

Practical Legal English

实用法律英语

全国行业英语系列统编教材

主 编 郭剑晶



审判长

审判员

书记员



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前言

随着改革开放政策的实施和对外合作的加强,我国的涉外法律关系和事件越来越多。这要求人们,特别是法律工作者不但要有足够的法律知识,还要有较高的英语水平,尤其要熟知法律英语。我国目前虽有相当多比较成功的律师,也有相当多人精通英语,但二者兼顾的人士却不多。

本书以国内外现行法律法规为基础,参考国内外的有关论著,向读者介绍了人们普遍关心的一些法律知识,本书共分 10 个单元:刑法、民法、婚姻法、诉讼法、知识产权法、经济法、环保法、侵权法、财产法、行政法。

另外,本书归纳了涉及以上各法的法律常用术语和表达方式。

本书的主要特点是每个单元围绕一类法种展开,每单元的第一篇课文介绍该法的法律概要,第二篇为案例分析,第三篇是法律故事。文章选材的标准是语言规范地道,概念准确专业,分析有理有据,故事典型有趣。不同于其他法律英语教材对法律知识全面系统的介绍,本书侧重介绍法律主要概念,法律词汇、法律术语、法律条文分散于案例分析、法律故事、课后练习以及补充材料之中。本教材既具备了法律教材的特点,适合法律专业的学生使用,同时又具有普通英语教材的特点,符合广大学生学习英语的习惯。在课后习题的设计上,本书努力将法律知识与语言知识有机结合在一起,尽量让学生不离开自己的专业就能学英语,在学英语的过程中促进专业水平的提高,发挥专业知识学好专业英语,学好专业英语为专业服务,真正体现“实用为主,够用为度”的原则。

本书由福建江夏学院郭剑晶副教授主编,并参加其中前 5 个单元的编写,韦艳赠老师参与其中后 5 个单元的编写。感谢洪毅老师的积极参与。在



编写过程中许多法学教师对本书提出了很多宝贵的意见,对此表示衷心的感谢。由于时间仓促,作者水平有限,在编写过程中难免出现错误,诚请读者和专家给予批评,指正。

编 者
2010 年 8 月

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Unit 1 About Criminal Law

Lead-in Dialogues

Dialogue 1

Mary: Hey, Jane, where are you going?

Jane: To Mrs. White's house. Something bad happened.

Mary: What's the matter?

Jane: Jasmine, Mrs. White's daughter, is missing and nobody knows where she is now. So all of the colleagues in our department would go and consult her.

Mary: Terrible! A bolt from the blue.

Jane: Indeed, and what's more, Mrs. White's house was visited by the burglars last night!

Mary: Misfortunes never come singly, as the old saying goes. So let's go together and help to pull her through the difficulty.

Dialogue 2

(At a grocery)

Robber A (*with a gun in his hand*): Freeze, everyone! Take out your belongings and put it on the floor. Hurry up, hurry up!

Customer A (*hands up*): What a lucky day for me! I should have gone to another store.

Shop Assistant: Hey, don't do stupid things, take what you want and leave!

Robber B: Shut up! We know your numbers. Do not touch the alarm under the counter!

Shop Assistant: OK, calm down, man, calm down.

Robber A: Hurry up, the police are coming!



Customer B: You are dead meat, men, give up before it's too late or you will spend the rest of your life in prison.

Situational Communication

Tom: Hey, did you hear the case on TV yesterday? A Chinese postgraduate studying in Virginia Polytechnic Institute and State University killed his classmate.

Li Ping: _____ 1 _____ (还没,到底发生了什么事)?
(actually)

Tom: It's terrible. A man named Zhu Haiyang, 25 years old, who came from Ningbo, _____ 2 _____ (杀了他的同学) Yang Xin, 22, a Beijing girl studying accounting, in the restaurant of the students' center.

Li Ping: _____ 3 _____ (太可怕了,为什么他这么做)? (horrible)

Tom: _____ 4 _____ (只是因为杨欣拒绝做他的女友).

Li Ping: Oh my God! So crazy! We Chinese are all humiliated.

