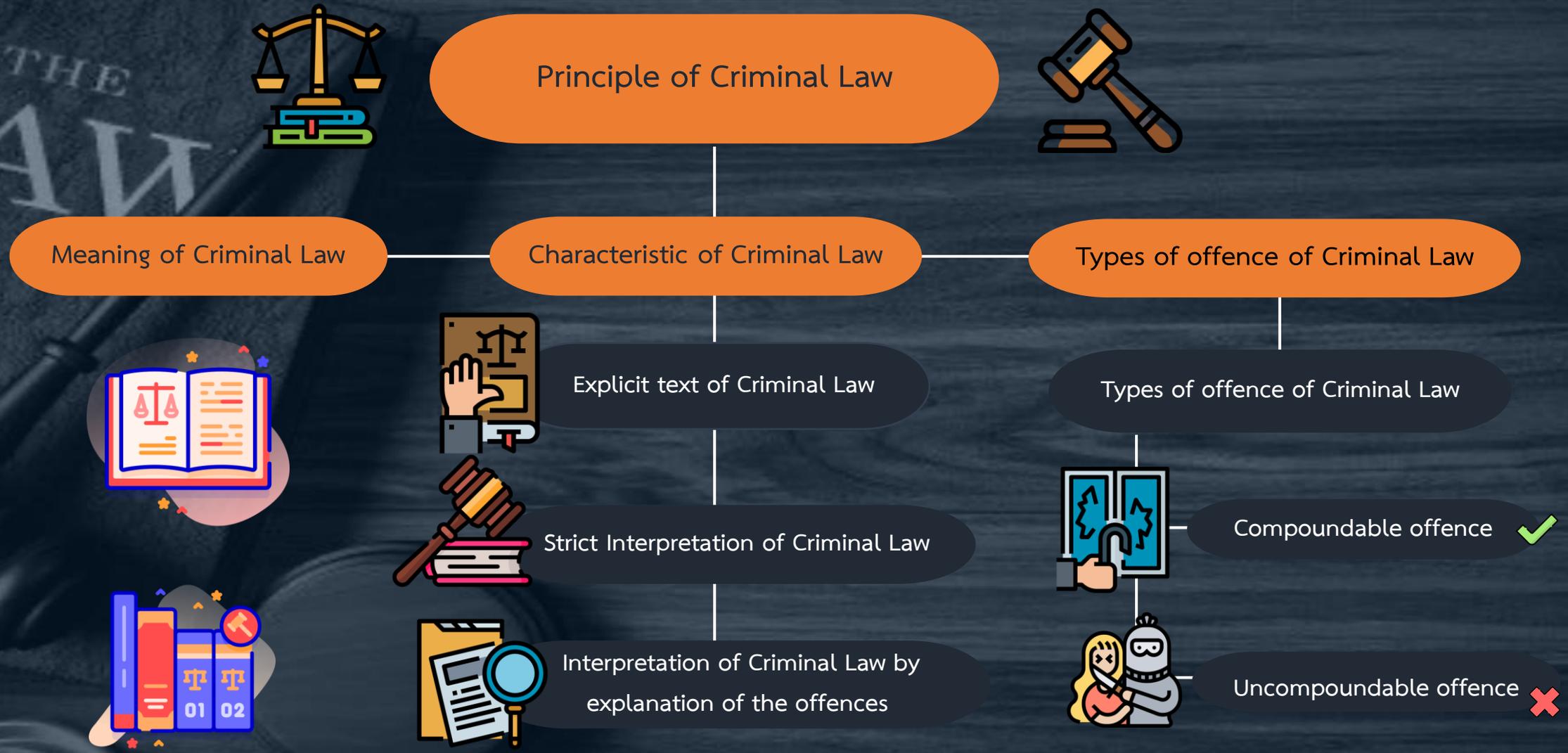


# CRIMINAL LAW





# Application of Criminal Law



**1** If the law provides afterwards, such act is no longer an offence [Section 2 paragraph 2]



**3** In the case where an offence committed in the Kingdom [Section 4 paragraph one]

Territory Principle

Characteristics of "an offence committed in the Kingdom"

Meaning of the term "in the Kingdom"



**2** The law enforced at the time of the offence differs after the time of commission of the offence [Section 3]



**4** In the case where an offence shall be deemed as being committed in the Kingdom [Section 4 paragraph two]

offence committed in Thai vessel

offence committed in Thai aero plane



In the case where the offender has not undertaken the punishment or is undertaking the punishment. [Section 3 (1)]

In the case where court imposes the offender the death penalty [Section 3(2)]



