

Assignment 2.

Explain the differences between Civil and Criminal law with respect to the role of the State and civil and criminal liability.

Law covers a huge amount of different areas. For this reason, it is split into its two main categories of Civil and Criminal law. Each of these covers different aspects of the law. The differences between these types of law lie not in the actual conduct or acts that have caused the need for the law to become involved, but rather in the legal consequences that are to come of this conduct.

Criminal law is a sub-division of public law, meaning that always it involves the State or government in some way. Criminal law states which behaviour the State finds to be unacceptable in society and is forbidden at the risk of punishment. The purpose of criminal law is to maintain law and order in our society. It involves the State as the prosecuting party and one or more individuals as the defendants accused of a crime. The State either through the police or the Crown Prosecution Service always starts criminal cases. The purpose of a criminal trial is to find whether the defendant is guilty or not guilty. If they plead or are found guilty then the defendant is liable to be punished. The burden of proof, or the standard to which the case must be proven is extremely high in criminal cases as the consequences can be extremely dire. The case must be proven "beyond all reasonable doubt" as sentencing for criminal cases can be harsh. Sentencing in criminal trials is always a punishment.

There are a lot more rules of civil law than criminal as civil law covers any aspects not covered by criminal law. Civil law is often referred to as private law as it involves disputes between individuals or individual companies with each other. Civil law involves such areas as tort, inheritance law, family law and contract law, as well as many other areas. Its purpose is to uphold the rights of the individual. The purpose of civil cases is to investigate the dispute and decide whether or not there has been a breach of these rights and then whether or not the defendant is liable to pay compensation. There is never a punishment. The State is never involved in civil cases, as they are always private clashes between individuals. Unlike Criminal cases, the CPS or police do not start Civil cases. As the State has no part, the plaintiff or claimant starts the case. If a defendant is found liable they are usually required to pay damages to the claimant or an injunction against them is passed (these are just examples). The standard of proof is a lot lower in civil cases than in criminal cases as the outcome of the case will in no way be so life-affecting as a criminal punishment. As with Criminal cases, the burden of proof rests on the plaintiff (CPS or police in criminal cases) but the case must only be proven on "the balance of probabilities", meaning that the plaintiff must prove only that it is more than likely that the defendant is liable.

Both types of law also have their own courts. Criminal cases are heard in Magistrate's Courts or Crown Courts, whereas Civil cases are heard in County Courts or high Courts. Sometimes, a defendant can have double liability meaning that they have been in breach of both types of law. This means that two court hearing have to take place. Double liability occurs where a crime is committed and in the course of that, an individual's rights are breached.

The distinction between civil and criminal law is immensely important as it affects which courts the case will be heard in, who starts the case, how the case will be started, and most importantly, which powers the judge will have.