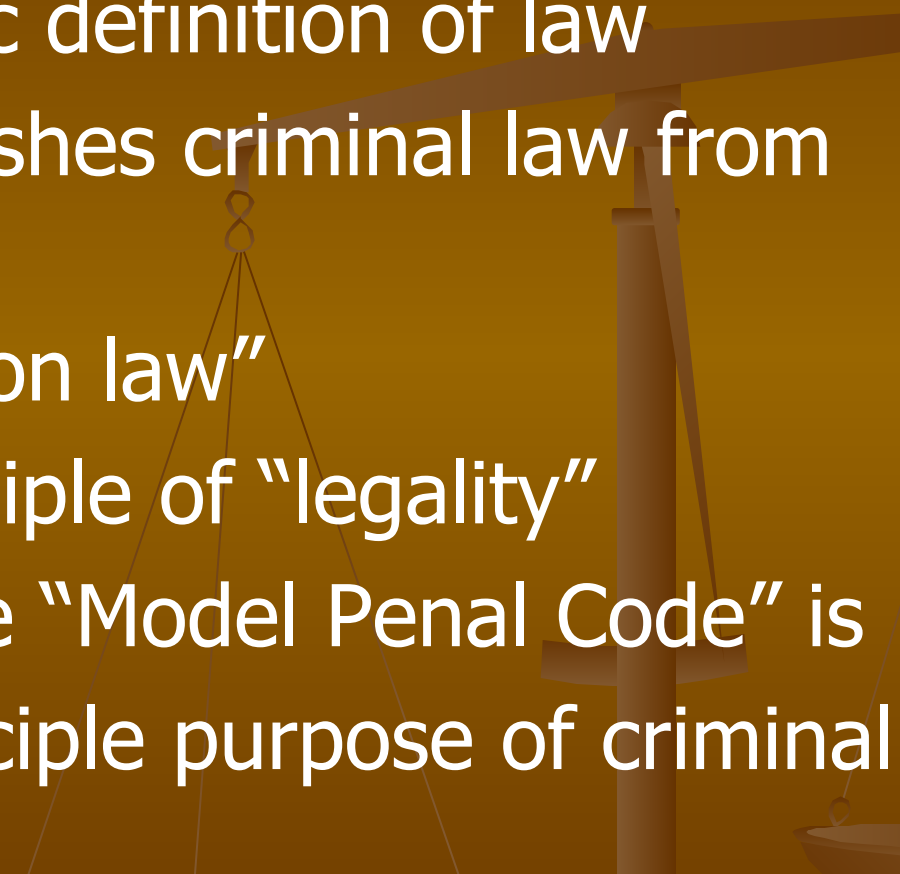


# Criminal Law

- Chapter 1
- Nature, Origins, and Purposes of Criminal Law

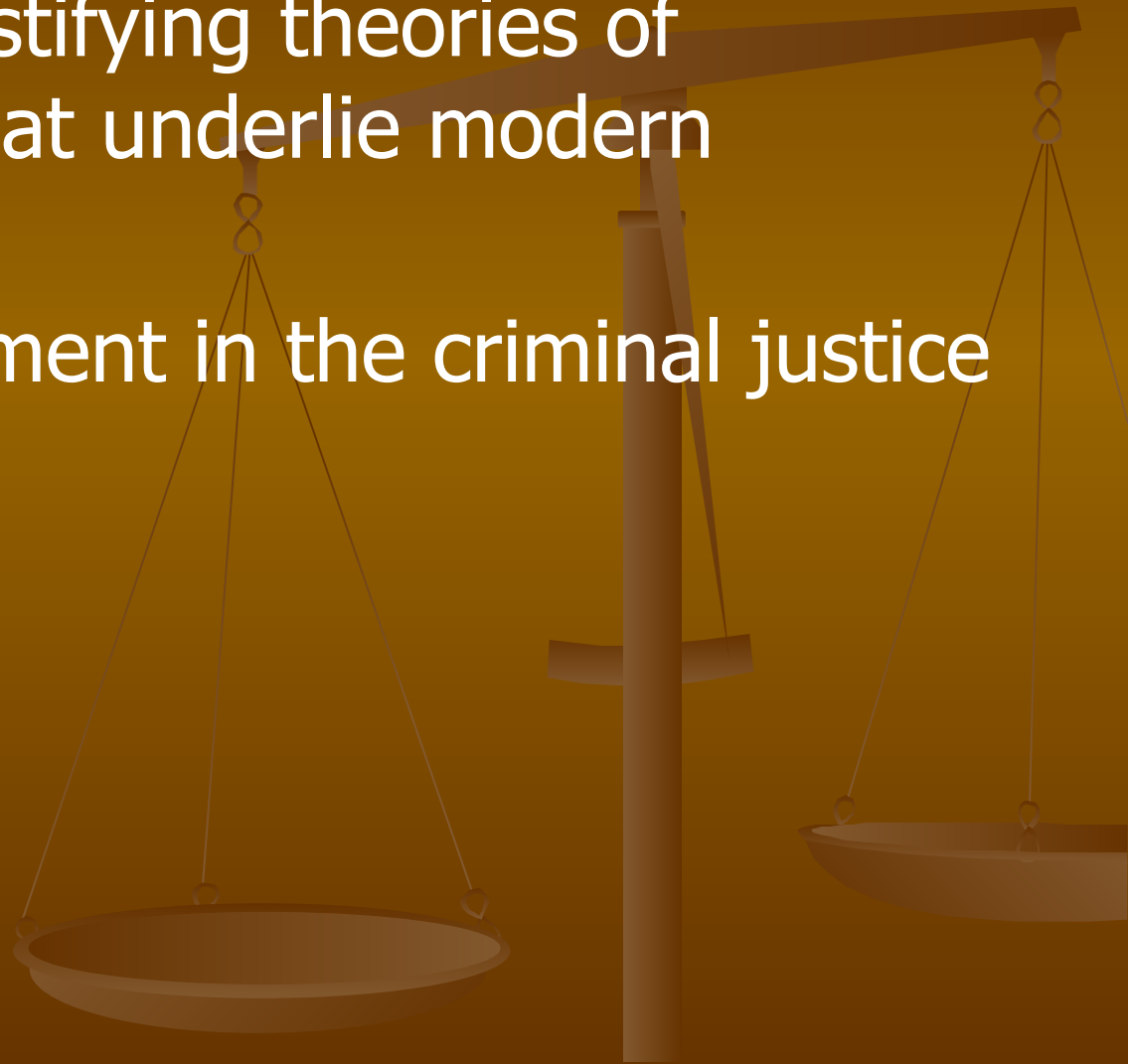


# Chapter Objectives

1. Know the basic definition of law
  2. What distinguishes criminal law from other law
  3. Define “common law”
  4. State the principle of “legality”
  5. Know what the “Model Penal Code” is
  6. Know the principle purpose of criminal law
- 

