

THE TERMINOLOGY OF OFFENCES IN ENGLISH LAW: HOMICIDE

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Abstract

Criminal law is a branch of law which provides the definition of crimes and establishes penalties for convicted offenders. Out of the vast criminal law terminology, which includes the terminology of offences, we have selected the term homicide in order to analyse it from a linguistic (etymological, lexico-semantic, functional) and legal perspective.

The modern tendency is to refer to crimes as offences. We will start our analysis from a classification of offences in English law because the legal content of these offences and the relations they have within a taxonomical organisation enable us to establish, linguistically, relations of hyponymy, synonymy, polysemy, etc.

The hyperonym of all wrongs under criminal law is the term offence (or crime) and all crimes share the element of injury to the public, harm to society as a whole.

In English law there is no offence called homicide, but this umbrella term refers to the killing of a human being. The law identifies certain unlawful or unjustifiable or inexcusable homicides such as murder, manslaughter, infanticide, whereas lawful homicide, also termed justifiable homicide, implies the causing of death in the attempt to prevent a crime, arrest an offender, in self-defence, etc.

Keywords: *criminal law, English law, offences, terminology, homicide*

Résumé

Le droit pénal est une branche du droit qui donne la définition des infractions et établit les peines pour les contrevenants condamnés. La terminologie du droit pénal est vaste, elle comprend la terminologie des infractions, dont nous avons retenu le terme d'homicide afin de l'analyser de point de vue linguistique (étymologique, lexico-sémantique, fonctionnel) et juridique.

Dans notre analyse, nous partirons d'une classification des infractions en droit anglais car le contenu juridique de ces infractions et leurs relations au sein d'une organisation taxonomique permettent d'établir, de point de vue linguistique, des relations d'hyponymie, de synonymie, de polysémie, etc.

L'hyperonyme de tous les infractions en droit pénal est le terme 'offence' (ou 'crime') et tous les infractions partagent l'élément de préjudice au public, de préjudice à la société dans son ensemble.

En droit anglais, il n'y a pas d'infraction appelée homicide, mais ce terme générique fait référence au meurtre d'un être humain. La loi identifie certains homicides illégaux ou injustifiables ou inexcusables tels que le meurtre, l'homicide involontaire coupable, l'infanticide, tandis que l'homicide légal, également appelé homicide justifiable, implique le fait de causer la mort dans le but d'empêcher un crime, d'arrêter un délinquant, de se défendre, etc.

Mots-clés: *droit pénal, droit anglais, infractions, terminologie, homicide*

1. Introduction

In early societies, justice much relied on vengeance and feuds between families were often ended by the payment of money, seen as a retributive and compensatory means which could restore the lost balance. Because of the danger that private vengeance could become excessive, the need for law grew stronger. The rules of compensation worked quite well and one can say that there was a law of wrongs, but there was not a well defined distinction between crimes and torts¹.

The history of crime can be approached from various perspectives, socially, legally, linguistically, etc. If social historians, for instance, have been concerned with the history of crime, which is understandable, as the records of criminal justice highly reflect aspects of everyday life, legal historians' inquiries have not been equally rewarding, as "the same records are more than usually wanting in jurisprudential content"².

In this article, we will discuss the criminal law term *homicide* from a linguistic (etymological, lexico-semantic, functional) and legal perspective, starting with an umbrella term, the hyperonym *offence* (with its synonym *crime*), and continuing, in future articles, with other offences (*murder, manslaughter*, etc), the article opening the way to the analysis of offences against the person and against property.

The study cannot be complete without presenting the dichotomies crime v. tort and criminal law v. civil law, without understanding the role of the classification of crimes in establishing linguistic relations between the terms.

¹ J. H. Baker, *An Introduction to English Legal History*, fourth edition, Oxford University Press, 2007, p. 501.

² *Ibidem*, p. 500.

2. Crime and criminal law as opposed to tort and civil law

The distinction between criminal law and civil law has not always been clear. A crime is wrongful act and a tort is a wrong, too.

At present, it goes without saying that civil law and criminal law are two distinct, well delimited branches of law of great importance in the life and development of any civilized society. If civil law provides remedy to a person who feels wronged by another person, criminal law punishes the commission of offences and protects public order by discouraging potential offenders.

The language of criminal justice was long related to and partly overlapped that of tort and “as late as 1505 a chief justice could speak of a tortfeasor being ‘punished’ for his ‘misdemeanour’ in an action for damages”³.

