



**University of Mohamed Lamine Debaghine, Setif2**



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**Legal English terminology courses/ second class/ third semester**

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## **Text: 01**

### **Public international law**

Public international law, also known as the law of nations, is a set of norms aimed at regulating the interaction between the subjects of international law that participate in international relations. Public international law norms create a common framework within which the subjects of international law operate and contribute to the existence of generally stable, organized, and consistent international relations.

Public international law can be defined also as a set of legal rules that govern the relations between subjects of public international law and define the competences and obligations of each. Or it is the set of legal rules governing relations between the subjects of the international community.

#### **The difference between public and private international law:**

While public international law governs the relationship between the subjects of international law, such as States, private international law addresses the private law rights of natural or legal persons. Private international law consists of a set of conflicts of laws rules applicable in international cases. These rules determine the applicability of a certain law in circumstances involving a choice between the municipal law of different States.

#### **Branches of Public International law:**

International Law of the Sea

International Space law

International Environmental Law

International Humanitarian Law

International Air Law

International Human Rights Law

#### **Sources of public international law:**

We can identify the sources of public international law through Article 38 of the statute of the international court of justice which states the following:

The function of the Court is to decide disputes submitted to it in accordance with the provisions of international law, in this regard, it shall apply:

- International agreements, general and special, which establish rules expressly recognized by the disputing States.
- International customs in force, recognized as law by frequent use.
- Principles of public law recognized by civilized nations.
- Judgments of courts and doctrines of leading authors of public international law in various nations.
- Principles of justice and equity if agreed to by the disputing parties.

### Legal terms

|                          |                      |                                |                              |
|--------------------------|----------------------|--------------------------------|------------------------------|
| Public international law | القانون الدولي العام | rule                           | قاعدة                        |
| Public                   | عام                  | Certain law                    | قانون معين                   |
| Private                  | خاص                  | Circumstances                  | ملايسات-ظروف                 |
| Nation                   | أمة                  | Municipal                      | محلي                         |
| Norms                    | القواعد              | Branches                       | فروع                         |
| To aim                   | يهدف                 | International law of the sea   | القانون الدولي للبحار        |
| To regulate              | ينظم                 | Convention                     | اتفاقية                      |
| The interaction          | تفاعل                | United nations                 | الأمم المتحدة                |
| Subjects                 | أشخاص                | International space law        | القانون الدولي للفضاء        |
| International relations  | العلاقات الدولية     | Environmental law              | قانون البيئة                 |
| Commun                   | مشترك                | International humanitarian law | القانون الدولي الانساني      |
| Framework                | إطار-نطاق            | International air law          | القانون الدولي الجوي         |
| To operate               | يعمل-يجري            | International human right law  | القانون الدولي لحقوق الانسان |

|                           |                      |                                     |                      |
|---------------------------|----------------------|-------------------------------------|----------------------|
| To contribute             | يساعد-يعاون          | sources                             | مصادر                |
| Organize                  | ينظم                 | To identify                         | يعرف                 |
| Consistent                | ملائم- متناغم-متناسق | Statute of the international course | نظام المحكمة الدولية |
| Legal rules               | قواعد قانونية        | Judicial organ                      | عضو قضائي            |
| To govern                 | ينظم- يحكم           | function                            | وظيفة                |
| Competences               | الكفاءات-القدرات     | Disputes                            | المنازعات            |
| Obligations               | الالتزامات           | To state                            | ينص                  |
| International community   | المجتمع الدولي       | submitted                           | ترفع                 |
| Right                     | الحق                 | Provisions                          | الأحكام              |
| Duty                      | الواجب               | The court                           | المحكمة              |
| Natural                   | طبيعي                | Apply                               | تطبق                 |
| Legal persons             | أشخاص قانونية        | Convention                          | اتفاقية              |
| Private international law | القانون الدولي الخاص | particular                          | الخاصة               |
| Consist                   | يتكون من             | expressly                           | صراحة                |
| Conflicts                 | المنازعات            | States                              | الدول                |
| Applicable                | ينطبق                | recognized                          | معترف بها            |
| Cases                     | حالات                | Subsidiary                          | احتياطية             |
| Civilized nations         | الأمم المتقدمة       | custom                              | العرف                |
| function                  | وظيفة                | Provisions                          | الأحكام              |

## Text N°2

### Civil law

**Civil law definition:** Civil law as a legal system is an essential branch of the law that governs disputes between private parties it provides a legal framework for resolving disputes and unlike criminal law doesn't involve the state prosecuting an individual for a crime.

Civil law can be defined as a body of laws that deal with non- criminal disputes between private individuals corporation's entities, it encompasses various legal areas.

In this system the parties to a dispute bring their case before a court or a tribunal and a judge determine the rights and obligations of each party based on existing laws and precedents.

**Key principles and characteristics of civil law systems:** Civil law systems are based on several key principles and characteristics which are fundamental to their functioning these include:

**Codification:** the laws in civil law system are usually contained in a comprehensive code which serve as the primary source of legal authority. These codes are regularly revised and updated to keep the law current and in line with societal changes.

**Legal certainty:** civil law provides predictability and clarity by establishing and following clear rules and procedures enabling individuals to know their rights and obligations in advance.

**Judicial discretion:** judges in civil law systems have more limited discretion in interpreting the law as they are primarily bound by the codes and must apply the legal provisions consistently; this principle is designed to ensure fairness and consistency in legal decisions.

**Inquisitorial process:** in contrast to the adversarial system found in common law jurisdictions civil law systems follow an inquisitorial process where the judge plays a more active role in investigating the facts and applying the law to the dispute at hand.

**Civil law purpose and scope:** The primary purpose of civil law is to provide a legal framework that enables parties to resolve their disputes in a fair predictable and efficient manner. The scope of civil law encompasses a variety of legal issues including:

1-**Contract law**: which deals with creation interpretation and enforcement of contracts between private parties governing aspects such as performance breach and remedies for non-performance.

2- **Tort law**: this branch of civil law concerns civil wrongs that cause harm and injury to others including negligence. victims of torts can seek compensation for the damages suffered as a result of the wrongful conduct of another party.

