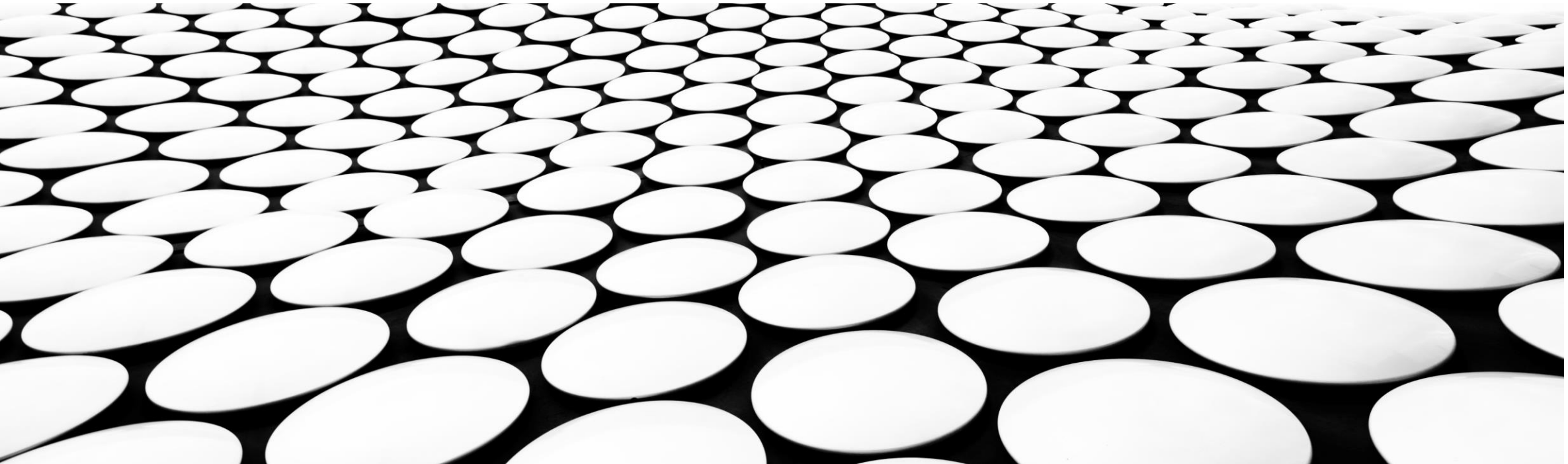

THE FUNDAMENTALS OF CRIMINAL LAW

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CRIMINAL LAW

- Area in law which (1) defines a crime, (2) treats of their nature, and (3) provides for their punishment.
- *Nullum crimen, nulla poena, sine lege* – “There is no crime when there is no law punishing it.”
- Two (2) Theories – (1) Classical Theory – Free will, Retributive; and (2) Positivist Theory – Socio-economic Phenomena, Reformative.
- *In dubio pro reo* – “When in doubt, rule for the accused.”
- Primarily governed by the Act No. 3815 otherwise known as the Revised Penal Code.
- Other crimes may also be found in special laws (Comprehensive Dangerous Drugs Act, Anti-Carnapping Act, Anti-Human Trafficking Act, etc.)



CHARACTERISTICS OF CRIMINAL LAW

- Generality
- Territoriality
- Prospectivity

GENERALITY

- Article 14 of the Civil Code – Penal laws shall be obligatory upon all who live or sojourn in the Philippine territory.
- Includes foreigners or aliens
- Exceptions:
 - Principles of Public International Law – diplomats (absolute), consuls (relative)
 - Laws of Preferential Application – P.D. 1083 a.k.a. Code of Muslim Personal Laws
 - Jurisprudence – President (Estrada v. Desierto, G.R. No. 146710-15, March 2, 2001)

TERRITORIALITY

- Article 2 of the Revised Penal Code – The provisions of the RPC shall be enforced within the Philippine territory.
- A criminal case can be filed either in (1) the place of commission of the criminal act or (2) the place of occurrence of the effect of such criminal act.
- Marital Infidelity committed by the husband outside the country which caused psychological trauma to the wife is punishable before Philippine courts (AAA v. BBB, G.R. No. 212448, January 11, 2018).
- Crimes committed within the premises of foreign embassies in the Philippines can be prosecuted before Philippine Courts, subject to principles of International Law.
- Territorial Waters – French Rule and the English Rule.

