

Chapter 1 Summary: Introduction

Chapter 1 introduces the textbook, and discusses issues surrounding the study of substantive criminal law that is essential in order to set that study in context.

Substantive criminal law (Chapter 1.1)

The focus of this textbook is the substantive criminal law – i.e., the rules that make certain conduct criminal or non-criminal. This crosses over with (but should be distinguished from) other related subjects. These related subjects include:

- Theories of criminalisation: what should be criminalised?
- Criminology: how does the criminal law impact on society?
- Criminal Evidence: how can we prove if a crime has been committed?
- Criminal Sentencing: what penalty is appropriate when a crime has been committed?

A basic understanding of these related subjects is useful in order to understand the substantive criminal law in context, but they are not our focus.

Sources of the criminal law (Chapter 1.2)

The main sources of the criminal law include:

- Statutory sources
- The common law (i.e., court made law)
- International and European sources

Internal structure of offences and defences (Chapter 1.3)

Criminal offences and defences are made up of elements. These include, for offences, the actus reus (external elements) and mens rea (internal or mental elements). It is important to understand this terminology in order to understand legal literature, and to focus your discussion.

The principles of criminal law (Chapter 1.4)

Legal principles are not necessarily codified (although many are codified within Human Rights legislation), but provide rules through which to evaluate the law. They include:

- Autonomy: the law should respect people as autonomous agents;
- Welfare: the law should protect the individual, and society;
- Fair warning: the law should be sufficiently clear to guide behaviour; etc.

The subjects of the criminal law (Chapter 1.5)

The criminal law applies to all legal and natural persons. However, there are special rules in relation to corporations; minors; and those unfit to plead.

Reform (Chapter 1.6)

This section introduces how we will discuss reform of the law in future chapters.

Eye on assessment (Chapter 1.7)

This section introduces a structure for approaching problem questions that will be employed throughout the textbook.