3-**Property law**: civil law in this area governs the ownership use and transfer of property both real estate and personal property. property law principles regulate various aspects including: property rights leases and mortgage agreements.

### Legal terms

|                  |                 |                 |                  |
|------------------|-----------------|-----------------|------------------|
| Civil law        | القانون المدني  | Case            | القضية           |
| Legal            | قانوني          | Tribunal        | المجلس           |
| System           | نظام            | Court           | المحكمة          |
| Essential branch | فرع أساسي       | Judge           | القاضي           |
| Govern           | يحكم            | Rights          | الحقوق           |
| Disputes         | المنازعات       | Obligations     | الالتزامات       |
| Private parties  | أطراف خاصة      | Party           | الطرف            |
| Provide          | يوفر            | Existing laws   | القوانين الحالية |
| Legal framework  | إطار قانوني     | precedents      | السوابق          |
| Criminal law     | القانون الجنائي | characteristics | خصائص            |
| State            | دولة- حالة      | fundamental     | أساسي            |
| prosecuting      | مقاضاة          | Codification    | تقنين            |
| individual       | فرد             | Code            | تقنين- قانون     |
| Crime            | جريمة           | Primary source  | مصدر أساسي       |
| Non-criminal     | غير جنائي       | Legal authority | سلطة قانونية     |

|                     |                     |                  |                    |
|---------------------|---------------------|------------------|--------------------|
| Corporations        | جماعات              | Regularly        | بانتظام            |
| Entities            | كيانات              | Revise           | يراجع              |
| Legal areas         | مجالات قانونية      | Update           | يحدث               |
| Legal certainty     | يقين قانوني         | Current          | الحالي             |
| predictability      | تنبؤات              | Societal changes | التغيرات المجتمعية |
| clarity             | وضوح                | Inquisitorial    | تحقيق              |
| procedures          | إجراءات             | Process          | عملية- أسلوب       |
| individuals         | أفراد               | Common law       | القانون العام      |
| Judicial            | قضائي               | jurisdiction     | السلطة القضائية    |
| discretion          | تقدير               | Investigation    | التحقيق            |
| Interpreting        | تفسير               | facts            | الوقائع            |
| Ensure              | ضمان                | Dispute          | النزاع             |
| Fairness            | العدالة             | purpose          | الهدف- الغاية      |
| Efficient           | فعال                | Contract         | العقد              |
| Issues              | القضايا             | enforcement      | تنفيذ              |
| Aspects             | جوانب               | Performance      | الأداء             |
| Tort law            | المسؤولية التقصيرية | Civil wrongs     | الأخطاء المدنية    |
| Harm- injury        | الضرر               | Cause            | يسبب               |
| negligence          | الاهمال             | breach           | إخلال              |
| Victims             | الضحايا             | Torts            | الضرر              |
| Compensation        | التعويض             | Damages          | الأضرار            |
| result              | النتيجة             | conduct          | سلوك               |
| Property- ownership | الملكية             | govern           | ينظم               |

|             |              |          |              |
|-------------|--------------|----------|--------------|
| Real estate | العقارات     | leases   | عقود الإيجار |
| mortgage    | الرهن الرسمي | transfer | نقل          |



### Text: 03

#### **Jurisdictions of the 1st Degree (The court) court of first instance)**

The court is the judicial body with public jurisdiction and is considered the first instance of litigation and consists of:

President of the Court- Vice-President of the Court – Judges- One or more investigating judges (examining magistrate committing magistrate) - One or more juvenile judges - Public Prosecutor or Assistant Prosecutors - court clerks

#### **The Court is divided into the following sections:**

Civil Section - Misdemeanor Section - infractions Section- Family Affairs section - juvenile Section - Social Section - Real Estate Department - Maritime Section - Commercial Section

#### **Judicial Council: "court of appeal" court of second instance:**

There are 48 courts of appeals in the Algerian territory, they are courts of jurisdiction for all the cases formed against the judgments given in all matters by the courts in the first resort.

courts issue judicial judgments by the judges but appeal courts issue decisions by the judges called " counselor ".

The Judicial Council is an appellate body for court judgments and includes the following chambers:

Civil Chamber- Criminal Chamber- Indictment Chamber- Family Affairs Chamber - matters of special urgency section - juvenile Chamber - Social Chamber - Real Estate Chamber - Maritime Chamber - Commerce Chamber

At the level of each judicial council, there is a criminal court (a criminal court of first instance and a criminal court of appeal.

The Judicial Council is composed of:

Chairman of the Council

One or more Vice-Chairmen

Heads of Chambers

Advisers, counsellors

general prosecutor or general assistant prosecutor

court clerks

### **Supreme Court:**

Organic Law No. 11-12 of 26/07/2011 laying down the organization, functioning and jurisdiction of the Supreme Court:

The Supreme Court is a court of law and may be a court of trial in the cases specified by law, and exercises control over judicial orders, judgments and decisions in terms of their proper application of the law and their respect for the forms and rules of procedure.

### **Composition of the Supreme Court:**

Judges: first president - vice-president - presidents of chambers - heads of departments - counselors.

Judges of the public prosecution: attorney general (general prosecutor, general assistant attorney, general advocates.

Supreme court chambers: includes the following rooms:

civil chamber - real estate chamber - chamber of family and inheritance affairs - chamber of commerce and maritime - social chamber - criminal chamber - chamber of misdemeanors and infractions.