3. Classification of crimes/offences

The modern tendency is to refer to crimes as offences. A classification of offences in English law is useful to our approach because the legal content of the offences and the relations they have within a taxonomical organisation enable us to establish, from a linguistic perspective, relations of hyponymy, synonymy, polysemy, etc.

The hyperonym of all wrongs under criminal law is the term *offence* or *crime* and all crimes have in common the element of danger to society as a whole, they denote wrongful acts which are injurious to the public, and therefore are punishable by the state in criminal proceedings.

The origin of the term *crime* lies in the mid-13th century. It meant “sinfulness, infraction of the laws of God”, and, like most legal terms, came from French, the language of the law courts up to 1362, when the *Statute of Pleading* was enacted, making English the language of all legal proceedings. Therefore *crime* comes from Old French *crimne* “crime, mortal sin” (12c., Modern French *crime*), from Latin *crimen* (genitive *criminis* “charge, accusation; crime, fault”, most likely from *cernere* “to decide, to sift” (from PIE root *krei- “to sieve”, impliedly “discriminate, distinguish”)⁴.

The legal meaning was attested in the 14th century, referring to an act or failure to act punishable by law in the name of the state.

³ *Ibidem*, p. 501. Nowadays, under criminal law, a criminal or offender is ‘punished’ for an offence and an action for damages involves separate civil proceedings. The tortfeasor is the one who commits a civil wrong entailing tortious liability.

⁴ The etymologies of the terms discussed in this article are taken from the *Online Etymology Dictionary*, available at <https://www.etymonline.com/>.

The synonym of *crime*, i.e. *offence*, implies the same idea of harm or injury, of wrongdoing against God (14th century), from Old French *ofense*, denoting an insult (13th century), from Latin *offensa*.

There are three main types of offences in English law⁵: indictable, summary and either way offences.

Of the three terms (indictable, summary and either way), only ‘indictable’ belongs exclusively to the legal sphere, from the verb ‘indict’ which, since approx. 1300, has preserved the meaning “bring formal charges against (someone); accuse of a crime”⁶. The other two pertain to the common vocabulary and have a legal meaning only in a legal context, when associated with the term ‘offence’.

Indictable offences are serious crimes like murder, manslaughter, rape, which can be tried in the Crown Court. In contradistinction, summary offences are less serious and include, *inter alia*, driving offences and common assault triable in magistrates’ courts. As the name suggests, either way offences (e.g. theft, possession of drugs, ABH⁷) can be tried in either court.

Another classification includes offences against the person (such as murder, acts causing or tending to cause danger to life or bodily harm, assaults, bigamy etc.) and offences against property (such as theft, fraud, criminal damage, arson, forgery, etc.)⁸.

Offences may also be analysed in classes⁹: class A: homicide and related grave offences, class B: offences involving serious violence or damage, and serious drugs offences, class C: lesser offences involving violence or damage, and less serious drugs offences, class D: sexual offences, and offences against children, class E: burglary etc., class F (which has no generic name, but contains such offences as destruction of registers of births etc.), class G (such as counterfeiting notes and coins, etc.), class F, which will fall into Class G if the value is between £30,001 and £100,000 and will fall into class K if the value exceeds £100,000 (such as counterfeiting customs documents, fraudulent evasion of duty, etc.), class H: miscellaneous lesser offences, class I: offences against public justice and similar

⁵ We will confine this classification to UK law. US law, for instance, has two main categories of offences: felonies (serious offences) and misdemeanors (minor offences).

⁶ *Online Etymology Dictionary*, <https://www.etymonline.com/search?q=indict>, from Anglo-French *enditer* “accuse, indict, find chargeable with a criminal offense” (late 13c.)

⁷ ABH, i.e. assault occasioning actual bodily harm, is an offence against the person, in an aggravated form, in England and Wales, Northern Ireland.

⁸ P.W.D. Redmond, *General Principles of English Law* (Sixth edition), revised by I.N. Stevens and P. Shears, Longman, London, 1991, and *Legislation.gov.uk*, available at <https://www.legislation.gov.uk/>, accessed 02.09.2022.

⁹ https://www.cps.gov.uk/sites/default/files/documents/legal_guidance/annex-1b-table-of-offences-scheme-c-class-order.pdf, accessed 10.09.2022.

offences, class J: serious sexual offences, offences against children, class K: offences of dishonesty in class F where the value in is in excess of £100,000.

4. The term *homicide*

The term *homicide* originates from Old French *homicide*, from Latin *homicidium* “manslaughter”. In the early 13th century, it meant “the killing of another person”. In the late 14th century, it also came to designate the person killing another, from French (*homicide*), from Latin *homicida* “a murderer”.

