



# Criminal Liability in Criminal Law

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## Abstract

Criminal liability refers to a person's ability to be held accountable for the criminal acts they have committed. This liability determines whether a person will be punished or acquitted. In criminal law, criminal liability is personal or individual in nature, meaning that it cannot be transferred to another person. In proving the criminal acts committed by the perpetrator, there are justifying and excusing elements. If the perpetrator is deemed incapable of taking responsibility for the crime charged against them, the state is legally obliged to issue a decision in accordance with the applicable regulations and ensure the fairest judgment possible. The type of research used is normative legal research, also known as doctrinal legal research, as it focuses solely on written regulations or secondary legal materials. Normative legal research includes studies on legal principles, legal systematics, vertical and horizontal synchronization, comparative law, and/or legal history. The research employs two approaches: the Statute Approach and the Analytical Approach. This study aims to examine legal regulations in criminal law related to the process of imposing penalties on criminal offenders. The process in question must comply with the norms of criminal law and the procedures stipulated in statutory regulations.

## Keywords

Law, Criminal Law, Legislation.

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## Introduction

Positive law (*Ius Constitutum*) in the Indonesian legal system serves the primary function of providing legal protection to every citizen and establishing the specific rights of individuals and groups. Order and discipline in societal life are concrete implementations of legal protection. Legal protection is carried out based on the enactment of binding statutory regulations in a normative manner, in accordance with applicable provisions. This is closely related to law enforcement in Indonesia. The state of law enforcement in Indonesia today remains a question among the general public: 'Has law enforcement been implemented effectively?' A shift in attitude among all parties involved, particularly law enforcement officials such as the police, prosecutors, judges, and lawyers, as well as the legal culture of



society, is fundamental to achieving the ideals of the Indonesian nation as mandated by the constitution.

Criminal law is a part of the overall legislative framework enforced in Indonesia. The scope of criminal law includes legal provisions governing offenses that are punishable by penalties or sanctions. Punishment for perpetrators of criminal acts must meet both subjective and objective elements. The process of determining and imposing sanctions on offenders aims to protect, prevent, and correct societal behavior. Punishment is closely tied to culpability. Article 193, paragraph 1 of Indonesia's Criminal Procedure Code (Law No. 8 of 1981) clearly states that if a judge believes a defendant is proven guilty, the judge must impose a penalty. This aligns with the principle of criminal law, *nulla poena sine culpa* (no punishment without guilt). The emphasis on punishment is also reflected in the doctrine of *Mens rea*, derived from English criminal law, based on the maxim *Actus non facit reum nisi mens sit rea*, meaning that an act does not render a person guilty unless it is committed with a guilty mind.

A criminal act is a violation of the applicable norms of criminal law. Every criminal act must undergo legal processing to create a conducive societal environment. Essentially, the regulation of criminal acts is connected to the principle of legality, while the punishability of an offender is based on culpability. This means that an individual will bear criminal responsibility if they have committed an act that is both wrongful and against the law.

Criminal liability, in essence, is a mechanism designed to respond to violations of specific agreed-upon actions. It is understood as the attribution of objective blame inherent in a criminal act, subjectively meeting the criteria for punishment due to the act. Objective blame refers to actions prohibited by law, both formal and substantive. In criminal liability, the burden of responsibility is placed on the offender of the criminal act, forming the basis for imposing criminal sanctions. An individual is deemed to possess criminal liability if their actions are unlawful. However, their liability may be nullified if there are factors that eliminate their capacity to be held accountable. Based on this background, the author is interested in conducting research on "Criminal Liability in Criminal Law"

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## Methodology

In conducting this research, the type of research used is normative legal research or doctrinal legal research, as this study focuses solely on written regulations or secondary legal materials. Normative legal research includes: (1) research on legal principles, (2) research on legal systematics, (3) research on vertical and horizontal synchronization, (4) comparative law studies, and/or (5) legal history.

