

Inleiding tot het strafrecht en criminologie

Deel 1: Inleiding

Hoofdstuk 1: Afbakening van het onderwerp.

Het strafrecht omvat zowel het materieel (1) als het formeel (2) strafrecht.

1. Materieel strafrecht.

Is het geheel van rechtsregels waardoor bepaalde menselijke (geen rechtspersonen) gedragingen strafbaar worden gesteld en gesanctioneerd worden.

Het heeft algemene beginselen aan:

- Strafbaarheid van feit en dader
- Omtrent de straffoetmeting (welke straf en hoeveel)
- Omtrent de modaliteiten (op welke manier)

Verschil tussen straf en maatregel: Maatregel is altijd van onbepaalde duur, bijvoorbeeld een internering → het is onbepaald, stopt wanneer dat ze denken dat de persoon terug kan functioneren in de samenleving. Straf is van bepaalde duur, bijvoorbeeld 2 jaar naar de gevangenis. Maatregel veronderstelt dat je geen inzicht hebt in je daad, je weet niet wat je mis deed.

Hoofdstuk 2: De bronnen van het strafrecht.

1. De grondwet.

We hebben enerzijds fundamentele rechten en anderzijds bepalingen inzake de rechterlijke macht die belangrijk zijn voor het strafrecht.

1. Fundamentele rechten

- De oude grondrechten uit de grondwet van 1830 zijn opgesomd in titel II van de grondwet (bv. gelijkheidsbeginsel en het non-discriminatiebeginsel).
- De nieuwe grondrechten die in 1994 aan de lijst wordt toegevoegd.

2. Bepalingen inzake de rechterlijke macht die belangrijk zijn voor het strafrecht.

De rechterlijke macht wordt uitgeoefend door hoven en rechtbanken. De rechterlijke organisatie steunt op de grondwettelijke basis.

2. De wet.

2.1 Betekenis van het begrip wet.

De menselijke gedragingen en handelingen die niet toelaatbaar zijn worden door wetten (federaal niveau), decreten (gewesten) en ordonnances (Brussels hoofdstedelijk gewest) in het strafrecht opgenomen. Het is duidelijk dat het strafrecht evolueert, gewijzigd, aangepast en/of aangevuld wordt. In 1998 worden een reeks radiale hervormingen gedaan.

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