# Application of Criminal Law

**5** the case where an offence is deemed being committed in the Kingdom [Section 5 paragraph one]



Any offence which the act is partially committed in the Kingdom [Section 5 paragraph one part one]

The consequence of the act should be taken place in the Kingdom [Section 5 paragraph one part two]

As intended by the offender to take place in the Kingdom

The consequence should take place in the Kingdom

The consequence could be expected to be taken place in the Kingdom

**6** The case of preparation or attempt to commit an offence in the Kingdom [Section 5 paragraph one]

**7** The case where commission of an offence by the co-principle, the supporter, or the investigator shall be deemed the offence in the Kingdom [Section 6]



**8** offences committed outside the Kingdom that shall be punished in the Kingdom

## Universal jurisdiction

offence which apply universal jurisdiction principle shall be punished. [Section 7]



## The nationality principle

offence which applied nationality principle shall be punished in the Kingdom. [Section 8]



offence committed in public office and offences relating to public justice which applied nationality principle shall be punished in the Kingdom. [Section 9]

## Double jeopardy principle (Non bis in idem)

Condition to prohibit re-punishment for the offender who committed an offence in the Kingdom for some offences. [Section 10]

Condition to prohibit punishment for the offender who committed an offence inside the Kingdom or is deemed an offence committed inside the Kingdom according to criminal law, after having considered the punishment received by the offender. [Section 11]



# Punishment

## 1 Types of Punishment [Section 18]

## 2 Death Penalty [Section 19]

## 3 Imprisonment [Section 20]

Calculation the period of imprisonment [Section 21]

Deduction of Custody period from period of imprisonment according to court judgement [Section 22]

## 6 Forfeiture of Property [Section 32]

Property provided by the law to be forfeited by court. [Section 33]

Property provided by the law to be forfeited due to offence relating to Public administration and some offences relating to public justice. [Section 34 (1)]

Property provided by the law to be forfeited due to inducement of an offence or as an award to the offender [Section 34 (2)]

Actions for Forfeited Property [Section 35]

In the case the real owner request for a return of such property. [Section 36]

In the case non-delivery forfeited property within the period provided by court judgement. [Section 37]

## 5 Fine [Section 28]

Seize of property or claims for of fine payment [Section 29]

Process for legal execution to pay for the fine [Section 29/1]

Confinement in lieu of fine [Section 30]

Conduct of community service or do public services in lieu of fine [Section 30/1, Section 30/2 , Section 30/3]

Method to impose fine on several offenders [Section 31]

## 4 Confinement [Section 23]

Places of Confinement [Section 24]

Rights and duties for person imposed with confinement [Section 25, Section 26]

Condition of changing from punishment of confinement to imprisonment [Section 27]





7 Increase of Punishment [Section 51]



8 Reduction of Punishment [Section 52]



9 Reduction of imprisonment for life Punishment [Section 53]



10 Calculation of the increase or reduction of the punishment [Section 54]

# Punishment



11 Imprisonment to be imposed upon the offender is for three months or less. [Section 55]



12 Suspension of determination of the punishment or the Suspension of imposition of punishment which is determined. [Section 56]

The offender fails to comply with the specified conditions. [Section 57]

When it appears that the sentenced person commits an offence which is not an offence committed negligently or a petty offence and the court renders judgement imposing imprisonment for such offence. [Section 58]



13 The punishment shall become terminated by the death of the offender. [Section 38]





# The measures of safety



Undertaking of measures of safety [Section 12]



Types of the measures of safety [Section 39]



- Restriction [Section 40]



- Condition of the restriction of the habitual criminal [Section 41]
- Calculation of period of restriction [Section 42]
- File for restriction [Section 43]

- Prohibition to enter a specific area [Section 44]

- Condition of prohibition to enter a specific area [Section 45]

- Submission of parole with security [Section 46]

- In the case where person submitting a parole breaches a parole [Section 47]

- Detention in the hospital [Section 48]



- Condition for detention in the hospital for person committed the offence relating to habitual drunkenness or drug addiction [Section 49]

- Prohibition of carrying on his or her occupation or profession [Section 50]



If the law provides afterwards, the measures for safety has been repealed [Section 13]



If the law provides afterwards, condition under the application of measures of safety have been changed [Section 14]



If the law provides afterwards, any punishment has been changed to be measures of safety [Section 15]



Condition for repealing or terminating the application of safety [Section 16]





# Criminal Liability



Condition of criminal liability [Section 59 paragraph one]



Intentional Action  
[Section 59 paragraph two]



The doer does not know the fact constituting to the elements of the offence. [Section 59 paragraph three]



Action by negligence  
[Section 59 paragraph four]



Action by Omission  
[Section 59 paragraph five]



In the case where an act shall be deemed as an intentional act by law [Section 60]



Misunderstanding as to the person [Section 61]



In the case where the law specify that the doer shall be liable for commission of the offence by negligence [Section 62 paragraph two]



Misunderstanding as to the facts of the offence [Section 62 paragraph one]

- Characteristic of the offence committed by negligence
- In case where the doer does not know the fact constituted as element of crime, committed by negligence.
- In the case where the doer misunderstood as to the facts occurred by negligence.