EXCEPTIONS TO THE TERRITORIALITY PRINCIPLE

Article 2. Application of its provisions. - Except as provided in the treaties and laws of preferential application, the provisions of this Code shall be enforced not only within the Philippine Archipelago, including its atmosphere, its interior waters and maritime zone, but also outside of its jurisdiction, against those who:

1. Should commit an offense while on a Philippine ship or airship;
2. Should forge or counterfeit any coin or currency note of the Philippine Islands or obligations and securities issued by the Government of the Philippine Islands;
3. Should be liable for acts connected with the introduction into these islands of the obligations and securities mentioned in the presiding number;
4. While being public officers or employees, should commit an offense in the exercise of their functions; or
5. Should commit any of the crimes against national security and the law of nations, defined in Title One of Book Two of this Code.

PROSPECTIVITY

- Article 21 of the Revised Penal Code - No felony shall be punishable by any penalty not prescribed by law prior to its commission.
- In other words, criminal law merely punishes crimes committed on or after its effectivity.
- Hence, penal laws shall have prospective application, except:
 - If the law is favorable to the accused;
 - If the law decriminalizes the act; or
 - If the law expressly provides for retroactivity.

CONSTITUTIONAL LIMITATIONS ON THE POWER OF CONGRESS TO ENACT PENAL LAWS

- Equal Protection Clause
- Due Process Clause
- Non-Imposition of Cruel and Unusual Penalty or Excessive Fines
- Bill of Attainder – legislation that inflicts punishment on an individual without a judicial trial.
- Ex post facto law – a penal law which is applied retroactively to the prejudice of an accused.

FELONIES

- Crimes – acts or omissions punishable by law; Felonies – acts or omissions punishable under the Revised Penal Code (RPC); Offense – acts or omissions punishable under special penal laws.
- Can be committed through deceit (*dolo*) or fault (*culpa*). Hence, there is Intentional Felony and Culpable Felony.
- Deceit – when the act is performed with deliberate intent; Fault – wrongful act resulted from imprudence, negligence, lack of foresight, or lack of skill.
- Elements of Intentional Felony: (1) criminal act (*actus reus*), and (2) criminal intent (*mens rea*).
- *Actus non facit reum nisi mens sit rea* – “the act is not criminal unless the mind of the offender is criminal.”
- Criminal Intent has two types: (1) General Criminal Intent (intent to do wrong), and (2) specific criminal intent (e.g. intent to kill, intent to gain, intent to injure, etc.)
- Two views on *culpa*: First View – it is not a crime but a mere mode of committing a crime; Second View – it is a crime itself. We follow the second view.

***MALA IN SE VS. MALA PROHIBITA* CRIMES**

Mala in se

- Inherently wrong or immoral;
- Good faith or lack of criminal intent is a defense;
- Punishable under the Revised Penal Code (except Technical Malversation);
- Modifying circumstances can be appreciated.

Mala prohibita

- Not inherently wrong; they are only wrong because they are prohibited by law;
- Good faith is not a defense;
- Punishable under special laws (except when the crime is inherently wrong);
- Modifying circumstances cannot be appreciated.



MOTIVE VS. INTENT

- Motive refers to the moving power which impels a person to do an act for a definite result.
- As a general rule, motive is not an essential element of a crime and hence need not be proven.
- Exceptions:
 - Where there is doubt as to the identity of the culprit; or
 - Where the evidence is circumstantial or inconclusive, and there is doubt as to whether the accused indeed committed the crime.

CLASSIFICATION OF FELONIES

- Grave felonies – those punished by death (abolished), *reclusion perpetua* (20 years and 1 day to 40 years), *reclusion temporal* (12 years and 1 day to 20 years), *prision mayor* (6 years and 1 day to 12 years), or a fine exceeding P1,200,000.00.
- Less grave felonies – those punished by *prision correccional* (6 months and 1 day to 6 years), *arresto mayor* (1 month and 1 day to 6 months), or a fine not less than P40,000.00 but not exceeding P1,200,000.00.
- Light felonies – those punished by *arresto menor* (1 day to 30 days) or a fine not exceeding P40,000.00, or both.