### **Legal terms**

|                         |                    |                     |              |
|-------------------------|--------------------|---------------------|--------------|
| Jurisdictions           | الجهة القضائية     | vice-president      | نائب الرئيس  |
| degree                  | الدرجة             | Juge                | القاضي       |
| court of first instance | المحكمة الابتدائية | investigating judge | قاضي التحقيق |
| public                  | عام                | magistrate          | القاضي       |
| President               | الرئيس             | juvenile            | الحدث        |
| instance                | الدرجة             | Public prosecutor   | النائب العام |
| litigation              | التقاضي            | court clerks        | كتاب الضبط   |
| sections                | الأقسام            | civil section       | القسم المدني |
| misdemeanor section     | قسم الجرح          | infraction          | المخالفات    |

|                         |                 |                              |                      |
|-------------------------|-----------------|------------------------------|----------------------|
| family affairs section  | قسم شؤون الأسرة | juvenile section             | قسم الأحداث          |
| social section          | القسم الاجتماعي | social section               | القسم الاجتماعي      |
| real estate section     | القسم العقاري   | maritime section             | القسم البحري         |
| commercial section      | القسم التجاري   | court of appeals             | محكمة الاستئناف      |
| territory               | الأقليم         | cases                        | القضايا- الدعاوى     |
| judgments               | الأحكام         | trial                        | المحاكمة             |
| decisions               | القرارات        | chamber                      | الغرفة               |
| counselor               | المستشارون      | criminal chamber             | الغرفة الجزائية      |
| indictment chamber      | غرفة الاتهام    | criminal court               | المحكمة الجنائية     |
| chairman of the council | رئيس المجلس     | vice- chairman               | نائب الرئيس          |
| heads of chambers       | رؤساء الغرف     | general assistant prosecutor | النائب العام المساعد |
| supreme court           | المحكمة العليا  | organic law                  | القانون العضوي       |
| organization            | تنظيم           | Judicial orders              | الأوامر القضائية     |
| departments             | الأقسام         | public prosecuting           | النيابة العامة       |

## Text: 05

### **Obligations**

Obligation is a legal bond of financial value between two or more parties, whereby one of them, called the debtor, is obligated to perform a certain act, give something, do something, or refrain from doing something, for the benefit of another party, called the creditor.

#### **Characteristics of obligation:**

The term "obligation" refers to a binding relationship between individuals: it means that the obligation is a legal relationship between two parties: the creditor and the debtor, in which the debtor is bound to perform an action, refrain from performing an action, or deliver something for the benefit of the creditor.

The subject of the obligation is to perform a specific financial duty: this duty may involve the debtor providing something or performing a specific act for the benefit of the creditor, such as paying a sum of money or providing an item. It could also involve refraining from a particular act, such as a specific trader (debtor) refraining from competing with another trader (creditor) in a certain business activity. What distinguishes this performance is that it can be assessed in monetary terms, thereby differing from general legal duties, such as the obligation to perform national service. For this reason, some legal scholars consider an obligation a specific legal duty.

**An obligation is a legal bond:** Obligation is a legal bond means that it is legally binding, representing a legal duty upon the debtor. Should the debtor fail to fulfill this duty voluntarily, the creditor has the right to compel its execution through legal means. This distinguishes a legal obligation from a moral or religious obligation and from a natural obligation.

**Kinds of obligations:** there are three kinds of obligations, which are:

**1-In terms of legal protection:** obligations can be categorized into civil and natural obligations based on the legal safeguards afforded to the creditor.

**A civil obligation:** it means that comprises both the elements of liability and indebtedness. Therefore, based on the element of liability, the creditor has the right to compel the debtor to fulfill the obligation through legal means. Consequently, the creditor enjoys adequate legal protection to ensure that he can recover the debt from the debtor.

**The natural obligation is:** that obligation which consists solely of the element of indebtedness and lacks the element of liability. If the debtor does not voluntarily fulfill the obligation, the creditor cannot compel him to do so due to the absence of liability. Therefore, we can state that the natural obligation does not enjoy legal protection.

**2- The obligation in terms of its subject matter:** The obligation is divided into three types, represented by:

**The obligation to give something:** refers to the obligation to establish or transfer a real right, such as the obligation of the owner to create a servitude or the obligation of the seller to transfer ownership of the sold item.

**Obligation to Perform an Act:** The subject of the obligation may involve the debtor performing a specific act for the benefit of the creditor or another party. This applies in cases where the debtor commits to engaging in a particular activity for the creditor, such as an artist undertaking to create a specific painting for a designated individual. Similarly, this act may be physical, but it can also be a legal act, such as the obligation of an agent to execute a specific legal transaction on behalf of the principal and for their account.

**Obligation to refrain from an Act:** In this type of obligation, the debtor undertakes not to do a certain act, such as a person's commitment not to build a wall on his land, because this construction would obstruct air and light to his neighbor. In this case, the person is considered to be compliant as long as he does not construct the wall. However, if he built the wall, he would be in breach of his obligation, and in this case, the creditor can demand obliging the debtor to remove the construction.

**3- The obligation to achieve a result or to exercise care:**

An obligation to achieve a result" is one in which the substance of the debtor's obligation represents the goal that the creditor seeks to accomplish by binding the debtor. For example, the seller's obligation to transfer ownership and the buyer's obligation to pay the price.

**The obligation of due diligence:** this is an obligation in which the debtor's performance is not the final aim or goal that the creditor seeks to achieve by obligating the debtor. Instead, it represents only the means that ultimately leads to the creditor's aim and his final purpose, for this reason, this obligation is called "obligation of mean," as an example, the issue of doctor's responsibility, he does not undertake to

cure the patient (the creditor), but only undertakes to provide the necessary care to treat patient until he is fully recovered.

**Sources of Obligation:** Sources of Obligation are:

1- **A contract:** the Algerian legislator defined the contract in the Article 54 of the Civil Code which state: "a contract is an agreement by which one or more persons commit themselves towards one or more other persons to give, do, or refrain from doing something."

2- **Unilateral will:** it is a legal action undertaken solely by the will of one party, aimed at producing specific legal effects independently, without requiring the concurrence of another party's will.

3-**Tort liability:** it refers to the penalty resulting from a breach of a general legal obligation, which is the duty to avoid causing harm to others.

The Algerian legislator addressed this liability in the first section related to the sources of obligation, specifically in Chapter Three, under the title "Act Entitling Compensation." From Article 124 to Article 140 bis 1 of the Algerian civil law. This chapter is divided into three sections as follows:

**Section One:** Responsibility for Personal Action: articles from 124 to 133 of the Algerian civil law.

**Section two:** Responsibility for the action of others: articles from 134 to 137 of the Algerian civil law.

**Section 3:** Responsibility for things: articles from 138 to 140 bis 1 of the Algerian civil law.

4-**unjust enrichment:** Article 1 of the Algerian Civil Code states: Anyone who, in good faith, gains from the work of another or from something of his that has no justification shall be obligated to compensate the person at whose expense the enrichment occurred, to the extent that he gained from the work or thing.