- The fact which causes an act not to be an offence.
- The fact which causes the doer not to be punishable.
- The fact which causes the doer to receive less Punishment.
- Legal consequence in the misunderstanding as to the fact.





6

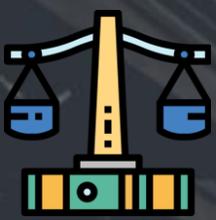
In the case where the law shall be deemed an action as intentional [Section 60]



- The doer must have known of the fact in order to be imposed with heavier punishment [Section 62 paragraph three]
- Consequence of the action = a consequence which may ordinarily occur [Section 63]
- Principle and theory for consideration regarding ordinary consequence
  - Causation between the commission of offence and the consequence occurred
  - Theory of conditional factors
  - Theory of adequate cause
    - Consider whether the doer “foresee” the consequence
    - Intervening cause
      - Foreseeability of the doer
      - Unforeseeability of the doer
  - Summarize the principle for considering ordinary consequence which causes the doer to be imposed with a heavier punishment



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# Commission of an offence which shall not be punished for such offence



Commission of an offence at the time of being unconscious or being unable to control himself/herself due to a defective mind [Section 65 paragraph one]



Commission of an offence due to necessity [Section 67]



Commission of an offence due to an order by an official [Section 70]



Commission of offence in relation to property committed between spouses [Section 71 paragraph one]



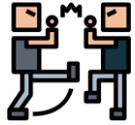
Commission of offence by a child not yet over ten years of age [Section 73]



Commission of offence by a child over ten years but not yet over fifteen years of age [Section 74 , Section 77]



## An action which is not considered as an offence

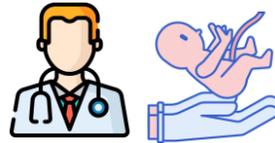


Lawful defense [Section 68]

The “Action to a willing person,  
it is not a wrong” Principle  
[Volenti non fit injuria]



Some offences which the Penal code  
clearly provided that the offender is  
not guilty



The offence of conducting abortion by a doctor  
[Section 305]



The offence of defamation when the doer  
expresses any opinion or statement in good faith.  
[Section 329]



Action from Entrapment to  
commit an offence



In the case where a person entraps to  
others to commit an offence.  
[case. 4301/2543]



In the case where a state official entraps  
others to commit an offence.  
[case.2429/2551]



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The offence in which the court may impose less punishment than the punishment specified by law to any extent for such offence

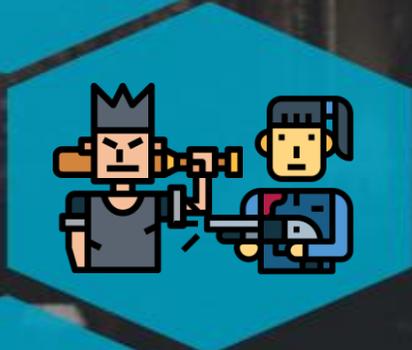


An offence committed by ignorance of law [Section 64]



An offence committed when the offender is partially conscious [Section 65 paragraph two]

An offence committed by intoxication, involuntary consumption of liquor, or any other intoxicant [Section 66]

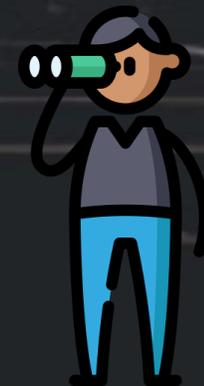


An offence committed by necessity and unproportionate defense [Section 69]

An offence committed in relation to property by an ascendant or descendant or siblings of the same parents [Section 71 paragraph two]



An offence committed by provocation [Section 72]





## Grounds for reducing the ratio of punishment, mitigation, and suspension

### • Grounds for reducing the ratio of punishment

Whoever over fifteen year but below eighteen years of age  
[Section 75]



Whoever over eighteen year but below twenty years of age  
[Section 76]

