

NOTES IN CRIMINAL LAW REVIEW

Culled primarily from the lectures of Prosecutor Victoria C. Garcia

GENERAL PRINCIPLES

Criminal Law: Branch of public law that deals with crimes, treats of their nature, and provides for their penalties.

Whenever a person violates a public law, he commits: (a) an injury against the State (**social injury**); and (2) a personal injury against the private offended party (**personal injury**).

In case of the conviction of the accused, you will notice that in the judgment of the court, aside from the penalty of imprisonment or fine, there's also the imposition of civil liability.

- The imprisonment or fine will answer for the social disturbance, disturbance of public order, the social injury.
- The award of civil indemnity against the accused goes to the private offended party or to the heirs of the private offended party.

Civil liability is not a penalty because civil liability goes to the private offended party.

Crime: act committed or omitted in violation of the public law forbidding or compelling it. Crime is an encompassing word. It includes:

1. **Felony:** an act or omission punished by the RPC (Art. 3).
2. **Offense:** an act or omission punished by SPL.
3. **Infraction of the law:** an act or omission punished by the local ordinances as enacted by the local *sanggunian*.

In PH jurisdiction, it is Congress that has the power to enact penal laws. Although Congress has such power, such power is not absolute. there are certain **limitations on their power to enact penal laws:**

1. Penal laws enacted by Congress must be **general** in application. Otherwise, it will be violative of the equal protection clause of the Constitution.
2. Penal laws enacted by Congress **must not partake of the nature of ex-post facto law** – one which makes an act criminal which when committed was not yet so.
3. Penal laws enacted by Congress **must not partake of the nature of bill of attainder** – a law which punishes the Accused without due

process or giving him the opportunity to be heard.

4. Penal laws enacted by Congress **cannot impose cruel or unusual punishment, or excessive fine.**

Characteristics of Criminal Law:

Generality

Our penal laws shall be binding on all persons residing in the Philippines whether he is a Filipino citizen or a foreigner, regardless of race, creed, color, religion, or other personal circumstances. Therefore, whoever you are, if you are in the Philippines, you have to comply with Philippine penal laws. You are obligated, bound to comply, to follow Philippine penal law. Otherwise, you can be arrested, you can be prosecuted, you can be punished.

This characteristic is not absolute. It admits of exceptions:

(1) GENERALLY ACCEPTED PRINCIPLES OF PUBLIC INTERNATIONAL LAW

Chiefs of state, sovereigns, and other diplomatic representatives such as public ministers and ambassadors are immune from the criminal jurisdiction of the country where they are assigned. While they are in the host country, they cannot be arrested, prosecuted, nor punished for having violated the laws of the said country because they enjoy diplomatic immunity from suit.

It is also settled that although a consul is a diplomatic representative, a consul does not enjoy the same diplomatic immunity from suit as sovereigns and other heads of state. Therefore, a consul can be prosecuted before the courts of the host country the moment he commits a violation of the penal laws of said host country. EXCEPT: (1) when the act committed by said consul is in the performance of his functions, and (2) if there is a treaty stipulation between the mother country of the consul and the host country saying that this particular consul is immune from suit.

President of Country X was in Manila. He boarded his car and left the body guard. President was driving recklessly and hit and bumped a pedestrian. The pedestrian suffered serious

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