The approaches employed are the Statute Approach and the Analytical Approach. The data collection technique involves secondary data exploration through library research. Secondary data consists of primary legal materials, secondary legal materials, and tertiary legal materials. Meanwhile, the data analysis method used is qualitative data analysis. Qualitative data analysis is structured descriptively, logically, and systematically, with conclusions drawn using a deductive-to-inductive method.

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## Findings

### 1. Definition

Criminal liability is a form of accountability for a person's criminal acts. Criminal liability determines whether a person will be punished or acquitted. In criminal law, criminal liability is personal, meaning it cannot be transferred to another person. The elements of criminal liability include: intent or negligence, acts prohibited by law, and the ability to be held accountable.

In English, criminal liability is referred to as "criminal liability" or "responsibility".

Definitions of criminal liability according to experts include:

1. Romli Atmasasmita, in his book *Principles of Comparative Criminal Law*, defines criminal liability as an act condemned by society for which the perpetrator must take responsibility.
2. Simons states that the ability to be held accountable refers to the psychological condition that justifies the imposition of punishment.
3. Van Hamel defines the ability to be held accountable as a state of psychological normality and maturity, enabling an individual to comprehend the consequences of their actions.
4. Alf Ross explains criminal liability as the connection between the conditions required and the legal consequences stipulated.

### 2. Requirements for Criminal Liability

The requirements for criminal liability cannot be separated from an individual's ability to take responsibility for their criminal acts. This is related to the general elements of criminal acts, which are classified into:

1. Subjective elements
  - a. The existence of culpability (intent or negligence)
  - b. The psychological connection between the state of mind and the act committed
2. Objective elements
  - a. The existence of an act
  - b. The act being unlawful
  - c. The consequences resulting from the act
  - d. The circumstances accompanying the act

The ability to take responsibility for a criminal act refers to the physical and psychological capacity of the offender to bear the punishment or sanction imposed. This relates to justifications and excuses in criminal liability under criminal law.

### 3. Justifications in Criminal Acts

Justifications in criminal law are reasons that eliminate criminal punishment because the act committed is deemed justified. Justifications are viewed from the act itself (objective).

Examples of justifications in criminal law include:

- Self-defense (*noodweer*)
- Force majeure (*overmacht*)
- Execution of statutory regulations
- Execution of lawful official orders

Justifications are regulated in the Indonesian Penal Code (KUHP), including:

1. Article 48: On emergencies
2. Article 49: On self-defense
3. Article 50: On executing state orders
4. Article 51: On executing lawful official orders



A criminal act does not always result in punishment for the offender. From the perspective of accountability, only individuals capable of being held accountable can be held liable for their actions. The principle of criminal liability states that there is no crime without culpability. Therefore, the imposition of punishment depends on whether the offender had culpability when committing the act.

#### 4. Excuses in Criminal Acts

Excuses are reasons that eliminate the culpability of an offender for a criminal act, even though the act itself remains unlawful. Excuses are viewed from the perspective of the offender (subjective). The regulation of excuses for criminal acts in criminal law is found in **Article 44** of the Indonesian Penal Code, which states:

*"Anyone committing a criminal act due to mental illness is not subject to punishment."*

This excuse is granted based on the subjective condition of the offender. In criminal law, a person can only be punished if the act was committed with malicious intent and under normal mental and cognitive conditions.

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## Conclusion

Criminal liability is one of the most important normative studies in law enforcement in Indonesia. The imposition of sanctions or punishments on criminal offenders must, of course, be based on legal processes and methods stipulated by the applicable regulations. It is essential to ensure that this process runs smoothly and within legal boundaries because it impacts the future of the legal subject and their family. Therefore, if, in the process of proving a criminal act committed by an offender, there are justifications and excuses, and the offender lacks the ability to be held accountable for the crime charged against them, the state is legally obligated to issue a decision in accordance with the applicable rules and the fairest judgment.

Criminal liability is the process of determining whether a suspect or defendant is responsible for a criminal act. Criminal liability also determines whether a person will be acquitted or punished. In order to be held criminally liable, an individual must be capable of taking responsibility. The ability to be held accountable means that a person possesses a normal and mature psychological state, allowing them to recognize that their actions are in violation of the law.

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