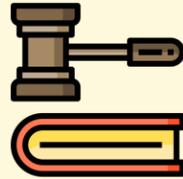


### • Grounds for mitigation

- Characteristic of mitigation [Section 78 paragraph two]
- Legal consequence when it appears that there is mitigating circumstance [Section 78 paragraph two]



# Attempt to commit an offence

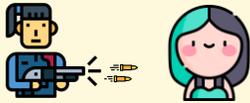


The case where an action shall be deemed that such person has attempted to commit an offence by law [Section 80]

- Commission of an offence which is not carried through



- Commission of an offence which is carried through



- Liability for whoever attempts to commit an offence
- An action is certainly incapable of achieving its end [Section 81]

- Due to the factors employed in the doing 
- Due to the object aimed at it 
- Punishment for whoever attempts to commit an offence in which is incapable of achieving its end.



The principle use for considering of whether such act is an attempt to commit an offence

- Proximity Rule

- Penultimate act
- The last act



Discontinuing or changes his or her mind and prevents the act of the doer [Section 82]

- Characteristic of discontinuing the action and prevent such act from achieving its end.
- Characteristic of changing his or her mind and prevent such act from achieving its end.
- Receiving punishment when the person who attempts to commit an offence discontinues the action or changes his or her mind and prevent such act from achieving its end.





# Principals, instigators, and supporters in a commission of an offence

Being a principal in commission of an offence [Section 83]

Being an instigator in commission of an offence [Section 84]

- Characteristic of a principal
- Liability of a principal

- Characteristic of an instigator in a commission of an offence
- In case where the offence has not yet committed
- In the case where the offence has been committed
- Liability and increase of punishment of an instigator in a commission of an offence



Advertisement or announcement to general public to commit an offence [Section 85]

In the case where the employed person which committed an offence provides information which is highly beneficial to the prosecution. [Section 85/1]

Being a supporter in commission of an offence [Section 86]

- Characteristic of a supporter in a commission of an offence
- Liability of a supporter in a commission of an offence





# Principals, instigators, and Supporters in a commission of an offence



Legal consequence form the intervention of the instigator in a commission of an offence, the person advertising, or announcing to the general public to commit an offence [Section 88]



Scope of a commission of an offence [Section 87]

- In the case where the doer have committed an offence outside the scope of the employment or advertisement.
- In the case where the doer have committed an offence beyond the intention of the supporter.

Condition for the criminal liability for heavier punishment of the principal, instigator, the person advertising or announcing to the general public to commit an offence and the supporter in a commission of an offence.



Using grounds to allow exclusion, reduction, or increase of punishment to be enforced to a mitigating personal circumstance or circumstance relating to the nature of the offence [Section 89]

- Mitigating personal circumstance
- Circumstance relating to the nature of the offence



# Concurrence of Offences

In case where an offence violates several provisions of law [Section 90]



## General principle regarding Offences

- Offence with a “general” nature and a “specific” nature
- Characteristics of “Simple offence” and “Indictable offence”



In case where an offence is committed in several distinct and different offences. [Section 91]





## Recommission of offence

Increase of punishment in the case where an offence was committed during the time of undertaking punishment or within five years as from the date of discharging from the punishment

[Section 92]



Increase of punishment in the case where subsequent offence as specified was committed during the time of undertaking punishment or within three years as from the date of discharging from the punishment

[Section 93]



The case where an offence shall not be deemed as an offence to increase punishment

[Section 94]





# Periods of prescription



1

Periods of prescription  
[Section 95]



2

Period of prescription for compliant in the case of  
compoundable offence [Section 96]



3

Period of prescription for  
filing for restriction [Section 97]



4

Period of execution of punishment for any person  
convicted by a final judgement, or an person who has  
not completely undertaken the punishment due to the  
escape [Section 98]



5

Period of time for seizure of property for payment of  
fine or confinement in lieu of fine [Section 99]



6

Period of time for any person convicted by a final  
judgement to be restricted and has not yet been restricted, or  
has not undertake complete restriction due to the escape  
[Section 100]



7

Period for execution for a person applying for parole  
and fails to comply with the parole [Section 101]





## Provisions applicable to Petty Offences

1

Definition of Petty offences  
[Section 102]

2

Application of provisions of Title 1 to  
petty offence [Section 103]

3

Commission of petty offence is considered as  
guilty, although without intention  
[Section 104]

4

A person who attempts to commit  
a petty offence [Section 105]

5

A supporter in a petty  
offence [Section 106]





## Application of provisions of Title 1 to other laws



- Method of application of provisions of Title 1 of the Penal Code to other offences according to other laws. [Section 102]



- In the case where such law has written otherwise.



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