Tom: Zhu may be facing the punishment of _____ 5 _____ (终身监禁).

Further Discussion

What's your opinions on Zhu's case, please air your ideas.

Tips: promising 有前途的

cherish one's life 珍惜生命

Life is irreversible. 生命只有一次。

let go of 放弃

young and crazy 年少轻狂

climb the social ladders 出人头地

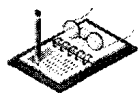
pursue 追求

Text A A Brief Introduction of Criminal Law



Pre-reading Questions

1. What do you know about criminal law?
2. What's the difference between criminal law and civil law?
3. What are the elements that constitute a crime?



Reading Through

Criminal Law

Criminal law refers to that body of the law that deals with conduct considered so harmful to society as a whole that it is prohibited by statute, prosecuted and punished by the government. In a criminal case, the state, through a prosecutor, initiates the suit, while in a civil case the victim brings the suit. Persons convicted of a crime may be incarcerated, fined, or both. However, persons found liable in a civil case may only have to give up property or pay money, but are not incarcerated.

A “crime” is any act or omission (of an act) in violation of a public law forbidding or commanding it. Though there are some common law crimes, most crimes in the United States are established by local, state, and federal governments. Criminal laws vary significantly from state to state. There is, however, a Model Penal Code (MPC) which serves as a good starting place to gain an understanding of the basic structure of criminal liability.

Crimes include both felonies (more serious offenses — like murder or rape) and misdemeanors (less serious offenses — like petty theft or jaywalking). Felonies are usually crimes punishable by imprisonment of a year or more, while misdemeanors are crimes punishable by less than a year. However, no act is a crime if it has not been previously established as such either by statute or common law. Recently, the list of Federal crimes dealing with activities extending beyond state boundaries or having special impact on federal operations has grown.

All statutes describing criminal behavior can be broken down into their various elements. Most crimes (with the exception of strict-liability crimes) consist of two elements: an act, or “actus reus”, and a mental state, or “mens rea”. Prosecutors have to prove each and every element of the crime to yield a conviction. Furthermore, the prosecutor must persuade the jury or judge “beyond a reasonable doubt” of every fact necessary to constitute the crime charged. In civil cases, the plaintiff needs to show a defendant is liable only by a “preponderance of the evidence”, or more than 50%.

In one case, a defendant was sued for failing to provide for an infant, thus causing the infant’s death by malnutrition, though the defendant was not the child’s mother. The court held the view that the defendant was not to be held criminally



responsible. In this case, the key issue was whether the defendant's failure to act was a violation of a legal duty or a moral duty. The court thought that a failure to act that amounts to a failure of a moral duty will never result in criminal liability. Only a failure to act that violated a statute or breached a contractual duty would find the actor to legal liability. That is if the defendant was the parent or guardian of the infant and failed to provide for the infant thus causing the death of the infant, he should be held responsible for violation of legal duty.



Vocabulary

- prohibit** /prə'hɪbɪt/ *v.* to stop sth. from being done or used especially by law (尤指以法令) 禁止
- statute** /'stætju:t/ *n.* a law that is passed by a parliament, council, etc. and formally written down 成文法; 法令; 法规
- prosecute** /'prɒsɪkju:t/ *v.* to officially charge sb. with a crime in a court of law 起诉; 控告; 检举
- prosecutor** /'prɒsɪkju:tə/ *n.* 1. a public official who charges sb. officially with a crime and prosecutes them in a court of law 公诉人; 检察官
2. a lawyer who leads the case against a defendant in a court of law 原告律师; 控方律师
- suit** /sju:t/ *v.* a comprehensive term for any proceeding in a court of law whereby an individual seeks a legal remedy 诉讼; 请求; 起诉
- convict** /kən'vɪkt/ *v.* to decide and state officially in a court of law that sb. is guilty of a crime 宣判(某人)有罪
- incarcerate** /ɪn'kɑ:səreɪt/ *v.* to put sb. in prison or in another place from which they cannot escape 监禁; 关押; 禁闭
- liable** /'laɪəbl/ *adj.* 1. likely to be punished by law for sth. 可能受法律惩罚的
2. having to do sth. by law 必须按法律做(某事); 负有……责任的
- liability** /ˌlaɪə'bɪlɪtɪ/ *n.* the state of being legally responsible for sth. (法律上对某事物的) 责任, 义务