LIABILITY FOR A FELONY

- Article 4(1), RPC - Criminal Liability is incurred by any person committing a felony although the wrongful act done be different from that which he intended.
- As long as you knew that your act was unlawful, you are liable for all the direct, natural, or logical consequences of your unlawful act; Proximate Cause or Efficient Cause.
- *Error in personae* (mistake of identity) – a person is criminally responsible for committing an intentional felony although the actual victim is different from the intended victim due to mistake of identity. Governed by Art. 49, RPC.
- *Aberratio ictus* (mistake of blow) – a person is criminally liable for committing an intentional felony although the actual victim is different from the intended victim due to mistake of blow. Governed by Art. 48, RPC.
- *Praeter intentionem* – a person incurs criminal liability for committing an intentional felony although its wrongful consequences is graver than that intended. Governed by Art. 13(3), RPC.

MISTAKE OF FACT

- Ignorance of the law excuses no one from compliance therewith (*ignorantia legis non excusat*), but ignorance of a fact may be a valid defense (*ignorantia facti excusat*). That's because an honest mistake of fact destroys the presumption of criminal intent.
- Requisites:
 - The acts done would have been lawful had the facts been as the accused believed them to be;
 - That the mistake of fact is not due to negligence; and
 - The mistake is not accompanied with criminal intent on the part of the offender.
- US v. Ah Chong (G.R. No. 5272, March 19, 1910) – The accused Chinaman struck the fatal blow upon the victim in the firm belief that the intruder who forced open the door of his sleeping room was a thief from whose assault he was in imminent peril. The accused was acquitted on the ground of mistake of fact.
- Distinguish Mistake of Fact vs. *Error in Personae*

IMPOSSIBLE CRIME

- Article 4(2), RPC - Criminal liability shall be incurred by any person performing an act which would be an offense against persons or property, were it not for the inherent impossibility of its accomplishment or an account of the employment of inadequate or ineffectual means.
- Requisites:
 - Offender is performing an act which would have been an offense against person or property;
 - Offender performed the act with evil intent;
 - Offender did not commit the offense because of (a) the impossibility of its accomplishment or (b) the employment of inadequate or ineffectual means; and
 - Offender is not violating another provision of law.

STAGES OF EXECUTION

- Attempted stage – offender commences the commission of a felony directly by overt acts, and does not perform all the acts of execution which should produce the felony by reason of some cause or accident other than his own spontaneous desistance.
- Frustrated stage – offender performs all the acts of execution which would produce the felony as a consequence but which, nevertheless, do not produce it by reason of causes independent of the will of the perpetrator.
- Consummated stage – all the elements necessary for the execution and accomplishment of the crime are present.
- All above stages requires an overt act. An overt act is some physical activity or deed indicating the intention to commit a particular crime. It is more than mere planning or preparation.
- Preparatory acts, or acts prior to the actual execution of a criminal resolution, are not yet punishable.



FORMAL CRIMES

- Formal crimes refer to crimes which only have a consummated stage (i.e. no attempted or frustrated stage).
- Examples: Physical Injuries, Slander, Perjury, Grave Coercion, Acts of Lasciviousness, Adultery.



CRIMES WHICH HAVE NOT FRUSTRATED STAGE

- There are also crimes which only have the attempted and consummated stages.
- Examples: Rape, Robbery, Theft

PROPOSAL TO COMMIT A CRIME

- Article 8, RPC - There is proposal when the person who has decided to commit a felony proposes its execution to some other person or persons.
- As a general rule, a proposal to commit a crime is not punishable. Unless the person who proposed the crime externalizes his criminal mind by committing an overt act (such as actually stabbing the victim), the person will not be punished.
- Exception: when the law expressly prescribes a penalty for a mere proposal to commit a particular crime.
- Examples: Proposal to commit treason, Proposal to commit rebellion, Proposal to commit *coup d'état*