5-**Law:** Article 53 of the Algerian Civil Code states that: The legal texts that it has established shall apply to obligations arising directly from the law (and no other).

## Legal terms

|                         |                            |                             |                 |
|-------------------------|----------------------------|-----------------------------|-----------------|
| Obligation              | الالتزام                   | individuals                 | الأفراد         |
| Financial value         | قيمة مالية                 | Subject of the obligation   | محل الالتزام    |
| Parties                 | أطراف                      | Duty                        | واجب            |
| Debtor                  | مدين                       | Paying a sum                | دفع مبلغ        |
| Creditor                | دائن                       | Particular act              | عمل معين        |
| To perform              | يؤدي- يقوم ب               | Trader                      | التاجر          |
| Act-action              | فعل- عمل                   | Competing                   | التنافس         |
| Refrain to do Something | الامتناع عن القيام بشيء ما | Business activity           | نشاط تجاري      |
| Benefit                 | مصلحة                      | National service            | الخدمة الوطنية  |
| voluntarily             | إراديا- طواعية             | To compel                   | يجبر            |
| execution               | تنفيذ                      | distinguishes               | يميز            |
| moral                   | أخلاقي- معنوي              | religious                   | ديني            |
| natural                 | طبيعي                      | Kinds of obligation         | أنواع الالتزام  |
| safeguards              | ضمانات                     | Civil obligation            | التزام مدني     |
| liability               | المسؤولية                  | indebtedness                | المديونية       |
| fulfill                 | تنفيذ                      | Legal means                 | الطرق القانونية |
| adequate                | مناسب                      | Protection                  | حماية           |
| establish               | إنشاء                      | owner                       | مالك            |
| Servitude               | الارتفاق                   | transfer                    | ينقل            |
| Seller                  | البائع                     | undertaking                 | يتعهد           |
| Agent                   | الوكيل                     | neighbour                   | الجار           |
| Compliant               | منفذ- مطيع- مدعن           | In breach of his obligation | في خرق لالتزامه |

|                        |                     |                            |                                |
|------------------------|---------------------|----------------------------|--------------------------------|
| structure              | البناء              | Achieve a result           | تحقيق نتيجة                    |
| Transfer the ownership | نقل الملكية         | buyer                      | المشتري                        |
| price                  | الثمن- السعر        | Due diligence              | العناية المطلوبة-<br>المناسبة- |
| Final aim              | الغاية النهائية     | To lead to                 | يؤدي إلى                       |
| similar                | مشابه               | guarantee                  | ضمان                           |
| patient                | المريض              | contract                   | العقد                          |
| agreement              | اتفاق               | commit                     | يرتكب                          |
| will                   | إرادة               | action                     | تصرف                           |
| Legal effect           | أثر قانوني          | undertaken                 | تم التعهد به                   |
| independently          | بصفة مستقلة- منفردة | concurrence                | توافق- تطابق-منافسة            |
| penalty                | العقوبة             | General legal obligation   | التزام قانوني عام              |
| causing                | يسبب                | Act entitling compensation | الفعل المستحق<br>للتعويض       |
| responsibility         | المسؤولية           | Personal action            | الفعل الشخصي                   |
| Unjust enrichment      | الإثراء بلا سبب     | Good faith                 | حسن النية                      |
| gain                   | ينال- يكسب          | compensate                 | يعوض- يكافئ                    |
| expense                | نفقة                | enrichment                 | إثراء                          |
| To the extent          | إلى الحد- بقدر      | apply                      | يطبق                           |

**Text: 06**

**criminal law:**



**Definition of Criminal law:** Criminal law is a set of legal rules that regulate the principles of criminalization and punishment and determine the acts that constitute crimes. It also regulates the procedures for investigating and prosecuting crimes, the rules of the trial, and the execution of punishment.

The criminal law is a branch of public law, that includes both penal code which is a set of legal rules that define the crime and shows its prescribed punishment, and the criminal procedure code, which includes a set of legal rules that indicate the procedures that must be followed from the time of the occurrence of the crime until the perpetrator is punished

**The purpose of criminal law:** The criminal law aims to protect society from harm from criminal behavior by deterring people from committing crimes, by punishing those who commit crimes, and by rehabilitating those who have been convicted of crimes.

**There are two types of deterrence:** General deterrence and specific deterrence.

General deterrence can be defined as the impact of the threat of legal punishment on the public at large, but private deterrence is the effect of punishing people who have committed crimes.

**Definition of the crime:**

a crime is an illegal act or default which is an offence against the public and renders the person guilty of the act or default liable to legal punishment.

A crime is a legal wrong that remedied by punishing the offender in the courts of the state.

“An act or abstention from act in the violation of criminal law without justification and sanctioned by the law as felony or misdemeanour.

Whatever definition of a crime may be adopted, we can say that the crime is;

- an act or omission
- Prescribed by the state
- has a penalty determined by law

**Classifications of Crimes:**

Criminal law categorizes crimes to reflect their severity, it recognizes three categories of crimes: felonies, misdemeanors and infractions.

Felonies represent the most serious crimes and include crimes such as murder, rape, and armed robbery. Severe penalties often accompany these crimes. Penalties can include long-term imprisonment and capital punishment.

Misdemeanors are less severe than felonies but more serious than infractions, Examples of these crimes include vandalism and petty theft. typical penalties may include society service, fines, or shorter jail terms.

Infractions are the least serious category of crimes, these crimes usually involve minor offences, such as public nuisance or traffic violations, they may be punishable by imprisonment or a fine.

Article 27 of the Algerian Penal Code stipulates that crimes are divided, according to their seriousness, into felonies, misdemeanors and contraventions.