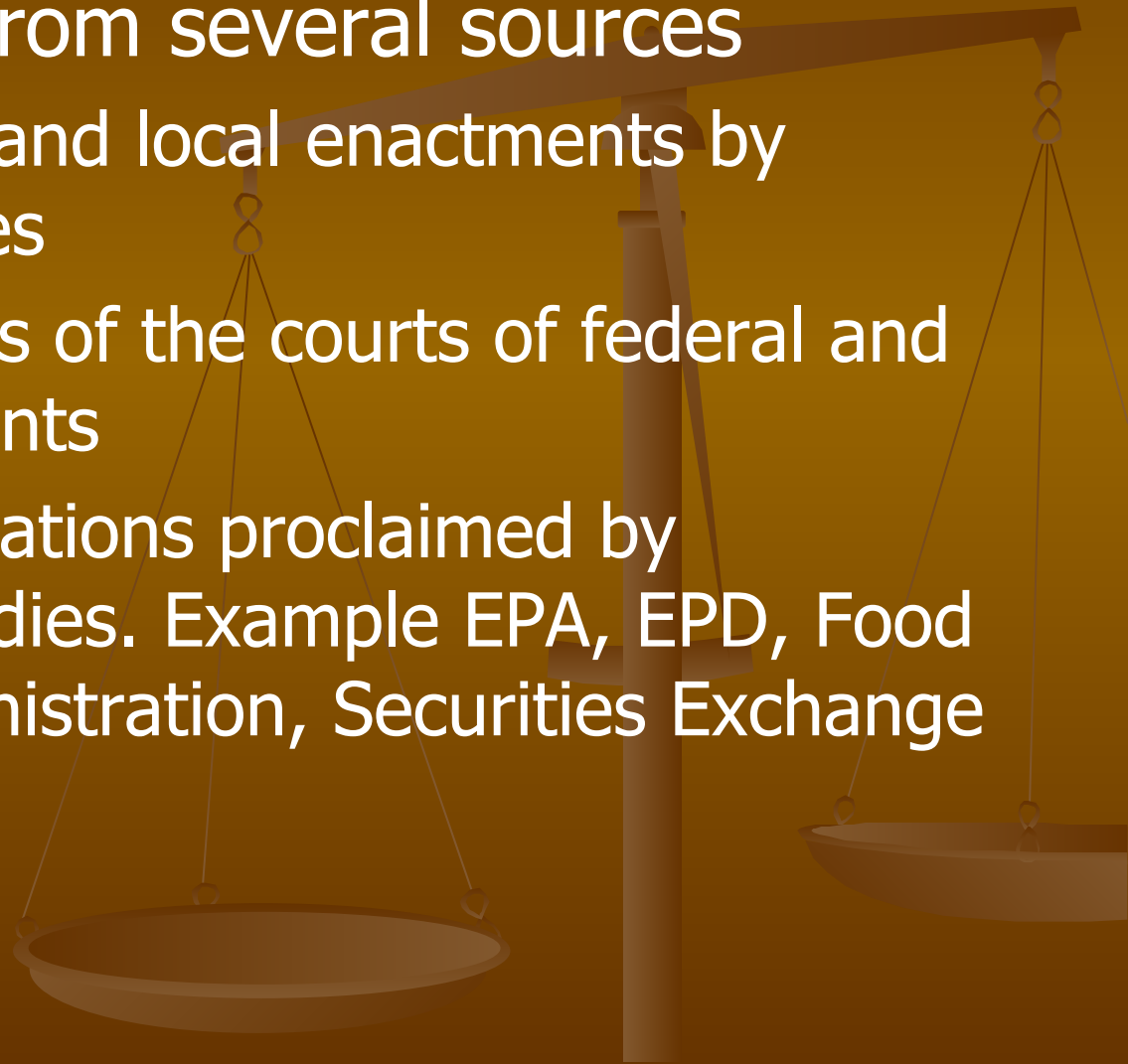
# Chapter Objectives Cont..

7. Know the 2 justifying theories of punishment that underlie modern criminal law
8. Define punishment in the criminal justice system



# Basic Sources of Law

- Law is derived from several sources
  - Federal, State, and local enactments by legislative bodies
  - Known decisions of the courts of federal and state governments
  - Rules and regulations proclaimed by government bodies. Example EPA, EPD, Food and Drug Administration, Securities Exchange Commission

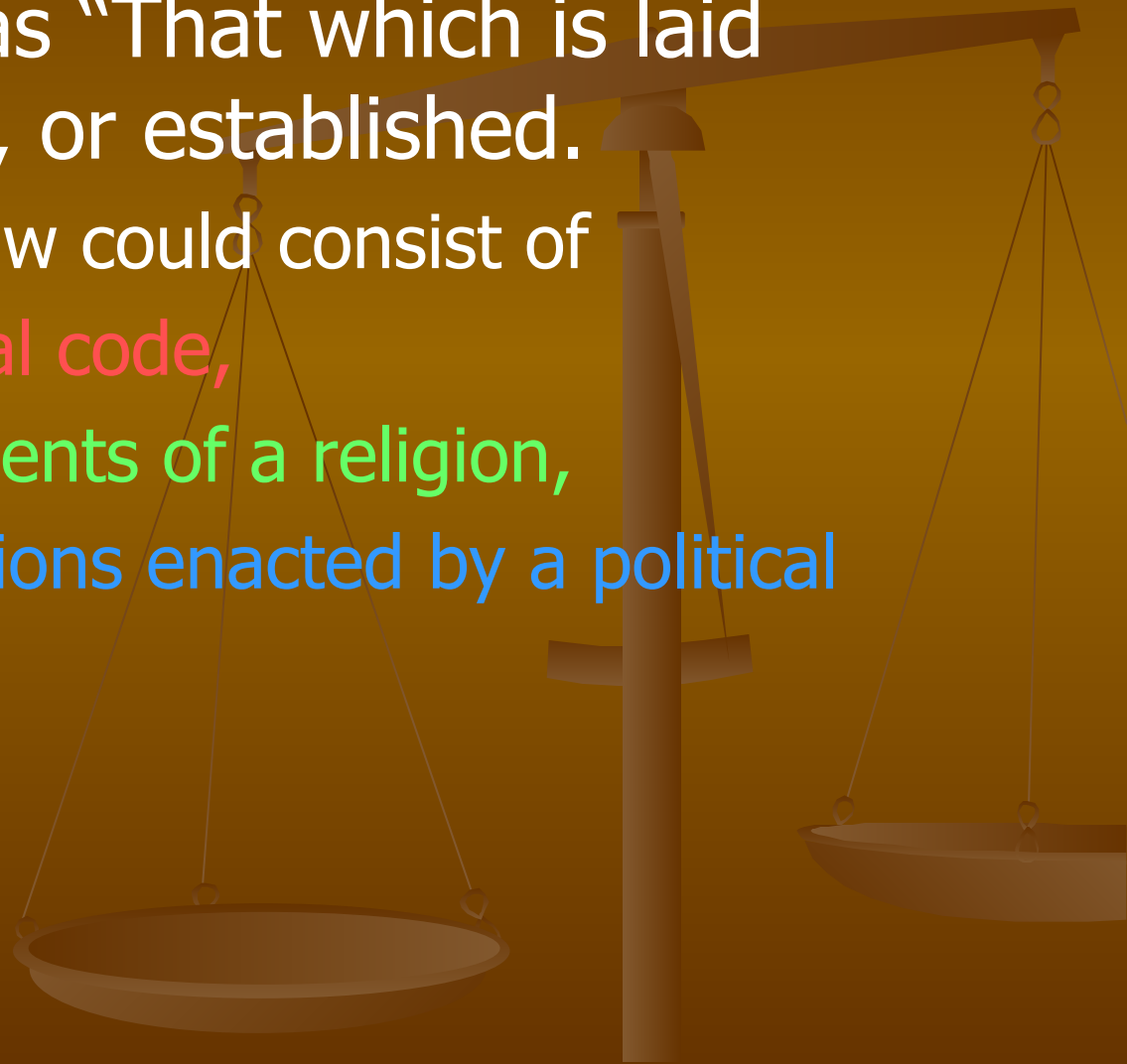


# Law Defined

- A rule of conduct or procedure established by custom, agreement or authority
  - Examples would be that 1) We marry one person in society (custom) 2) Ga and South Carolina recognize each other's drivers licenses (agreement) 3) We must have a driver's license to operate a vehicle on the road (authority)

