

CONCEPT OF LIABILITY

The word liability is taken from the Latin word '*ligare*' which means to bind.

Liability in law means '**the state of being legally responsible for something**'

Salmond – *Liability or responsibility is the bond of necessity that exists between the wrongdoer and the remedy of the wrong*

Markby – *The word liability is used to describe the condition of a person who has violated the right or acted contrary to duty.*

Austin - *Austin prefers to use the term 'imputability' to 'liability'. According to him, "Those certain forbearances, Commissions or acts, together with such of their consequences, as it was the purpose of the duties to avert, are imputable to the persons who have forborne omitted or acted"*

Civil liability and Criminal liability

Austin - An offence which is pursued at the discretion of injured party or his representatives is a civil injury. Offences which are pursued by the sovereign or by the subordinates of the sovereign are a crime

Salmond - Distinction between criminal and civil wrong is based not on any difference in the nature of the right infringed, but on a difference in the nature of the remedy applied.

Conditions for imposing Criminal liability

- Act – Actus reus

Salmond "An Act is any event subject to human control"

- Positive Act – doing something; Negative Act – forbearance
- Internal Act – act of your mind; External – Via your body
- Voluntary and involuntary acts;

- Guilty Mind - Mens Rea

Remedial liability and Penal liability

ubi jus ibi remedium

(where there is a right, there must be some remedy)

This distinction has been made on the basis of the legal consequences of the action against the wrong, if after a successful proceeding the defendant is ordered to pay damages or to pay a debt, or to make a specific performance etc., the liability is called remedial liability.

actus non facit reum, nisi mens sit rea

(act alone does not amount to guilt, it must be accompanied by a guilty mind)

Penal Liability is imposed when a mental element (mens rea) is accompanied with the act for the commission of the wrong

When after a successful proceeding the wrongdoer is awarded punishment which may be the fine, imprisonment, etc., it is called penal liability. The civil liability is generally remedial and the criminal liability is penal. But this is not always true.

Vicarious liability (Torts)

Joint and Group Liability (Criminal Law)

Absolute liability, Strict liability (Torts)

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