### **Crime Penalties: Original penalties:**

**Felony penalties:** according to the article n 5 of the Algerian penal code, the original penalties in felonies are:

- Death penalty
- Imprisonment for life
- Interim imprisonment for a period ranging from 5 to 20 years.

misdemeanour Penalties: The penalties for misdemeanors are:

Detention for a period exceeding two months to five years, except in cases where law stipulates other limits.

- A fine exceeding 20000 dinars

The penalties for contraventions are:

- Detention for a period of one day at least to two months
- A fine from 2000 dinars to 20000 dinars.

**Additional penalties:** Article number 9 of the Algerian penal code has defined the additional penalties as follows:

- Legal interdiction
- interdiction of exercising national and civil and family rights
- Determine of residence
- Prohibition of residence
- Partial confiscation of properties
- Temporary forbid to practice a profession or activity
- Closing the establishment
- Exclusion from public deals
- interdiction of issuing checks and/or using payment cards
- Suspending, withdrawing or canceling the driving license with preventing the issuance of a new licence
- Withdrawal of passport
- Publishing or displaying the conviction judgement or decision.

### Legal terms

|                      |                 |                   |                 |
|----------------------|-----------------|-------------------|-----------------|
| Criminal law         | القانون الجنائي | Acts              | أفعال           |
| Legal rules          | قواعد قانونية   | constitute        | يكون            |
| Principles           | مبادئ           | crime             | جريمة           |
| Criminalization      | تجريم           | Regulate          | ينظم            |
| Punishment           | عقاب            | Procedures        | إجراءات         |
| determine            | يحدد            | investigation     | بحث- تحقيق      |
| Trial                | المحاكمة        | Penal code        | قانون العقوبات  |
| implementation       | تطبيق-تنفيذ     | Legal rules       | قواعد قانونية   |
| To protect           | يحمي            | prescribed        | المقرر          |
| society              | المجتمع         | Criminal behavior | السلوك الاجرامي |
| deter<br>/deterrence | ردع             | rehabilitating    | إعادة التأهيل   |

|                                   |                          |   |                                     |
|-----------------------------------|--------------------------|---|-------------------------------------|
| convicted of crime.               | أدين بجريمة              | impact  | تأثير                               |
| threat                            | تهديد                    | Legal punishment                                      | عقوبة قانونية                       |
| public                            | عام                      | default   | تقصير                               |
| Private deterrence                | ردع خاص                  | offence   | جريمة                               |
| guilty                            | مذنب                     | offender  | الجاني                              |
| violation                         | مخالفة-خرق-انتهاك        | sanction  | عقوبة                               |
| felony                            | جناية                    | misdemeanour  | جنحة                                |
| To adopt                          | يتبنى                    | omission  | امتناع                              |
| Prescribed by the state           | مقررة من الدولة          | murder  | قتل                                 |
| rape                              | اغتصاب                   | armed robbery   | سرقة بالسلاح سوطو مسلح              |
| Severe penalties                  | عقوبات شديدة             | Long term   | مدة طويلة                           |
| imprisonment                      | سجن                      | capital punishment                                    | إعدام                               |
| vandalism                         | تخريب                    | petty theft   | سرقة بسيطة                          |
| typical penalties                 | عقوبات نموذجية           | society service                                       | خدمة المجتمع                        |
| fine                              | غرامة                    | jail  | حبس                                 |
| infraction                        | مخالفة                   | Minor offences  | جرائم بسيطة                         |
| Traffic violation                 | مخالفة المرور            | stipulate   | ينص                                 |
| Death penalty                     | الإعدام                  | Imprisonment for life                                 | السجن مدى الحياة                    |
| Interim imprisonment              | الحبس المؤقت             | Detention   | الحبس- الاحتجاز- الاعتقال           |
| A fine exceeding 20000 dinars     | غرامة تتجاوز 2000 دج     | Additional penalties                                  | عقوبات تكميلية                      |
| Legal interdiction                | الحجر القانوني           | Temporary forbid to practice a profession or activity | المنع المؤقت من ممارسة مهنة أو نشاط |
| interdiction of exercising rights | الحرمان من ممارسة الحقوق | Closing the establishment                             | إغلاق المؤسسة                       |
| Determine of residence            | تحديد الإقامة            | Exclusion from public deals                           | الإقصاء من الصفقات العمومية         |

|                                    |                            |                                |                        |
|------------------------------------|----------------------------|--------------------------------|------------------------|
| Prohibition of residence           | المنع من الإقامة           | interdiction of issuing checks | الحظر من إصدار الشيكات |
| Partial confiscation of properties | المصادرة الجزئية للممتلكات | payment cards                  | بطاقة الدفع            |
| Suspending                         | تعليق                      | withdrawing                    | سحب                    |
| driving license                    | رخصة السياقة               | preventing                     | منع                    |
| issuance of a new licence          | إصدار رخصة جديدة           | Withdrawal of passport         | سحب جواز السفر         |
| Publishing                         | نشر                        | displaying                     | تعليق                  |
| conviction judgement               | حكم الإدانة                | decision                       | قرار                   |

**Text: 07**

**Elements of the crime**

**Elements of the crime:** The elements of crime are defined as the components that must be proven in order for a judge to establish the guilt of the defendant in committing a crime and achieve a conviction.

The material element means the external appearance or material behavior as defined by the text of the law and considered a crime, and through it the attack on the interest protected by law is achieved under the rule “There is no crime without a material element.”

**Elements of the material element:** The material element consists of three elements:

Act, effect (result) and causal relationship between them

**Act:** is the behavior or action that the perpetrator performs, which is the external physical activity of the crime, or the perpetrator’s voluntary movement that results in a change in the external world.

The crime goes through three stages:

**The first stage:** The stage of thinking and determination

**The second stage:** Preparatory stage of the crime

**The third stage:** is the beginning of executing the crime (the attempt)

The first stage is not punishable by the legislator because it is related to intention and thinking only.

The second stage, which is the stage of preparatory work for the crime, is not punishable by the legislator unless the crime is committed

**Example:** Buy sleeping pills, wire, rope, or a knife

**The third stage:** is the beginning of executing the crime.

**Elements of the material element of the crime:**

Criminal behavior may be positive or negative

**Positive behavior:** This behavior involves using some parts of the body, such as moving the hand to hit, steal, or forge. It may also involve using all parts of the body, such as crimes of violating the sanctity of the home or illegal immigration.