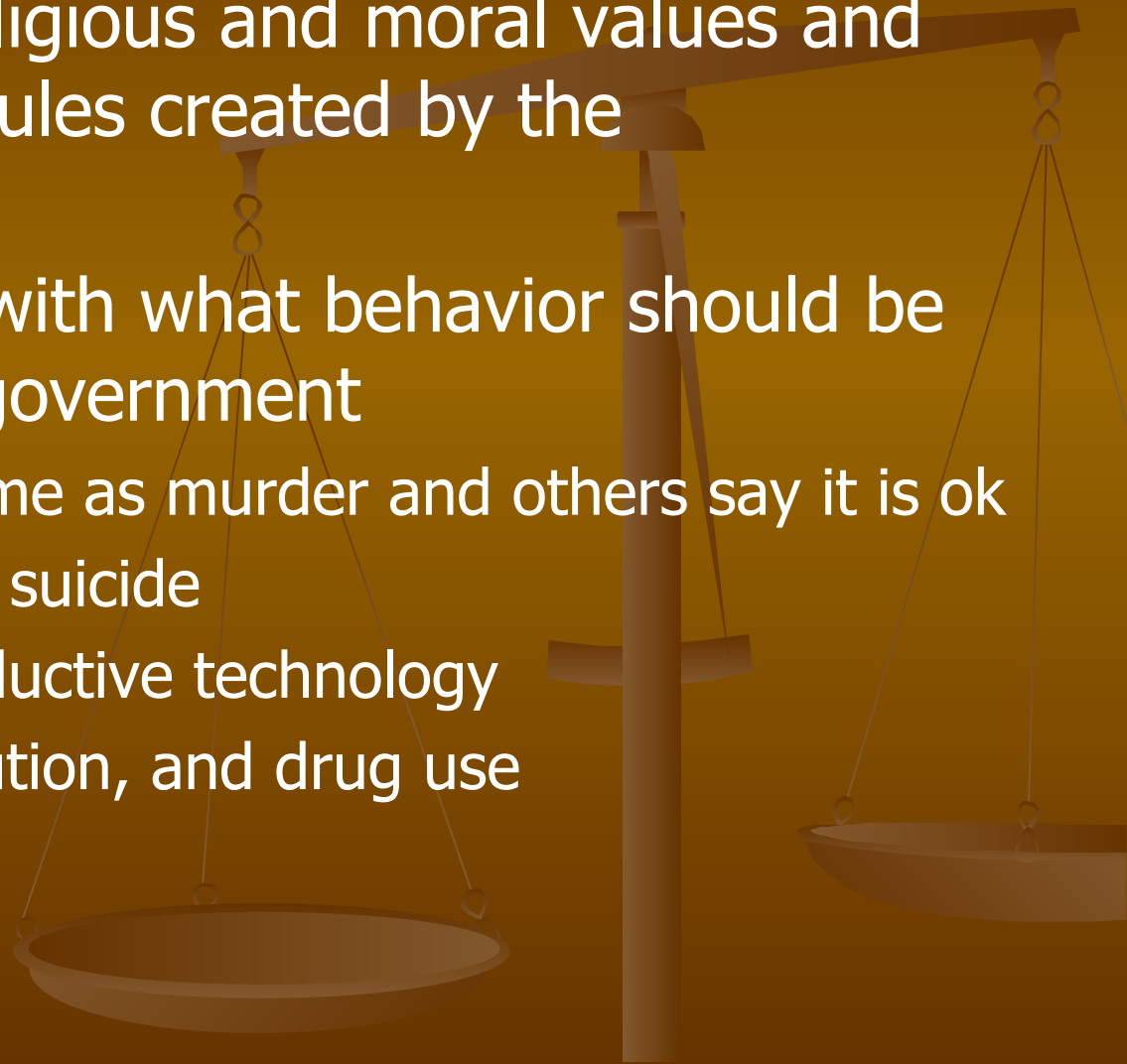
# Black's Law Dictionary

- Law is defined as “That which is laid down, ordained, or established.”
  - Generally the law could consist of
    - a culture's moral code,
    - the commandments of a religion,
    - and the regulations enacted by a political body



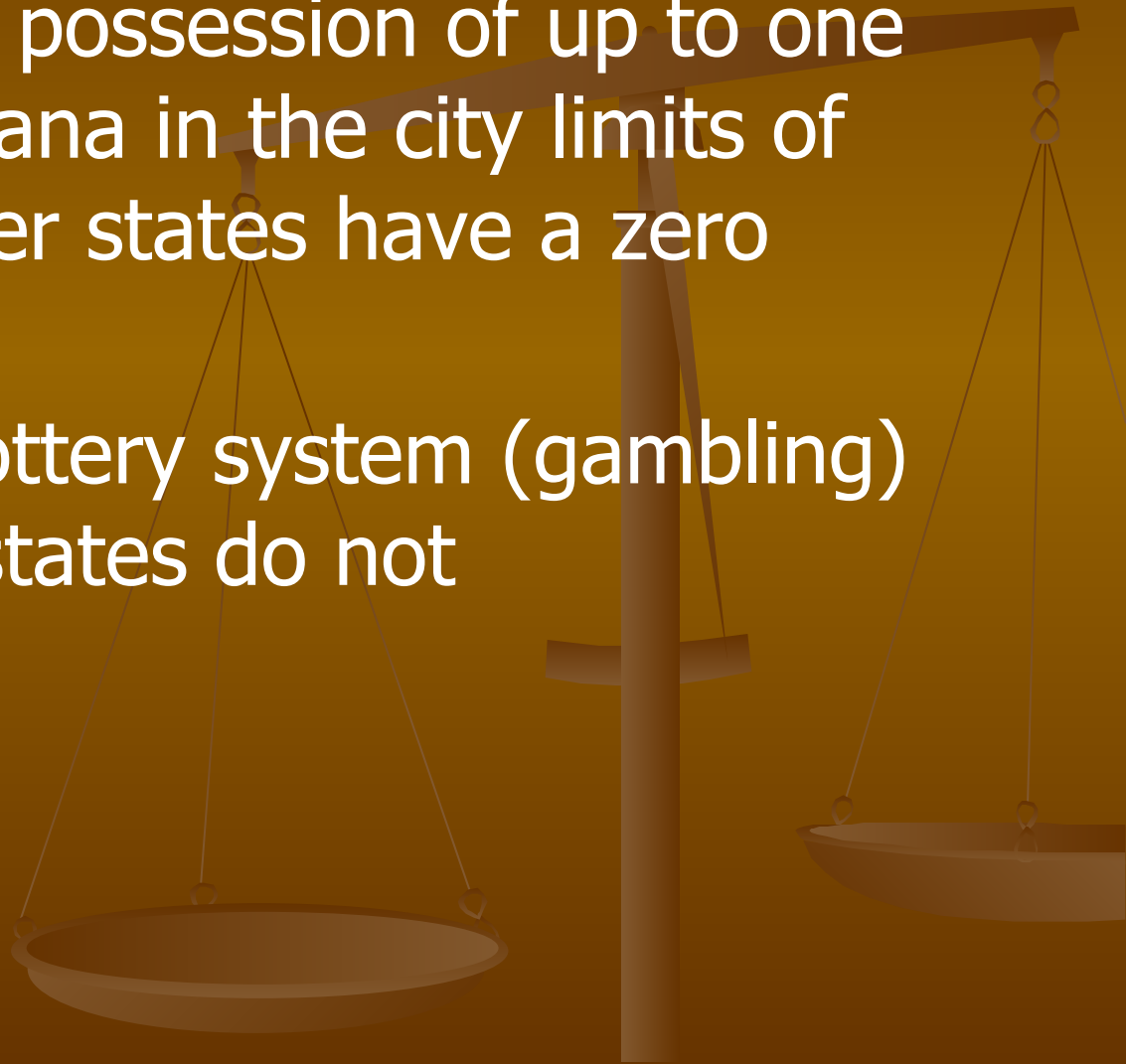
# Conflict of Law

- Citizens look at religious and moral values and they also look at rules created by the government
- Citizens disagree with what behavior should be regulated by the government
  - Abortion some same as murder and others say it is ok
  - Physician assisted suicide
  - The use of Reproductive technology
  - Gambling, prostitution, and drug use



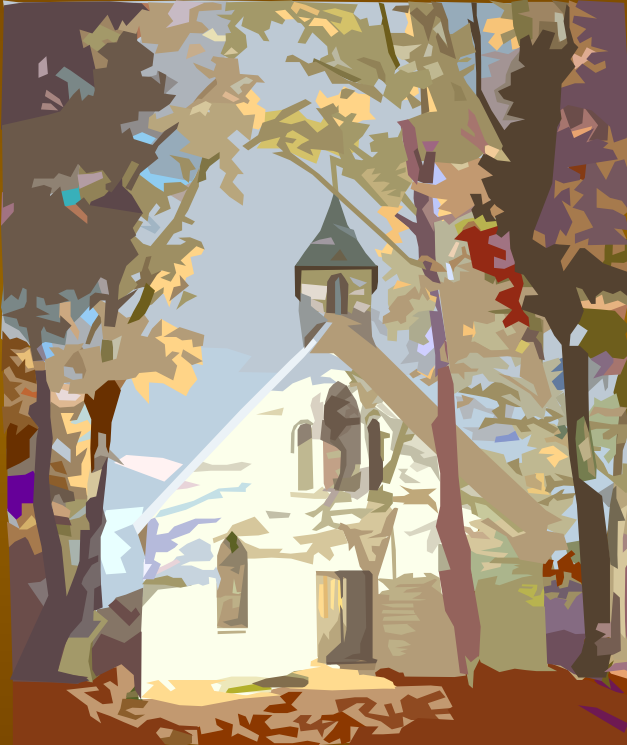
# Conflict of Law Continued

- Colorado allows possession of up to one ounce of marijuana in the city limits of Denver and other states have a zero tolerance
- Georgia has a lottery system (gambling) whereas other states do not





# Conflict of Law

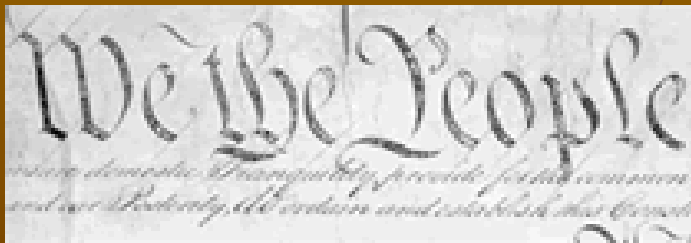


- In the American Colonies witchcraft was punishable by death under British Law.
- This was derived from the old church persecutions of people who practiced beliefs other than Christianity
- In Salem Mass 19 women and one man was hanged as witches in 1692

