/administration
  - Development and refining through judicial or scholarly interpretation

* Eg: Rights, Possession, Ownership and Crime
Concept of Wrong

- **Wrong** - A violation of the legal rights of another (Black’s Legal Dictionary)
- The idea of *rights naturally suggests the correlative one of wrongs; for every right is capable of being violated.*
- *Eg:* A right to live in personal security, a wrong on the part of him who commits personal violence.
- Generally, the *law is intended for the establishment and maintenance of rights, in fact it deals both with rights and wrongs.*
- It first fixes the character and definition of rights, and then, with a view to their effectual security, proceeds to define wrongs, and to devise the means by which the latter shall be prevented or redressed
- **Wrongs:** Private and Public
Private and Public Wrongs

• **Private Wrong**: Result from violation of private rights or as a consequence of the duty of care
• **Denote** the injury sustained by the individual, and consequently as subjects for civil redress or compensation
• **Eg**: Torts/Civil Wrongs, Breach of Contract
• **Public Wrongs**: Violations of public rights and duties which affect the whole community
• **Eg**: Crimes and Misdemeanors
Crimes

- **Crime**: an action or omission which constitutes an offence and is *punishable by law*
- An act committed in violation of law where the consequence of conviction by a court is punishment
- An action that is deemed injurious to the public welfare and is legally prohibited
- *It is duty of the State to protect its citizens & others from crimes* (State is the custodian of law & order in the society- in Welfare State)
- **Crime** – used interchangeably with offence
Crime-Fundamental Concepts

• **Elements of Crime:** Human being, Mens rea or guilty intention, Actus reus or illegal act or omission, and Injury to another human being

[“actus non facit reum nisi mens sit rea” which means that, the guilty intention and guilty act together constitute a crime]

• **Stages Of A Crime:** Intention, Preparation, Attempt & Accomplishment/Commission

• **Criminal Law in India:** IPC,1860 & Cr.P.C, 1973 etc

• **Punishments:** Death, Life Imprisonment, Term Imprisonment,Fine,Confiscation of Property

• **Theories of Punishment:** Deterrent Theory, Retributive Theory, Preventive Theory, Reformative Theory, Expiatory Theory
Civil Wrings/Torts

• **Civil Wrongs**: A **civil wrong or wrong** is a cause of action under the law of the governing body. Eg: Tort, breach of contract, and breach of trust

• **Tort**: a civil wrong involving a private party repressible by monetary compensation (Tortum in French=Curved/not straight)

• **Salmond**: It is a civil wrong for which the remedy is a common law action for unliquidated damages and which is not exclusively the breach of a trust or other merely equitable obligation.

• Kinds of Torts: **Intentional torts, Negligence torts, & Strict liability torts**
• Ubi jus ibi remedium
• Damnum sine injuria- *Gloucester Grammar School Case*
• Injuria sine damno -*Ashby v. White*
• **Tortious Remedies** - judicial & extra-judicial.
• *Judicial remedies* : (i) Damages, (ii) Injunction and (iii) Restitution of property
• *Extra-Judicial Remedies* : Self Help, Expulsion of Tresspassers, Re-entry of Land etc
• **Tortious Liability of State in India**: Dilution of doctrine of Sovereign Functions, Vicarious liability of State for actions of its servants.

Thank you