**Negative behavior:** This behavior is represented by the act of leaving or refraining from doing a positive action, and it is of two types:

**Abstention that constitutes a crime in itself:** The law considers this abstention a crime regardless of whether or not a harmful result occurs, such as:

Article 136 of the Algerian Penal Code, which stipulates that any judge or administrative employee who, under any pretext, refuses to decide between the parties after being asked to do so and insists on his refusal after being warned by his superiors, may be prosecuted and punished with a fine of 20000 to 100000 dinars, and deprivation from practicing public service for a period of five to twenty years.

Article 327 of the Penal Code states: Anyone who does not hand over a child under his care to the persons who have the right to claim him shall be punished with imprisonment from two to five years.

Abstention is also considered a crime in other articles of the Penal Code, namely: 138-182- 331- 382

**Abstention is a means of committing a crime:** such as committing a crime in front of a person who could have done something to prevent it from being committed, such as the crime of not providing assistance to a person in danger - Article 182 of the Penal Code

**Criminal result:** The criminal result constitutes one of the elements of the material element and the purpose of criminalization because it shows the harm that affects the interests protected by the law, and shows the assault that threatens society. The result is the change that the crime causes in the outside world.

The result has two concepts, a material concept and a legal concept.

The material concept of the result: It is the material effect that occurs in the external world as a result of criminal behavior.

**Example:** The result of the crime of murder is the loss of life, the result of the crime of robbery is the transfer of possession, and the result of the crime of fraud is the acquisition of money.

**The legal concept of the result:** It is the harm or danger caused by the perpetrator's behavior that affects a legally protected interest. Example: The result in the crime of murder is an assault on the right to life, and the result in the crime of assault and hitting is an assault on the right to bodily integrity.

**Causal relationship between criminal behavior and the result:** This means that the criminal behavior carried out by the perpetrator is the reason for causing the crime,

and this means that there is a causal relationship between the perpetrator's activity and the criminal result. Example: A person fired a bullet and killed a person. Most legislations have adopted the theory of appropriate causation, which means that the perpetrator is responsible for the resulting result if his action leads, according to the normal course of events, to causing this result.

**The attempt:** Attempt can be defined as starting to commit a crime without achieving the result due to a circumstance beyond the will of the perpetrator of the crime.

The Algerian legislator addressed the attempt to commit a crime in Article 30 of the Penal Code which stated: All attempts to commit a felony that begin with the commencement of execution or with unambiguous acts that directly lead to its commission are considered the same felony if they are not stopped or their effect does not disappear except as a result of circumstances independent of the will of the perpetrator, even if the intended goal cannot be achieved due to a material circumstance unknown to the perpetrator.

**Provisions of the attempt:**

-Attempts are made in material crimes such as robbery and murder, but attempts are not conceivable in formal crimes.

-Attempts are made in positive crimes, but not in negative crimes.

-There is an attempt to commit intentional crimes, but there is no attempt in unintentional crimes

-The attempt to commit all felonies shall be punishable by the same penalty prescribed for the full felony in accordance with Article 30 of the Penal Cod

-Attempting to commit a misdemeanor shall not be punishable unless there is an explicit law.

-Attempted contraventions are not punishable at all (articles 30-31 of the Penal Code)

**Conditions for the occurrence of an attempt:** There are two types of attempted crime: beginning the execution, and not completing the crime for a reason beyond the perpetrator's control, here we distinguish between the stopped crime and the failed crime



**Suspended crime (incomplete attempt):** Suspended crime is the crime in which the result is absent due to the suspension of the execution of the act for reasons beyond the perpetrator's control, where the perpetrator is unable to complete all of his activity.

**Example:** Someone who puts gasoline to burn crops and is unable to light the fire because someone else prevents him from doing so or someone who climbs the wall of the house and is then prevented from entering it to complete the robbery

**The failed crime:** failed crime is the crime in which the perpetrator exhausts his criminal activity, but the result is not achieved due to a reason beyond his control, such as:

-someone who shoots at someone but did not hit him, or someone who sets fire to the agricultural crop but the rain extinguishes it.

-A man shot a person but missed.

-A man shot and injured a person, but he was taken to the hospital and did not die

**The Impossible Crime:** the perpetrator has exhausted all activity and physical behavior towards achieving the result, but it is impossible to achieve it.

**Ex:** In the crime of murder: the perpetrator committed all the behavior except that the victim had been dead for some time.

Attempting to abort a woman who is not pregnant at all, as it is impossible to achieve the result

But jurisprudence raised a question about the possibility of punishing this person for attempting to do so

Here, a distinction is made between several concepts, namely:

**Legal impossibility:** Some have argued that if the impossibility is legal, then there is no punishment for attempting it.

Legal impossibility means the absence of one of the elements of the crime, which leads to the impossibility of its realization.

**Ex:** The absence of the element of life in the crime of murder makes it impossible to commit it

The absence of the pregnancy characteristic in the crime of abortion leads to the impossibility of its occurrence

**Material impossibility:** This is the impossibility related to the material aspects of the crime and not its legal elements, meaning that the circumstances only make it impossible for the result to be achieved.

Stealing money from an empty pocket

Stealing money from an empty pocket, here the result could have been achieved if there was money in the pocket, it is a material circumstance, not a legal circumstance

**The attitude of the Algerian legislator:** The Algerian Penal Code punishes the impossible crime as a general principle, and this is what is stated in Article 30, even if the intended goal cannot be achieved due to a material circumstance unknown to the perpetrator

There are some scholars who believe that the legislator has combined legal and material impossibility, for example, in Article 260 of the Penal Code, which stipulates that poisoning is an assault on a human life by the influence of substances that can lead to death, and therefore there is no attempt if the substances are not toxic.