# Development of Written Laws



Dead Sea Scrolls

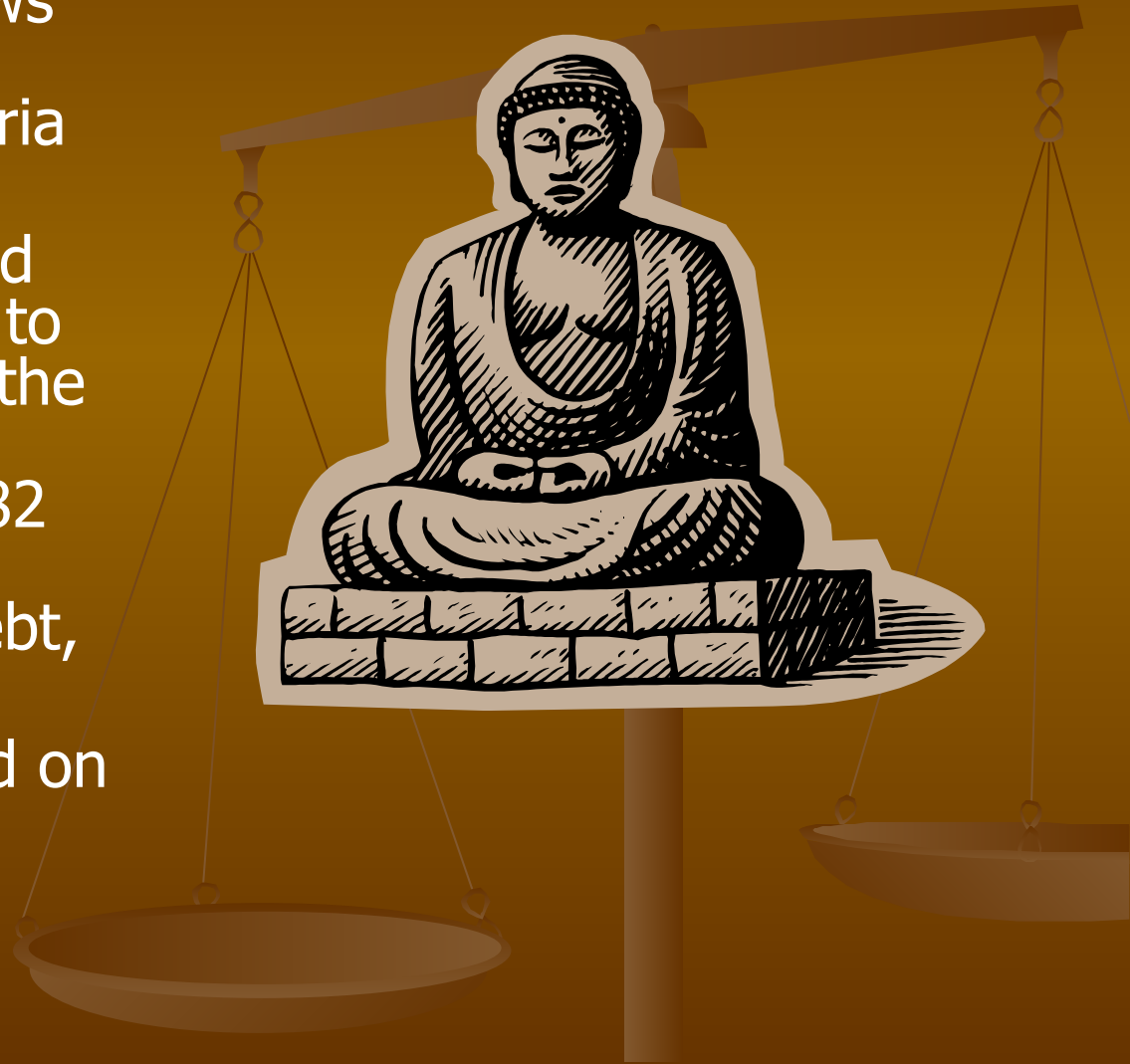


US Constitution

- Man has sought over the years to minimize turmoil and chaos in society by imposing rules in which to live.
- The timeframe has been from the kings and conquerors to the US Constitution

# Origination of Ancient Laws

- 1st known written laws were found on clay tablets in Ur in Sumeria 5000 years ago
- King Hammurabi ruled Babylonia from 1792 to 1750 and developed the code of Hammurabi which consisted of 282 laws that dealt with marriage, divorce, debt, wages and slavery.
- The laws were carved on an 8 foot monument



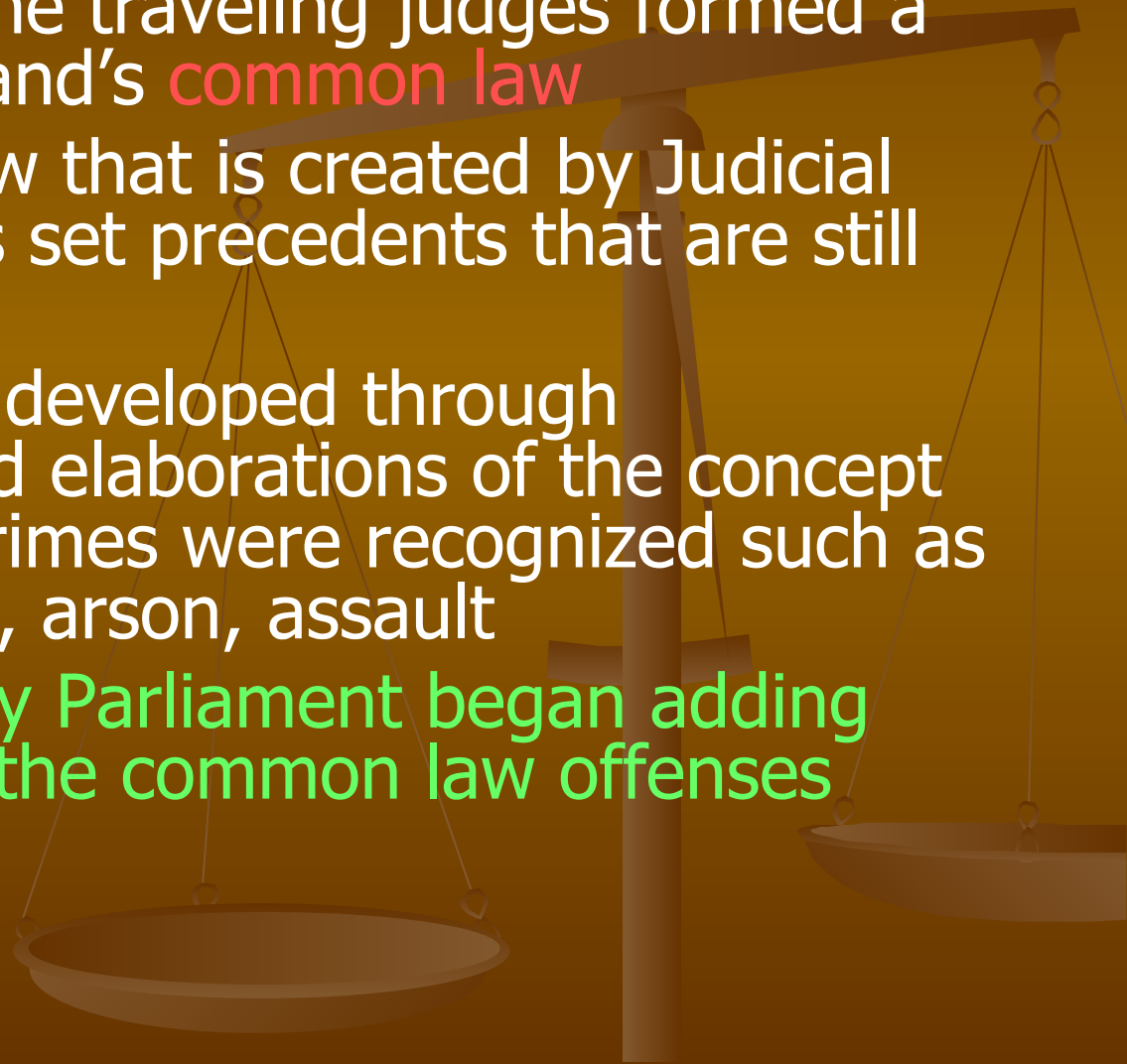
# Emergence of English and American Common Law

- Every Ancient Nation developed formal legal codes
- The American legal system derives primarily from that of England
- Before the Norman conquest the church in England played a major role in administering the law
  - William the Conqueror established a court with judges who traveled throughout the kingdom once every 7 years to hear cases as representatives of the King



# Common Law

- The decisions of the traveling judges formed a large part of England's **common law**
- **Common law** is law that is created by Judicial Opinion which has set precedents that are still followed today.
- **Common law** was developed through interpretations and elaborations of the concept of violence until crimes were recognized such as homicide, robbery, arson, assault
- In the 16<sup>th</sup> Century Parliament began adding specific crimes to the common law offenses