CONSPIRACY TO COMMIT A CRIME

- Article 8, RPC - A conspiracy exists when two or more persons come to an agreement concerning the commission of a felony and decide to commit it.
- Requisites:
 - There must be an agreement, express or implied, to commit a crime;
 - The parties to the agreement must be decided to commit such crime;
 - There must be a law prescribing a penalty for conspiring to commit such crime; and
 - The crime agreed upon was not committed.
- As a general rule, conspiracy, as an act, is not punishable.
- Exception: when the law expressly prescribes a penalty for a mere conspiracy to commit a particular crime.
- Examples: Conspiracy to commit treason, rebellion, *coup d'état*, arson, terrorism, and child pornography.

CONSPIRACY AS A MODE OF INCURRING CRIMINAL LIABILITY

- Conspiracy may either be a crime (Art. 8) or a mode of incurring liability.
- Conspiracy does not constitute a crime if the law has not specifically provided for a penalty therefor. However, if the conspirators committed the crime agreed upon, conspiracy shall be considered as a means of incurring collective criminal liability for the crime committed.
- The legal effect once an express or implied conspiracy as a mode of incurring criminal liability is proved is that all of the conspirators are liable as co-principals regardless of the extent and character of their respective active participation in the commission of the crime. Hence, the act of one becomes the act of all.
- Requisites:
 - There must be a conspiracy, express or implied to commit a crime;
 - The crime agreed upon has been committed; and
 - The conspirators must have performed an overt act in furtherance of the conspiracy. However, this requisite does not apply if the conspirator is the mastermind.

COMMISSION OF OTHER CRIMES BY CONSPIRATORS

- To exempt himself from criminal liability, a conspirator must have performed an overt act to dissociate or detach himself from the conspiracy to commit the felony.
- Canturia Principle - A conspirator is liable for a crime which all conspirators agreed to commit, AND other crimes which could be foreseen and are the natural and logical consequences of the conspiracy, provided that the conspirator was aware of the commission of the other crime and that he/she did not prevent the same. (People v. Canturia, G.R. No. 108490, June 22, 1995).



TYPES OF CONSPIRACY

- Express Conspiracy – the type of conspiracy which can be proven by direct evidence.
- Implied Conspiracy – the type of conspiracy which can be established by circumstantial evidence. It may be proven by the collective acts of the accused before, during, and after the commission of a felony, all the accused aiming at the same object, one performing one part and another performing another for the attainment of the same criminal objective.
- Examples of evidence which may prove implied conspiracy: Simultaneity of attacks or overt acts, similarity of criminal objective.



DEGREE OF PARTICIPATION

- Article 16 and 17, RPC – The following are criminally liable for felonies: principals, accomplices, and accessories.
- Liable for grave and less grave felonies – principals, accomplices, and accessories.
- Liable for light felonies – principals and accomplices.

PRINCIPALS

- Principal by Direct Participation – those who take a direct part in the execution of the act.
- Principal by Inducement – those who directly force or induce others to commit a crime. Example is a mastermind.
- Principal by Indispensable Cooperation – those who cooperate in the commission of the crime by another act without which it would not have been accomplished.
- Note: conspirators are considered as either principals by direct participation or by indispensable cooperation, depending on the extent of their participation, except the mastermind, which is a principal by inducement.

ACCOMPLICE

- Article 18, RPC – Accomplices are those persons who, not being principals, cooperate in the execution of the offense by previous or simultaneous acts.
- Requisites:
 - There must be community of design, which means the accomplice must know of and concurs with the criminal design of the principal;
 - The performance by the accomplice of previous or simultaneous acts which are not indispensable to the commission of the crime; and
 - There must be a relation between the acts done by the principal and those attributed to the accomplice.

ACCESSORIES

- Article 19, RPC - Accessories are those who, having knowledge of the commission of the crime, and without having participated therein, either as principals or accomplices, take part subsequent to its commission in any of the following manners:
 1. By profiting themselves or assisting the offender to profit by the effects of the crime.
 2. By concealing or destroying the body of the crime, or the effects or instruments thereof, in order to prevent its discovery.
 3. By harboring, concealing, or assisting in the escape of the principal of the crime, provided the accessory acts with abuse of his public functions or whenever the author of the crime is guilty of treason, parricide, murder, or an attempt to take the life of the Chief Executive, or is known to be habitually guilty of some other crime.