**Contribution to crime:** Contribution is defined as the combination of several activities of several perpetrators to commit a single crime that could have been committed by one person

Criminal participation is achieved by the multiplicity of perpetrators and the unity of the crime, but it must be clarified that sometimes the multiplicity is necessary for the crime to occur, as the crime cannot occur without it. An example of this is the gathering and the crime of adultery, in which case participation is necessary

**Elements of criminal contribution:** Criminal contribution is based on two elements:

Multiple perpetrators: This means the contribution of more than one person. If it was one person, there would be no criminal contribution. It also does not mean that one person committed a group of crimes, because this situation is called multiple crimes.

**Crime unity:** Crime unity assumes that a group of people, each working towards achieving a single goal

**Ex:** In the crime of theft, criminal contribution is as follows:

One person guards the road, another climbs the wall, and another carries the means to help them climb, waits for them in the car, and transports the stolen goods.

Here, the two units must be present: the material unit, which is the carrying out of the agreed-upon activities, and the moral unit, which is the psychological link that exists between the perpetrators, as all their actions are directed towards achieving one goal and one result.

### **Types of criminal contribution:**

**Original Contribution:** the original contributor is the one who carries out the crime in the main role. he is divided into three according to the Algerian legislator: the direct perpetrator, the instigator, and the moral perpetrator

**Direct perpetrator:** returning to the text of Article 41 of the Algerian Penal Code, a direct perpetrator is considered to be anyone who directly contributed to the execution of the crime, or anyone who carried out the material element of the crime. It is sufficient to return to the criteria of initiation to know the direct perpetrator of the crime. According to most jurisprudence, some resort to another complementary condition, which is the appearance of the perpetrator with his act at the crime scene, so his activity is contemporary with the time in which it occurred.

**The instigator:** unlike most legislations, the Algerian legislator made the instigator the main perpetrator and not the accomplice. Instigation is defined as creating the idea of the perpetrator in a criminally responsible adult, and this is by returning to the text of article 41, Instigation is based on three things

**Use of means of incitement:** these means are specified in the law in Article 41, namely: a gift (the instigator giving a gift to the person instigated), a promise (to give a reward when the crime is committed, threats (pressuring the instigator's will to kill or publish news or photos about him), abuse of authority whereby the instigator has legal authority over the incited, such as the authority of a superior over a subordinate, or a servant over a master, fraud or criminal deception, lying or deception, such as falsely claiming to a son that his father was beaten by another person.

**The incitement must be direct:** that is, the idea of the crime is broadcast explicitly, so it is not considered an incitement that arouses hatred or loathing in the person's soul and leads to the commission of the crime.

**The incitement must be personal:** that is, it is directed to a specific person and not to all people.

**The moral perpetrator:** returning to the text of Article 45 of the Penal Code, the moral perpetrator is the one who creates the idea of the crime in a person who is not

criminally responsible. the instigator shares with the moral perpetrator the fact that they both commit the crime through others, except that the instigator commits it through a person who is criminally responsible, while the moral perpetrator commits it through a person who is not criminally responsible, such as a young child or a madman.

**Affiliate contribution:** (Partner): the Algerian legislator stipulated the form of subsidiary contribution in Articles 42 and 43 of the Penal Code. The partner can be defined as someone who did not directly participate in the execution of the material acts, but who assisted the perpetrators in all ways that lead to the realization of the crime. Accordingly, it is clear that the role of the partner is completed in the stage of preparatory acts, or those that facilitate or implement the commission of the crime.

**Subscription forms:** through Articles 42 and 43, the subscription forms are clarified as follows:

**Assistance:** these steps are carried out during the preparatory work phase and can be carried out in all ways provided that they are limited to previous assistance (preparatory work) or contemporary assistance, whereby the partner is required not to be present at the crime scene, or subsequent assistance, which is after the crime is completed, such as the crime of concealing stolen items.

**Habitual harboring and hiding criminals:** returning to the text of Article 43 of the Penal Code, it becomes clear that there is a second form of participation, which is represented by what is called the legal partner, in which the habit of harboring and hiding criminal groups is required, with knowledge of their criminal plans.

**Punishment for criminal participation:** According to the Algerian Penal Code, the original perpetrator is sentenced to the penalty prescribed for the crime, whether he is a direct perpetrator, instigator or moral perpetrator. If the instigator does not commit the crime, the instigator is punished because incitement is an independent crime in itself. As for the penalty for the accomplice, by returning to the text of Article 44 of the Penal Code, the accomplice in the felony or misdemeanor is punished with the penalty prescribed for the felony or misdemeanor, and participation in the contravention is not punished at all. As for personal circumstances, they do not affect and therefore only those who have them benefit from them without an accomplice; they are limited to their owners, whether mitigated, aggravated or exempted.

## **Legal terms**

|                      |                 |   |                      |
|----------------------|-----------------|---|----------------------|
| Element of the crime | أركان الجريمة   | To abort/ abortion                      | إجهاض/يجهض           |
| judge                | قاضي            | Pregnant                                | حمل                  |
| establish            | يثبت            | Jurisprudence                           | فقه                  |
| Guilt                | ذنب             | Distinction                             | تمييز                |
| Defendant            | متهم            | Legal impossibility                     | استحالة قانونية      |
| Commit               | يرتكب           | Characteristic                          | خصائص                |
| Conviction           | إدانة           | Material impossibility                  | استحالة مادية        |
| Material element     | الركن المادي    | Steal                                   | يسرق                 |
| Behavior             | سلوك            | The attitude of the Algerian legislator | موقف المشرع الجزائري |
| Text                 | نص              | Poison                                  | سم                   |
| Law                  | قانون           | Influence                               | تأثير                |
| Interest             | مصلحة           | Death                                   | وفاة                 |
| Rule                 | قاعدة           | Toxic                                   | سام                  |
| Act                  | فعل             | Contribution to crime                   | المساهمة الجنائية    |
| effect               | نتيجة           | Single crime                            | جريمة واحدة          |
| Causal relationship  | العلاقة السببية | Gathering                               | تجمهر                |
| action               | الفعل           | Adultery                                | زنا                  |
| perpetrator          | الفاعل- الجاني  | Multiple perpetrator                    | تعدد الجناة          |
| Physical activity    | النشاط المادي   | Multiple crime                          | تعدد الجرائم         |
| crime                | الجريمة         | Crime unity                             | وحدة الجريمة         |
| result               | النتيجة         | Means                                   | وسائل                |
| determination        | التصميم         | Stolen goods                            | الأشياء المسروقة     |