# Emergence of Modern Criminal Law

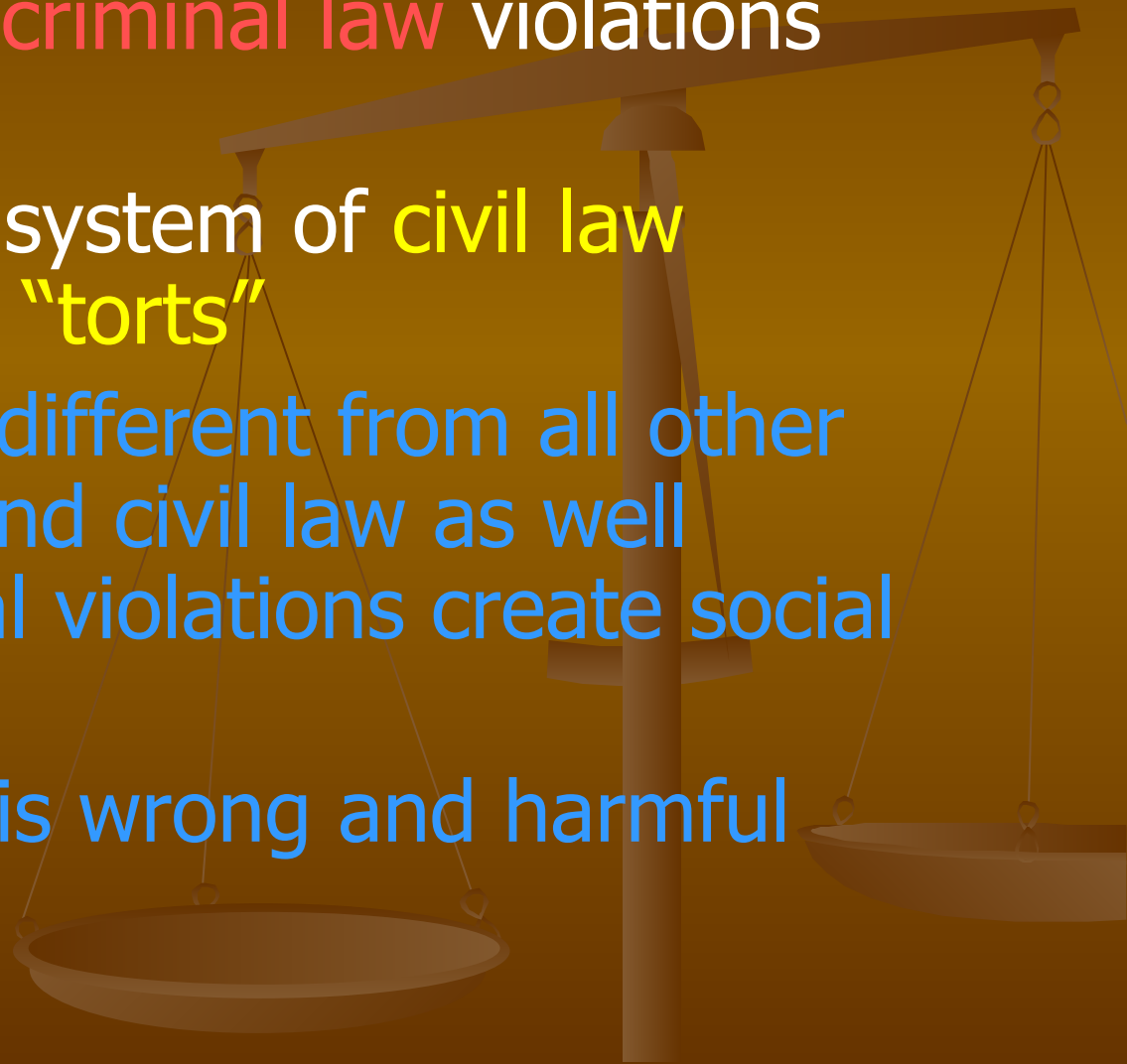


- Upon establishment of the 13 original colonies they adopted England's common law
- As the country developed the laws of the U.S. developed separately from England
- Eventually statutory law replaced common law as it was developed by the legislatures of the state and federal governments



# Criminal Law Verses Civil Law

- Today we have criminal law violations called "crimes"
- We also have a system of civil law violations called "torts"
- Criminal Law is different from all other types of laws, and civil law as well because criminal violations create social harm
- Example- Rape is wrong and harmful



# Civil Law

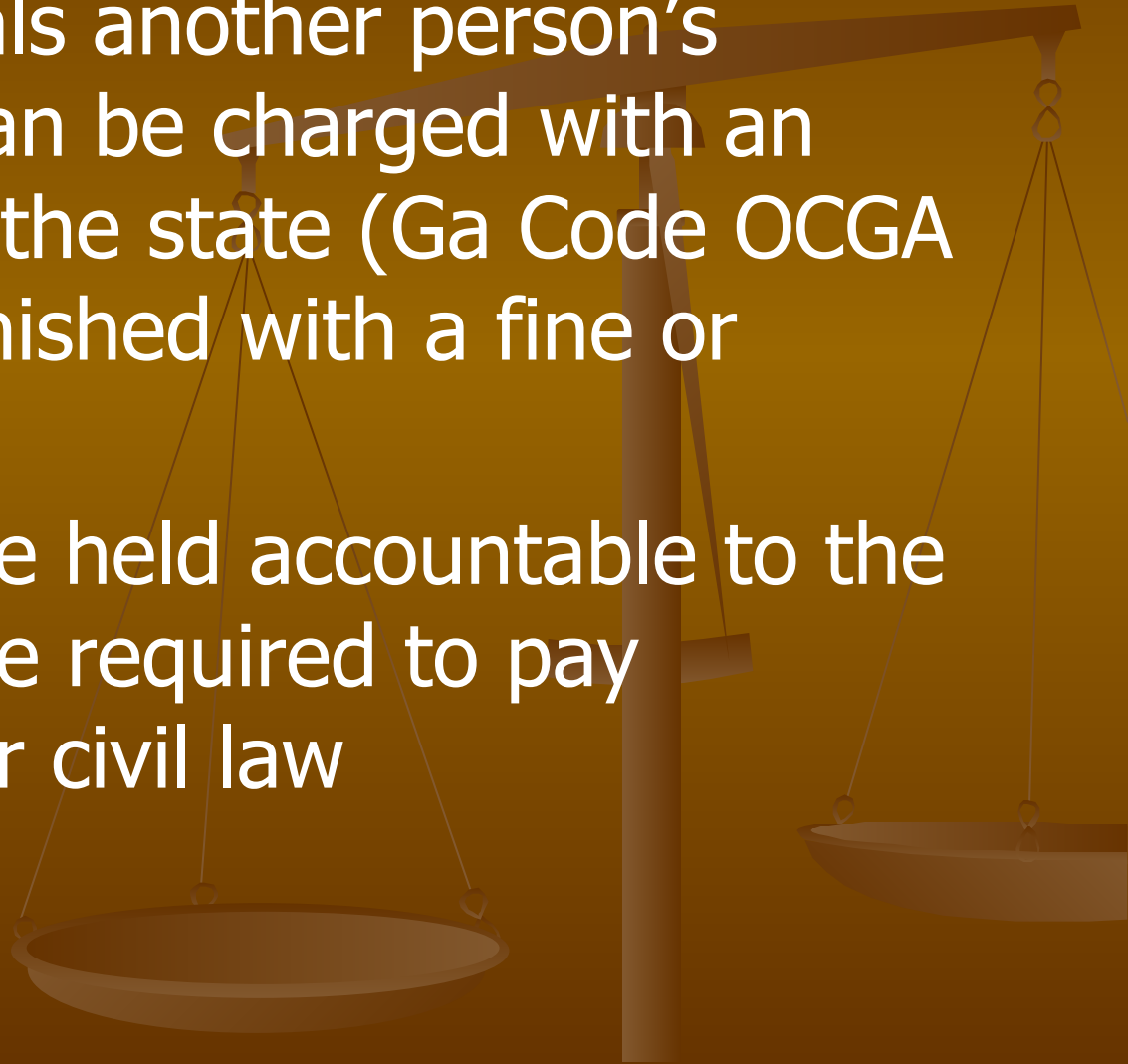
- **Civil law** deals with matters that are considered to be private concerns between individuals
- Deals with personal injury, contracts, property and administrative law
- A civil violation is a **"tort"**





# Acts that Meet Criminal and Civil Definitions

- If someone steals another person's property they can be charged with an offense against the state (Ga Code OCGA 16-8-2) and punished with a fine or imprisonment
- They can also be held accountable to the individual and be required to pay restitution under civil law