Homicide is an umbrella term and “there is a surprising number and variety of homicide and homicide-related offences in English law”¹⁰. Under criminal law, the highest wrong is the culpable causing of another person’s death, although some consider treason or terrorism more serious offences. Convictions in these cases are proportional to the acts committed, therefore they restrict the liberty of offenders.

When people die, the causes of death are natural in many cases, but unfortunately there are deaths caused by accidents, by acts or omissions.

It is interesting that in English law there is no offence called homicide, but this term is defined as “the killing of one human being by another”¹¹. The law identifies certain unlawful or unjustifiable or inexcusable homicides and labels them as crimes. Unlawful homicide includes murder, manslaughter, and infanticide, whereas lawful homicide, also termed justifiable homicide, refers to the causing of death in the attempt to prevent a crime, arrest an offender, etc.

It has been argued that “death may occur by ‘*misadventure*’ even where some person is instrumental in causing it”¹². Under certain circumstances, an attacker may be lawfully killed in an act of self-defence, a constable or someone who assists him may lawfully kill a violent criminal when he tries to escape, and even playing a lawful game may lead to death by misadventure¹³.

UK Parliament has devised new offences, using the term *manslaughter* in such syntagms as *corporate manslaughter*, which occurs in case of failures of management in the field of health and safety when a duty of care is required¹⁴.

¹⁰ Andrew Ashworth & Jeremy Horder, *Principles of Criminal Law*, 7th edition, Oxford, Oxford University Press, 2013, p. 268.

¹¹ Jonathan Law (editor), *A Dictionary of Law* (tenth edition), Oxford University Press, Oxford, 2022, p. 346.

¹² Peter Shears & Graham Stephenson, *James’ Introduction to English Law*, Oxford University Press, 2006, p. 175.

¹³ *Ibidem*.

¹⁴ *About corporate manslaughter*, available at <https://www.hse.gov.uk/corpmanslaughter/about.htm>, accessed 10.09.2022.

The common element of murder and manslaughter is the fact that the “defendant’s act or omission caused the death of a human being”¹⁵.

According to the classification of offences by classes, homicide is a generic term designating class A: homicide and related grave offences. This class encompasses the following types of offences: murder, manslaughter, causing explosion likely to endanger life or property, attempt to cause explosion, making or keeping explosive etc., child destruction, infanticide, soliciting to murder.

Homicide is a specialized legal term, but is understood by the average speaker. The contexts in which it functions are legal, but it occurs quite often in news reports:

“A year after Rico Linklater was last seen alive, Manitoba RCMP are renewing calls for information in the missing person case turned *homicide* investigation”. (*RCMP continue to investigate homicide a year after Nelson House man’s disappearance*, <https://globalnews.ca/news/9217453/rcmp-investigation-nelson-house-missing-man-homicide/>, accessed 10.09. 2022.)

In Romanian, the term *homicide* (R. “omucidere”), covers, just as in English law, not a particular offence, but several crimes resulting in the killing of a person¹⁶ (R. “omor calificat, omor deosebit de grav, omor din culpa”, which translates into English “qualified murder, extremely serious murder, involuntary manslaughter”).

5. Conclusions

Criminal law terminology is vast and it has been aimed at, as an object of study, by both specialists in the field of law and linguists. It includes the terminology of offences, which are actions entailing criminal liability and the infliction of punishments. In turn, the terminology of offences is fulfilled by a multitude of specialized terms, with a precise meaning, in the form of simple or complex lexical units¹⁷.

In this article, we have analysed the one-word term *homicide*. It is of French origin, since, for centuries, French was the language of the law courts in England. Similarly to the Romanian term *omucidere*, it is not an offence as such, but a generic term relating to the act of killing a human being. However, it is not always unlawful to kill a person.

¹⁵ Andrew Ashworth & Jeremy Horder, *op.cit.*, p. 270.

¹⁶ *Dicționar juridic*, <https://e-juridic.manager.ro/dictionar-juridic/omucidere/3016.html>, accessed 10.09.2022.

¹⁷ Silvia Pitiriciu, “La terminologie du droit pénal: l’infraction (aspects lexicosémantiques)”, in *Studii și cercetări de onomastică și lexicologie*, vol. V, no. 1-2/2012, p. 190.

We have tried to present this term in the context of several classifications of crimes so that we can establish and understand various relations, especially of hyponymy, among offences.

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