|                            |                         |                         |                             |
|----------------------------|-------------------------|-------------------------|-----------------------------|
| Executing                  | التنفيذ                 | Moral unit              | الوحدة المعنوية             |
| Attempt                    | الشروع                  | Psychological link      | الرابطه المعنوية            |
| Punish                     | يعاقب                   | Main role               | الدور الرئيسي               |
| Legislator                 | المشرع                  | Direct perpetrator      | الفاعل المباشر              |
| Intention                  | النية- القصد            | Instigator/ instigated  | من وقع /المحرض عليه التحريض |
| Preparatory work           | العمل التحضيرى          | Moral perpetrator       | الفاعل المعنوي              |
| Positive behavior          | السلوك الإيجابي         | Initiation              | الشروع                      |
| Negative behavior          | السلوك السلبي           | Complementary condition | شرط متمم                    |
| body                       | الجسم                   | Crime scene             | مسرح الجريمة                |
| violating                  | انتهاك                  | Main perpetrator        | فاعل أصلي                   |
| sanctity of the home       | حرمة المنزل             | Accomplice              | شريك                        |
| immigration                | الهجرة                  | Incitement              | التحريض                     |
| Refraining to do an action | الامتناع عن القيام بعمل | Gift                    | هدية                        |
| Illegal                    | غير قانوني              | Promise                 | الوعد                       |
| forge                      | التزوير                 | Reward                  | مكافأة                      |
| Abstention                 | الامتناع                | Threat                  | التهديد                     |
| Constitute                 | تشكل                    | Pressure                | الضغط                       |
| Harmful                    | ضار                     | Abuse the authority     | إساءة استعمال السلطة        |
| Stipulate                  | تنص                     | Subordinate             | المروؤوس                    |
| Administrative             | إداري                   | Master                  | الرئيس                      |
| Pretext                    | حجة                     | Servant                 | الخادم                      |
| Parties                    | أطراف                   | Deception               | التدليس                     |
| Superior                   | الرئيس                  | Lying                   | الكذب                       |

|                                  |                      |                         |                |
|----------------------------------|----------------------|-------------------------|----------------|
| Prosecute                        | يحاكم                | Deception               | التحايل        |
| Fine                             | غرامة                | Falsely claiming        | الادعاء الكاذب |
| Deprivation                      | حرمان                | Explicitly              | صراحة          |
| Public service                   | خدمة عمومية-مرفق عام | Hatred                  | الكرهية        |
| Child                            | طفل                  | Loathing                | البغض          |
| Hand                             | يسلم                 | Saul                    | الروح- النفس   |
| Right                            | حق                   | Personal                | شخصي           |
| Claim                            | مطالبة               | Moral perpetrator       | الفاعل المعنوي |
| Imprisonment                     | حبس                  | Criminally responsible  | مسؤول جنائيا   |
| Article                          | مادة                 | Affiliate contribution  | مساهمة تبعية   |
| Penal code                       | قانون العقوبات       | Partner                 | الشريك         |
| Providing assistance to a person | تقديم مساعدة لشخص    | Stipulate               | تنص            |
| Assault                          | اعتداء               | Subsidiary contribution | مساهمة تبعية   |
| Material effect                  | النتيجة المادية      | Assist                  | يساعد          |
| Murder                           | القتل                | Lead                    | يؤدي إلى       |
| Robbery                          | السرقه               | Realisation             | تحقيق- إنجاز   |
| Possession                       | الملكية              | Preparatory act         | عمل تحضيري     |
| Fraud                            | النصب                | Stage                   | مرحلة          |
| Material concept                 | المفهوم المادي       | Facilitate              | مساعدة         |
| Legal concept                    | المفهوم القانوني     | Subscription            | الاشتراك       |
| Right to life                    | الحق في الحياة       | Phase                   | مرحلة          |
| Bodily integrity                 | السلامة الجسدية      | Previous assistance     | مساعدة سابقة   |

|                                |                       |                         |                    |
|--------------------------------|-----------------------|-------------------------|--------------------|
| Reason                         | السبب                 | Subsequent assistance   | مساعدة لاحقة       |
| purpose                        | القصـد                | Concealing stolen items | إخفاء أشياء مسروقة |
| Criminal result                | النتيجة الاجرامية     | Harboring               | إيواء              |
| Kill                           | يقتل                  | Hiding                  | إخفاء              |
| Legislation                    | التشريع               | Habitual                | معتاد              |
| Circumstances                  |                       | Criminal groups         | جماعات إجرامية     |
| Will                           | إرادة                 | Knowledge               | معرفة              |
| Felony                         | جناية                 | Criminal plans          | مخططات إجرامية     |
| Unambiguous                    | لا لبس فيها           | Original perpetrator    | الفاعل الأصلي      |
| Independent                    | مستقلة                | Sentence                | عقوبة              |
| Intended goal                  | الهدف المقصود         | Penalty prescribed      | العقوبة المقررة    |
| Material crime                 | جريمة مادية           | Misdemeanor             | جنحة               |
| Formal crime                   | جريمة شكلية           | Contravention           | مخالفة             |
| adopt                          | يتبنى                 | Personal circumstances  | ظروف شخصية         |
| Intentional crime              | جريمة عمدية           | Accomplice              | شريك               |
| Unintentional crime            | جريمة غير عمدية       | Aggravated              | مشددة              |
| Explicit provision             | حكم صريح              | Mitigated               | مخففة              |
| Stopped crime                  | جريمة موقوفة          | Exempted                | معفية              |
| Failed crime                   | جريمة خائبة           | Legal partner           | شريك حكـمي         |
| Suspended crime                | جريمة موقوفة          | Incomplete attempt      | شروع ناقص          |
| Exhausts the criminal activity | يستنفذ نشاطه الاجرامي | Impossible crime        | جريمة مستحيلة      |