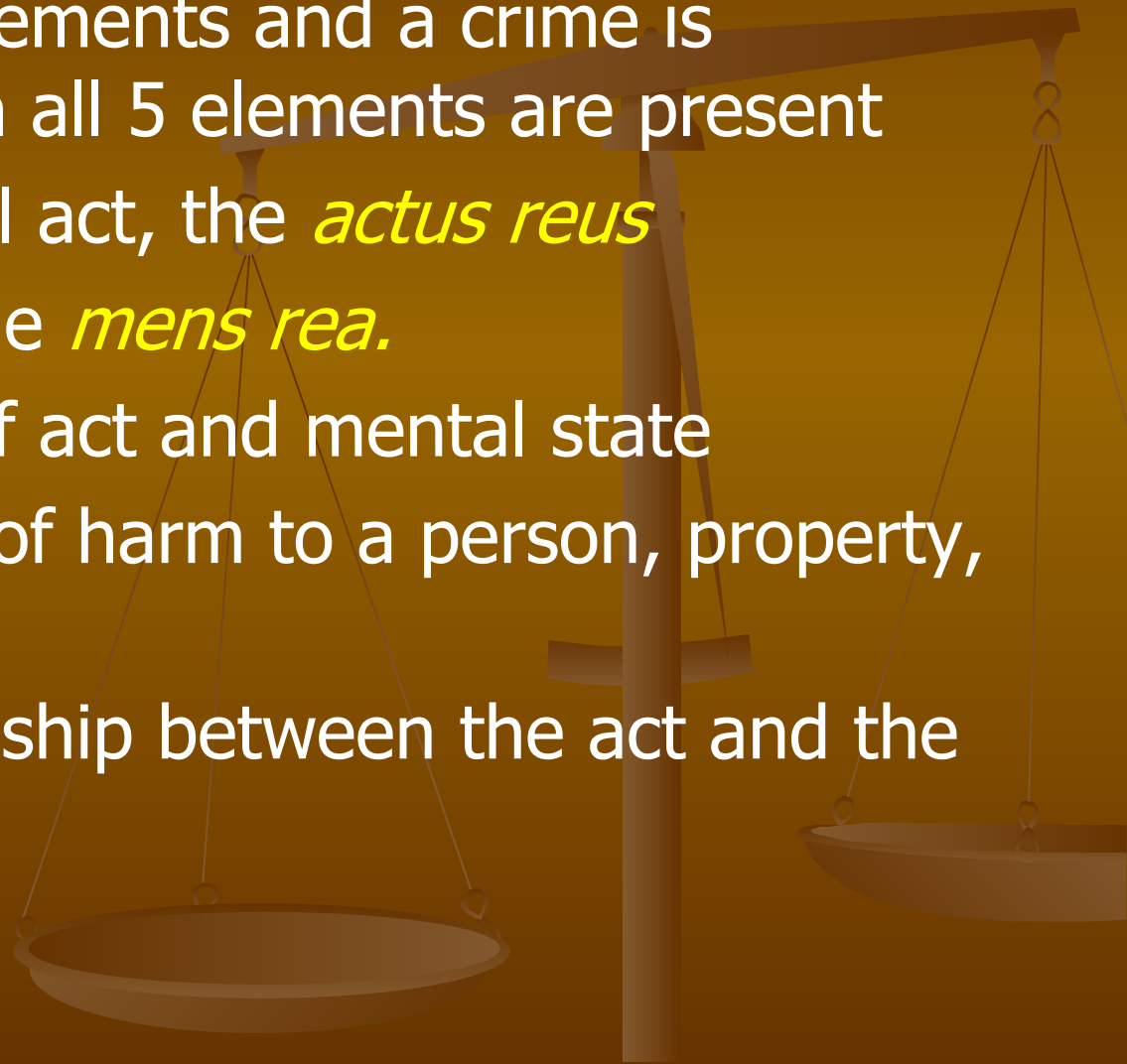
# Purpose of Criminal Law



- The purpose of **criminal law** is to prevent and control crime
- We do this by punishing individuals who violate criminal law
- How do we decide what to criminalize and what to decriminalize?
  - By what the majority thinks of as crime
  - Ex Rape, Robbery, murder, assault, burglary, and theft

# Elements of a Crime

- A crime has 5 Elements and a crime is committed when all 5 elements are present
  1. A willed unlawful act, the *actus reus*
  2. A guilty mind, the *mens rea*.
  3. A concurrence of act and mental state
  4. The occurrence of harm to a person, property, or society
  5. A causal relationship between the act and the harm



# Statutory Criminal Law

- All 50 states and the federal government have their own separate set of **criminal statutes**
- No state is bound by the criminal laws of another state
- Federal Criminal Law has expanded to situations where Federal Jurisdiction Extends. Ex Michael Vick



# Overlapping Jurisdictions

- Michael Vick plead guilty to dog fighting charges in Virginia after a Federal Indictment was handed down
- The State of Virginia is now pursuing the matter as well
- He transported dogs across state lines for the purpose of fighting them

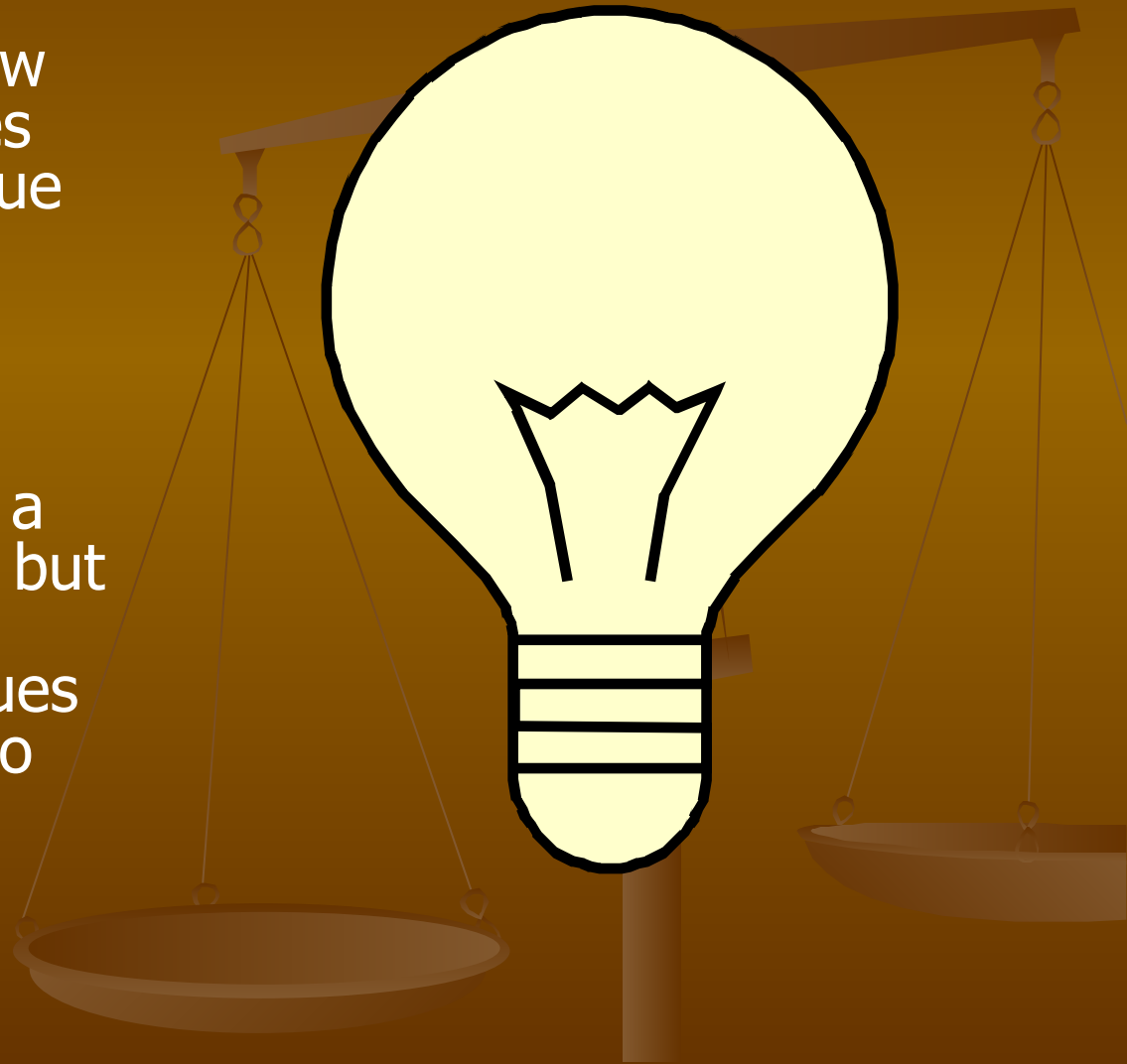


# The Principle of Legality

- **Legality** is the principle that no one can be punished for an act that was not defined as criminal before the person did the act
  - *This means there is no crime if there is no law and no punishment if there is no crime*
    - *We want criminal statutes to be understandable and reasonable to law-abiding people*
    - *Statutes should be drawn so as not to leave basic policy matters up to policemen, judges, and juries*
    - *Vague statutes should be biased in favor of the defendant*