ACCESSORIES EXEMPT FROM CRIMINAL LIABILITY

- Article 20, RPC - The penalties prescribed for accessories shall not be imposed upon those who are such with respect to their spouses, ascendants, descendants, legitimate, natural, and adopted brothers and sisters, or relatives by affinity within the same degrees, with the single exception of accessories falling within the provisions of paragraph 1 of the next preceding article.

PERSONS WHO PARTICIPATED IN THE CRIME WHICH ARE EXEMPT FROM CRIMINAL LIABILITY

- Article 332, RPC - No criminal, but only civil liability, shall result from the commission of the crime of theft, swindling or malicious mischief committed or caused mutually by the following persons:
 1. Spouses, ascendants and descendants, or relatives by affinity in the same line;
 2. The widowed spouse with respect to the property which belonged to the deceased spouse before the same shall have passed into the possession of another; and
 3. Brothers and sisters and brothers-in-law and sisters-in-law, if living together.



JUSTIFYING CIRCUMSTANCES (ARTICLE 11)

- Those which make the act in accordance with law. Thus, the offender incurs no criminal liability.
- There is no crime, and hence there is no criminal.
- Since there is no crime, there is no civil liability.

EXEMPTING CIRCUMSTANCES (ARTICLE 12)

- Those which exempt the offender from liability, although his act is considered criminal.
- A crime is deemed committed, but the circumstances pertaining to the offender calls for his exemption from criminal liability.
- There is a crime, but there is no criminal.
- Since there is a crime, there is civil liability.

JUSTIFYING AND MITIGATING CIRCUMSTANCES

Justifying Circumstances

- The act is legal, within the bounds of law.
- There is no crime, and hence no criminal.
- No civil liability.
- The emphasis of the law is on the act.

Mitigating Circumstances

- The act is criminal.
- There is a crime, but there is no criminal.
- There is civil liability.
- The emphasis of the law is on the actor.

JUSTIFYING CIRCUMSTANCE - SELF-DEFENSE

- Based on the impulse of self-preservation.
- Has three (3) types: Defense of a person's self, Defense of a person's relative, and Defense of a stranger.
- Requisites for defense of a person's self:
 1. Unlawful aggression against the person defending himself;
 2. Reasonable necessity of the means employed to prevent or repel the said unlawful aggression; and
 3. Lack of sufficient provocation on the part of the person defending himself.
- Elements of Unlawful Aggression:
 - Physical or material assault;
 - Actual or imminent assault; and
 - Unlawful assault.

JUSTIFYING CIRCUMSTANCE - SELF-DEFENSE (CON'T)

- Requisites for defense of relative:
 1. Unlawful aggression against a relative (spouse, ascendants, descendants, legitimate, illegitimate or adopted brothers or sisters, or of his relatives by affinity in the same degrees, and those by consanguinity within the fourth civil degree);
 2. Reasonable necessity of the means employed to prevent or repel the unlawful aggression; and
 3. Lack of participation in the relative's provocation.
- Requisites for defense of stranger:
 - Unlawful aggression against a stranger;
 - Reasonable necessity of the means employed to prevent or repel the unlawful aggression; and
 - The person defending be not induced by revenge, resentment, or other evil motive.

BATTERED WOMAN SYNDROME

- “Battered Woman Syndrome” refers to a scientifically defined pattern of psychological and behavioral symptoms found in women living in battering relationships as a result of cumulative abuse. (Section 3(c) of R.A. 9262 otherwise known as the Anti-Violence against Women Children Act).
- Battered Woman Syndrome as a Defense. – Victim-survivors who are found by the courts to be suffering from battered woman syndrome do not incur any criminal and civil liability notwithstanding the absence of any of the elements for justifying circumstances of self-defense under the Revised Penal Code. (Section 26, R.A. 9262)

JUSTIFYING CIRCUMSTANCE – AVOIDANCE OF GREATER EVIL

- Also called as State of Necessity.
- Requisites:
 1. The evil sought to be avoided actually exists;
 2. The injury feared be grater than that done to avoid it; and
 3. There be no other practical and less harmful means of preventing it.
- Example: To save himself from crashing into an unlighted truck abandoned on the road, accused swerved his car to the right towards the graveled pavement, killing bystanders.