felony	/ˈfeləni/	n.	the act of committing a serious crime such as murder or rape; a crime of this type 重罪; 重刑罪
offense	/əˈfens/	n.	(criminal law) an act punishable by law, usually considered an evil act 违法行为; 犯罪; 罪行
misdemeanor	/ˌmɪsdɪˈmiːnə/	n.	a crime less serious than a felony 轻罪
theft	/θeft/	n.	the crime of stealing sth. from a person or place 偷; 偷窃; 盗窃罪
jaywalking	/ˈdʒeɪwɔːkɪŋ/	n.	the act of walking along or across a street illegally or without paying attention to the traffic (无视交通规则) 乱穿马路
actus reus			the criminal act, the Latin term for the “guilty act” 犯罪行为
mens rea			criminal intent; the thoughts and intentions behind a wrongful act (including knowledge that the act is illegal), the Latin term for “guilty mind” 犯罪心意
yield	/jiːld/	v.	to produce or provide sth., for example a profit, result or crop 出产(作物); 产生(收益、效益等); 提供
preponderance	/prɪˈpɒndərəns/	n.	exceeding in heaviness; having greater weight 优势, 多数
conviction	/kənˈvɪkʃən/	n.	the act of finding sb. guilty of a crime in a court of law; the fact of having been found guilty 判罪; 定罪; 证明有罪
constitute	/ˈkɒnstɪtjuːt/	v.	to be the parts that together form sth. 组成; 构成
charge	/tʃɑːdʒ/	v.	to accuse sb. formally of a crime so that there can be a trial in a court of law 指控; 控告; 起诉
sue	/s(j)uː/	v.	to make a claim against sb. in a court of law about sth. that they have said or done to harm you 控告; 对……提起诉讼
malnutrition	/ˌmælnjuːˈtrɪʃən/	n.	a poor condition of health caused by a lack of food or a lack of the right type of food 营养不良
breach	/briːtʃ/	v.	to not keep to an agreement or not keep a promise 违反; 违背
		n.	a failure to do sth. that must be done by law 违背, 违犯(法规等)



contractual /kən'træktʃuəl/ *adj.* connected with the conditions of a legal written agreement; agreed in a contract 合同的; 契约的; 按合同(或契约)规定的



Phrases & Expressions

serve as

担任; 充当; 起……的作用

be broken down into

被分解成

amount to

总共达到(总计, 等于); 相当于; 意味着



Exercises

I. Decide whether the following statements are true (T) or false (F) according to the passage.

- _____ 1. Criminal law involves the prosecution of wrongful acts by the state which are considered to be crimes.
- _____ 2. Generally, crimes can result in incarceration, but torts cannot.
- _____ 3. All the states in America share the same criminal laws.
- _____ 4. Felonies are less serious crimes than misdemeanors.
- _____ 5. One is not allowed to do anything that is prohibited by statute or common law in America.
- _____ 6. If only one element is present there can be no crime.
- _____ 7. Defendants have to prove themselves to be innocent if they want to be acquitted.
- _____ 8. If a failure to act results in a violation of moral duty, the person who fails to act will be held criminally responsible.

II. Fill in the blanks with the words given below. Change the form where necessary. There are more words than necessary.

suit	liable	breach	prohibit	convict
incarcerate	constitute	prosecute	yield	felony

1. The murderer was _____ for the rest of his life.
2. Prosecutors also agreed not to _____ his wife, Elizabeth Gongora Suarez, for concealing a fugitive from authorities.



3. The family brought _____ against the landlord.
4. In countries where the legal system distinguishes between very serious crimes and less serious ones, a _____ is a very serious crime such as armed robbery.
5. This move _____ an act of aggression.
6. You can't _____ a man of a crime on circumstantial evidence alone.
7. The appeals court said the defendants couldn't be held criminally _____ if they believed "in good faith" that they were following the law.
8. Union officials denounced the action as a _____ of the agreement.