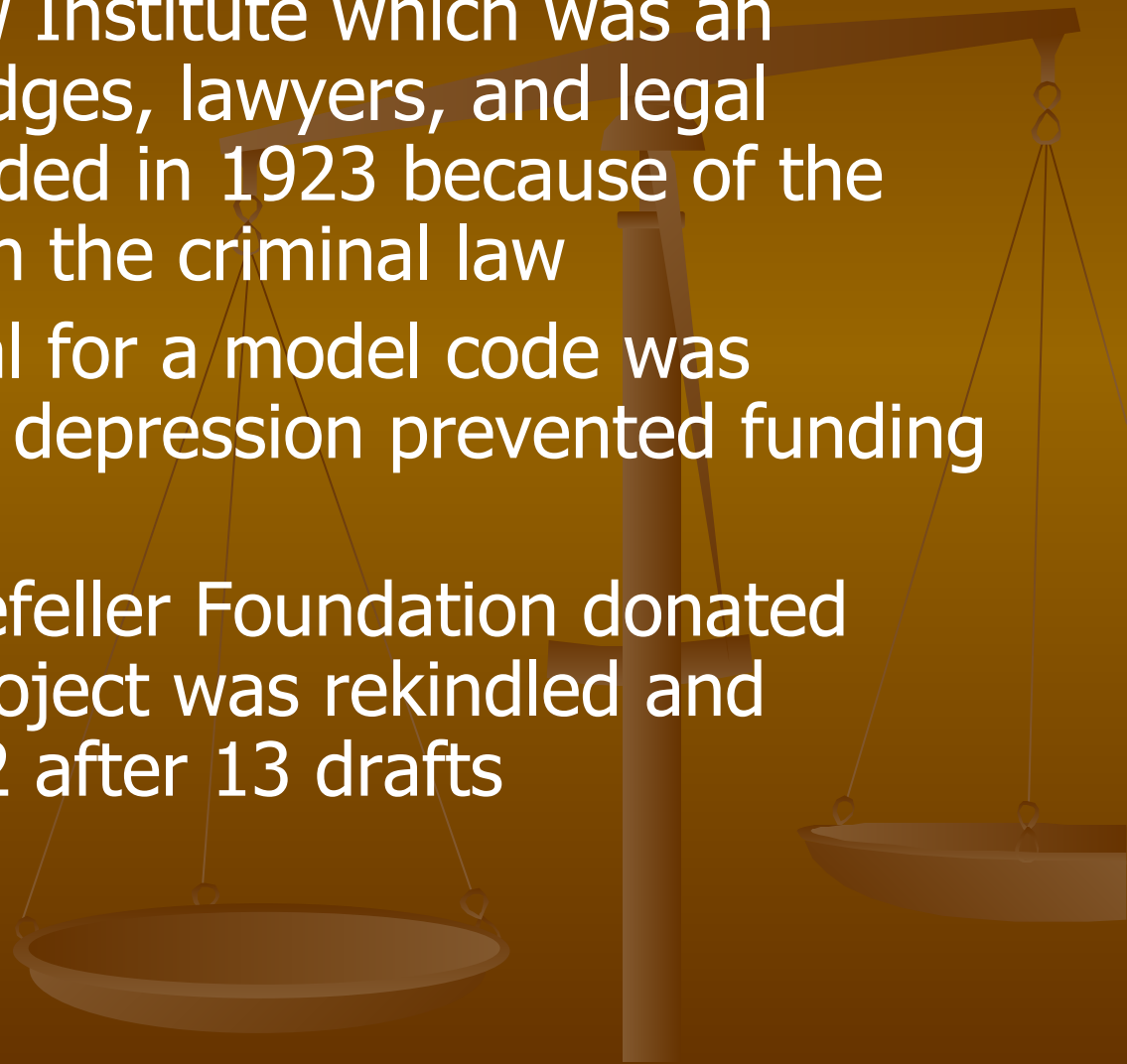
# Daytime VS Nighttime Burglary

- Most states have abolished common law crimes but the statutes themselves have vague or general language which leaves it to interpretation by the courts
- Nighttime burglary is a more serious offense but "nighttime" was not defined in many statutes requiring the courts to decide



# Development of the Model Penal Code

- The American Law Institute which was an organization of judges, lawyers, and legal scholars was founded in 1923 because of the dissatisfaction with the criminal law
- In 1931 a proposal for a model code was presented but the depression prevented funding of the project
- In 1950 the Rockefeller Foundation donated money and the project was rekindled and completed in 1962 after 13 drafts





# Model Penal Code

- The MPC is a comprehensive recodification of the principles of responsibility

The drafters relied on existing sources of criminal law, codes, judicial opinion, and scholarly input

A majority of the states have revised their criminal codes as a result of the MPC



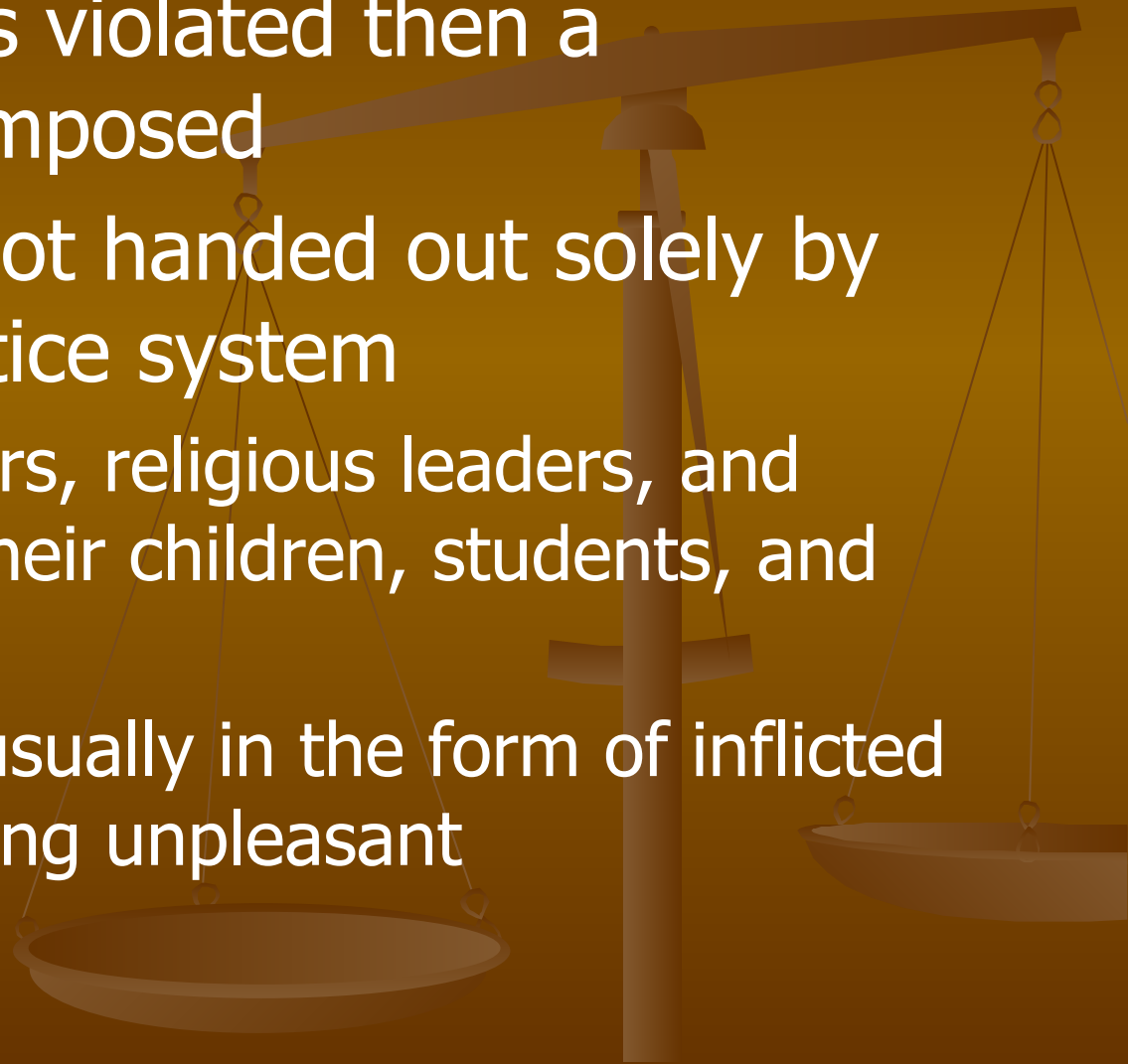
# Growth of Federal Criminal Law

- Prior to the civil war there was very little Federal Criminal Law
- Punishment was left mostly to the states
- Since the Civil War Congress has enacted laws from civil rights, use of the mail, commerce, narcotics, extortion, interstate travel for illegal activities, and organized crime



