

Discuss the essential differences between Civil and Criminal Law particularly in relation to their aims and objectives.

Justice should be the upholding of rights and the punishment of wrongs by the law. Any society has a duty to its citizens to do the best it can to provide them with laws, which, if obeyed, will give them a reasonably safe environment. These laws will also form a framework in which to live our lives. Whether in criminal or civil law we each have a responsibility for our actions towards others. Criminal law is the upholding of standards and punishing those who break laws and offend against society. Civil law is concerned with compensating the victims of injustice-

“ The Criminal Justice System exists to help protect us from crime, and to ensure that criminals are punished. The Civil Justice is there to help people resolve their disputes fairly and peacefully”(Lord Irvine of Lairg, Lord Chancellor, *Modernising Justice* 1998)

One main difference between Civil and Criminal law is their sole purpose. Both Civil and criminal law has main aims however they differ quite substantially. Criminal law can be seen as a set of rules and regulations which, if broken, will result in a punishment of either loss or liberty or a fine. In a Criminal case an offender is found guilty of a criminal offence, and he/she may be sentenced by the judge. In a Civil case there is no guilty party. The aim of Civil law is not to punish a wrongdoer but to compensate the victim who has suffered by the actions of another person doing wrong. There is no guilty party because a person may be responsible for an act without realising or meaning to do wrong. There is no possibility of a person being sent to prison for a Civil wrong. Civil law exists primarily to compensate the victim(s), therefore it is clear that Criminal law is regarded as being more serious than Civil, as a Criminal conviction is seen to have harsher consequences on a persons reputation than those of a failure in a Civil case.

Both Criminal and Civil law differ in the standard of proof which is required for both. The phrase “Beyond reasonable doubt” is very significant when talking about the standard of proof required for a Criminal conviction. The accused in a Criminal case must be proved guilty beyond all reasonable doubt for a conviction to be made. This is because the rules of evidence are much stricter in a Criminal case, for example- a confession must be examined very carefully to see if any pressure was put on the accused to confess, however In a Civil case a confession will be readily accepted. This shows how much more serious a Criminal case is considered in relation to a Civil one. The Claimant in a Civil case only has to prove that his case is marginally stronger than that of the defendant in order to succeed. The Civil standard generally openly tolerates a substantial margin of error.

As in many countries, England has found it convenient to set up separate systems for Criminal cases and Civil cases. Therefore both have different courts. The

Criminal court structure is progressive, this means that all cases start at the Magistrate's court, and the more serious cases move on trial to the Crown court. The Crown court is where more serious offences are held. The importance of the Crown court is that it involves trial by judge and jury, unlike the Magistrate's court where the Magistrates are the judges. The Civil law courts are not progressive like the Criminal ones. Civil cases enter the system at various levels depending on the seriousness of the case and the amount of money involved. Generally Civil cases take place in either- Magistrates court, County court or the High court. The magistrate court is primarily concerned with dealing with criminal matters, However the court also has some Civil jurisdiction, the largest area of civil law that the magistrates court deals with is matrimonial, though it also deals with cases such as 'civil debts' e.g. the money owed to the council from taxes etc.

The terminology used for both Criminal and Civil cases contrast quite distinctly. In a Civil case it is always said that the Claimant (previously Plaintiff) sues the Defendant but never prosecutes. It is written as - Claimant v Defendant. In Criminal cases it is said that the Prosecutor or the Crown prosecutes the Defendant. This is written as –

R v defendant, where R represents Regina or Rex, the king or queen. Under the criminal law a person who has offended may be *prosecuted* by the state, if found *guilty* this will *punish* them and leave them with a criminal record hopefully *prevent* them from crime again. In Civil law this is not so. The defendant is never found guilty, and is never punished. A Civil case is between individuals, a Criminal case is the action of the state against an individual, this is because the criminal has offended against society and so he/she is punished by society as a whole, in the name of the queen.

In conclusion, It is important to note that the same series of events may give rise to both a Criminal and a Civil case. For example if a person has exceeded the speed limit and driven carelessly causing an accident and damaging another person's car, they can be faced with two main consequences. Under the Criminal law they may be prosecuted by society for driving offences, and under Civil law they may be sued by the injured party or their insurance company for damage to the car and any injury caused. In this case they would be forced to pay compensation.