JUSTIFYING CIRCUMSTANCE – PERFORMANCE OF DUTY AND EXERCISE OF RIGHT

- Requisites:

1. Accused must have acted in the performance of a duty or in the lawful exercise of a right or office;
2. The injury caused or the offense committed should have been the necessary consequence of due performance of duty or lawful exercise of a right.



JUSTIFYING CIRCUMSTANCE – OBEDIENCE TO A LAWFUL ORDER

- Requisites:

1. Order has been issued by a superior;
2. Such order must be for some lawful purpose; and
3. Means used by subordinate to carry out such order is lawful.

EXEMPTING CIRCUMSTANCE – INSANITY AND IMBECILITY

- Insanity may also be referred as mental incapacity.
- Cognition Test – accused will be exempt from liability if there was a complete deprivation of reason and intelligence (not merely deprivation of freedom) in committing the criminal act.
- The mental condition of the accused at the very time of the commission of the crime must be considered to make it an exempting circumstance.
- An imbecile is a person with a mental age of seven (7) years old or lower.
- These exempting circumstances do not apply when the accused committed the crime during a lucid interval (a period in a mentally-unbalanced person's life where they act normally.).

EXEMPTING CIRCUMSTANCE - MINORITY

- Article 12(3) of the RPC has been amended by R.A. 9344 otherwise known as the Juvenile Justice and Welfare Act of 2006.
- A child who is fifteen (15) years of age or under at the time of the commission of the crime is exempt from criminal liability and shall be subject to an intervention program.
- A child above fifteen (15) but below eighteen (18) years of age who acted **without** discernment at the time of the commission of the crime is exempt from criminal liability and shall be subject to an intervention program.
- A child above fifteen (15) but below eighteen (18) years of age who acted **with** discernment at the time of the commission of the crime is not exempt from criminal liability but shall be entitled to the privilege mitigating circumstance of minority. Hence, the penalty imposed upon him will be reduced by one (1) degree.

EXEMPTING CIRCUMSTANCE - ACCIDENT

- Requisites:
 1. The person must be performing lawful act;
 2. He is performing such lawful act with due care;
 3. He causes an injury to another by mere accident; and
 4. He causes such injury without any fault or intention of causing it.

EXEMPTING CIRCUMSTANCE – IRRESISTIBLE FORCE AND UNCONTROLLABLE FEAR

- Requisites for Irresistible Force:
 1. Somebody used physical force compelling the accused to commit the crime; and
 2. The force used must be irresistible.
- Requisites for Uncontrollable Fear:
 1. Existence of uncontrollable fear of an injury;
 2. The fear of an injury must be real and imminent; and
 3. The fear of an injury is greater than or at least equal to that committed.
- *Actus me invito factus non est meus actus* – an act done by me against my will is not my act.

IRRESISTIBLE FORCE VS. UNCONTROLLABLE FEAR

Irresistible Force

- Violence or physical force
- Made directly upon the person of the accused
- Injury feared of may be of a lesser degree than that damage caused by the accused

Uncontrollable Fear

- Intimidation or threat
- May be directed against third persons such as the wife or children of the accused
- Evil feared of must be greater or at least equal to the damage caused to avoid it

EXEMPTING CIRCUMSTANCE – INSUPERABLE CAUSE

- Requisites:
 1. There is an act required by law;
 2. The person fails to perform such act; and
 3. Such failure to perform was due to some lawful or insuperable cause.
- Example: A Catholic priest is exempt from criminal liability for the crime of misprision of treason (i.e. failure to report a conspiracy against the government) for failure to inform the authorities on the conspiracy against the government which he obtained by reason of confession made to him by one of the conspirators.



END

THANK YOU AND STUDY WELL