# Punishment in the System

- If criminal law is violated then a punishment is imposed
- **Punishment** is not handed out solely by the criminal justice system
  - Parents, teachers, religious leaders, and others punish their children, students, and parishioners
  - **Punishment** is usually in the form of inflicted pain or something unpleasant



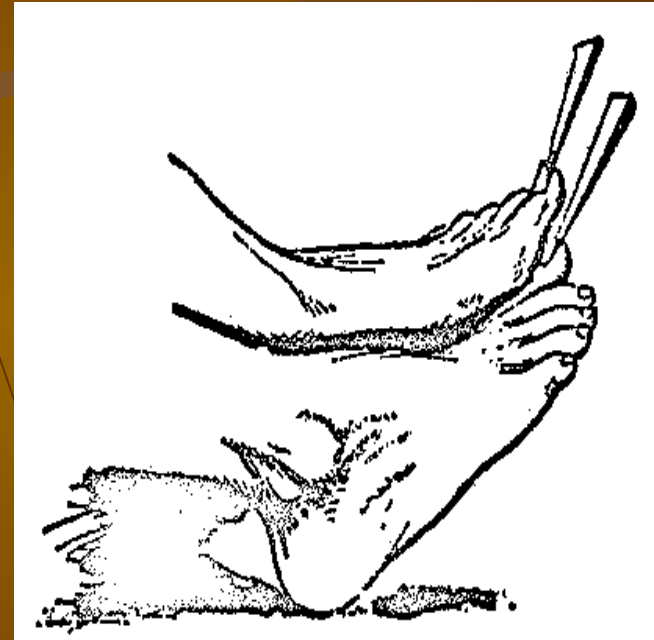
# Punishment in the System

- Criminal law depends on the threat of punishment to define it. Example
- Misdemeanors- Up to 1 yr confinement
- Felonies-Not less than one nor more than 5 years confinement
- Premeditated Murder- Penalty is death



# Retributive Theory

- The retributive theory is that a wrongdoer deserves punishment and is expressed in the term “Just Desserts”



Wooden wedges driven between the toes in ancient times

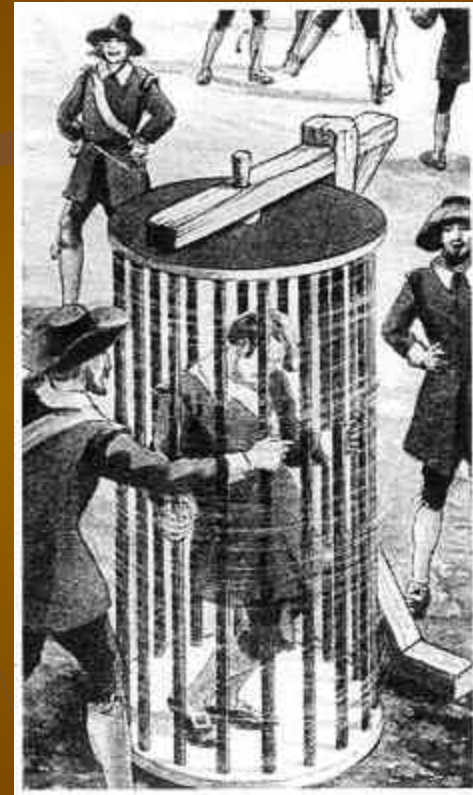
# General Deterrence

- **General Deterrence** is the effect that the punishment of the offender will have in causing other people in the community to refrain from committing the same crime



# Individual Deterrence

- **Individual Deterrence** is the effect that the imposition of punishment upon the wrongdoer will have in causing him her to refrain from repeating the act.
- To effect this the punishment must be severe enough to outweigh the benefits gained from committing the crime



The whiriligig was spun until you threw up



# Incapacitation

- Incapacitation is the removal or restriction of freedom of those who have violated criminal laws.
- The primary means is imprisonment
- We now have 3 strike laws for those convicted of serious crimes three times





# Reform

- **Reform** consists of rehabilitative therapy and education
- In recent years this type of treatment has fallen out of favor with society



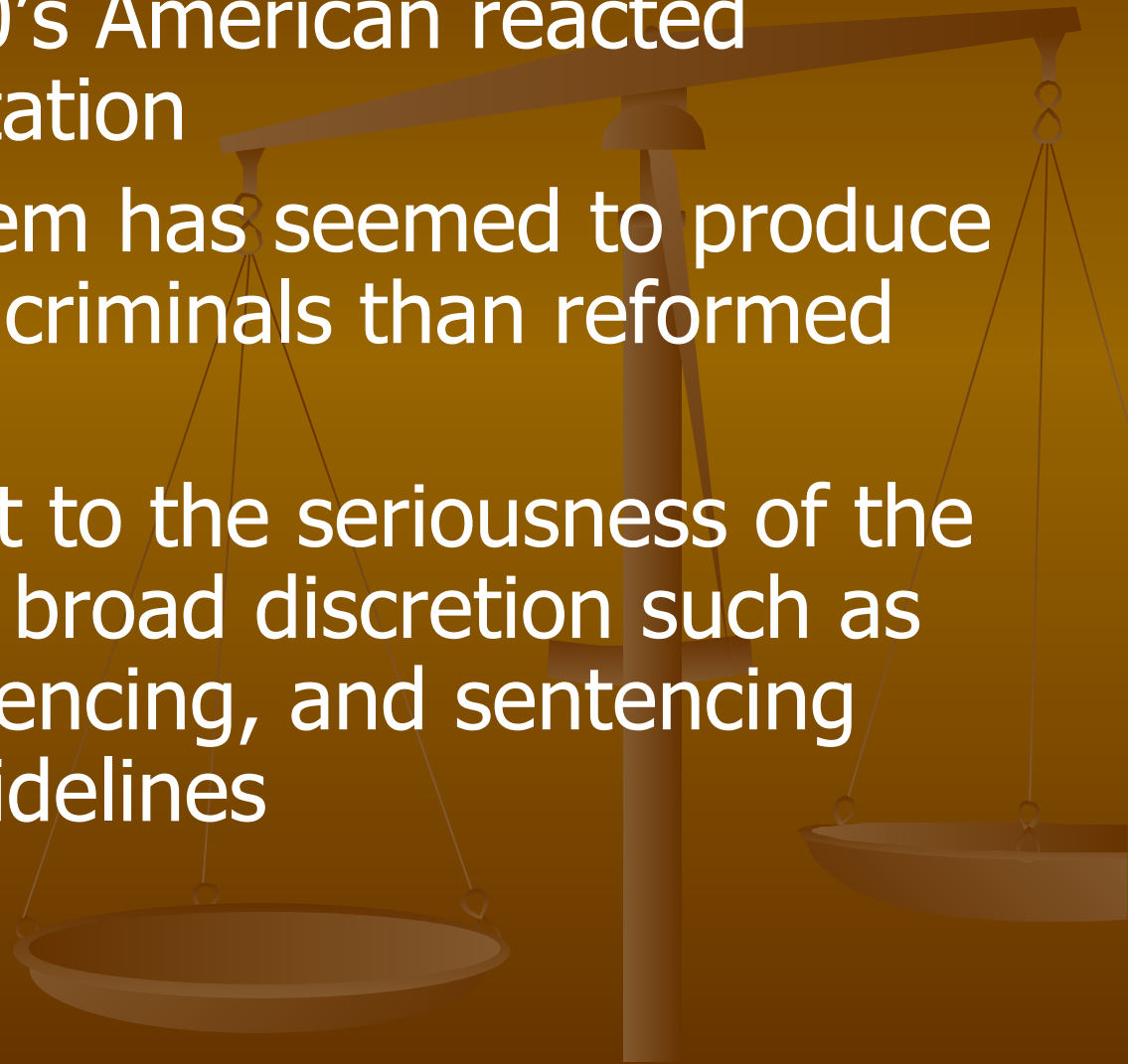
# Vengeance

- **Vengeance** is the imposition of the punishment in the context of an “eye for an eye”
- **Vengeance** satisfies the victim, their families and friends.
- It makes punishment a worthwhile cause



# Closing

- During the 1970's American reacted against rehabilitation
- The prison system has seemed to produce more hardened criminals than reformed ones
- Penalties are set to the seriousness of the offense without broad discretion such as mandatory sentencing, and sentencing according to guidelines



The End

■ The End

The End