III. Translate the following sentences into English.

1. 他被定为杀人罪。(convict... of)

2. 风俗习惯因地而异。(vary from... to)

3. 这个年轻人被控暴力抢劫。(charge... with)

4. 这些哲学观点可以作为处世指南。(serve... as)

5. 他说的话等于是拒绝。(amount to)

IV. Translate the following sentences into Chinese.

1. Criminal law refers to that body of the law that deals with conduct considered so harmful to society as a whole that it is prohibited by statute, prosecuted and punished by the government.

2. A "crime" is any act or omission (of an act) in violation of a public law forbidding or commanding it.

3. However, no act is a crime if it has not been previously established as such either by statute or common law.

4. Furthermore, the prosecutor must persuade the jury or judge "beyond a reasonable doubt" of every fact necessary to constitute the crime charged.



5. The court thought that a failure to act that amounts to a failure of a moral duty will never result in criminal liability.
-



Grammar

Combine the following groups of clauses or sentences after the model with the conjunction "while".

Model:

In a criminal case, the state, through a prosecutor, initiates the suit; in a civil case the victim brings the suit.

→ In a criminal case, the state, through a prosecutor, initiates the suit, while in a civil case the victim brings the suit.

1. Some people prefer to live in the country; others live in town.

2. The son has a good meal at home; the parents work in the fields.

3. I do every single bit of housework; my husband Bob does the dishes now and then.

4. An outdoors man becomes pale if he changes to an indoor job; a desk clerk takes on a tan after a short vacation in the sun.

5. A court can order a defendant to pay damages; the plaintiff may receive nothing if the defendant has no assets and no insurance.

Text B Shoplifter V. Drugstore



Reading Through

Shoplifter V. Drugstore

Leslie Rowland, a clerk of Super X drugstore in the United States, observed



Mrs. Rice, a customer, put a makeup box, a lipstick and a bottle of cologne in her handbag, and did not pay for them at the checkout counter. As she was preparing to leave the store, Mrs. Rice was stopped by Rowland and was brought to a small room at the rear of the store. As requested, Mrs. Rice emptied the contents of her handbag onto a table, among which the three items were found. Admitting that she had taken the three items, Mrs. Rice offered to pay for them, but was refused. The store manager took possession of the three items, and Rowland called the police at the request of the manager, informing them that they had a shoplifter in "custody". The police then arrived and took Mrs. Rice to the police station.

Mrs. Rice sued the drugstore for false imprisonment and claimed for damages. The shoplifting statute states that if a merchant has probable cause for believing that goods held for sale have been unlawfully taken by a person, he may take the person into custody and detain him in a reasonable manner for a reasonable length of time for the purpose of attempting recovery.

Mrs. Rice asserts that a merchant is permitted to take a suspected shoplifter into custody and to detain him pursuant to the law only for the purpose of recovering the goods. The suspected shoplifter must be released as soon as the goods are recovered. The merchant has no right to detain the person until the arrival of a police officer.

The court concludes that it is clear that there was a valid arrest of Mrs. Rice at the police station, but there was no valid arrest without a warrant when Mrs. Rice was taken into custody at the drugstore. Therefore, Mrs. Rice is entitled to the damages for the period of her detention after the goods were recovered until she was arrested. The jury awarded her \$ 75,000 as compensatory damage.



Vocabulary

- makeup** /'meɪkʌp/ *n.* things such as lipstick, eye shadow, and powder which some women put on their faces to make themselves look more attractive or which actors use to change or improve their appearance 化妆品
- cologne** /kə'ləʊn/ *n.* a type of light perfume 科隆香水; 古龙香水
- shoplifter** /'ʃɒplɪftə/ *n.* one who steals goods from a shop by hiding them in a bag or in their clothes 偷窃商店货物的扒手
- custody** /'kʌstədi/ *n.* 1. a state of being confined (usually for a short time) 拘