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Capital Punishment; Determinate Sentence; Eighth Amendment; Fourteenth Amendment; Juvenile Law; Sentencing

CRUELTY

The deliberate and malicious infliction of mental or physical pain upon persons or animals.

As applied to people, cruelty encompasses abusive, outrageous, and inhumane treatment that results in the wanton and unnecessary infliction of suffering upon the body or mind.

Legal cruelty involves conduct that warrants the granting of a divorce to the injured spouse. Phrases such as *cruel and inhuman treatment, cruel and abusive treatment*, or *cruel and barbarous treatment* are commonly employed in matrimonial law. The term comprehends mental and physical harm, but a single act of cruelty is usually insufficient for divorce; a pattern of cruel conduct must occur over a period of time. This ground of divorce is of diminished significance due to the enactment of no-fault legislation by most jurisdictions.

Cruelty to children, also known as child abuse, encompasses mental and physical battering and abuse, as defined by statutes in a majority of jurisdictions.

Cruelty to animals involves the infliction of physical pain or death upon an animal, when unnecessary for disciplinary, instructional, or humanitarian purposes, such as the release of the animal from incurable illness. A person commits a misdemeanor if he or she intentionally or recklessly neglects any animal in his or her custody, mistreats any animal, or kills or injures any animal without legal privilege or the consent of its owner.

CROSS REFERENCES

Animal Rights; Child Abuse; Divorce; Misdemeanor

CRYPTOCURRENCY

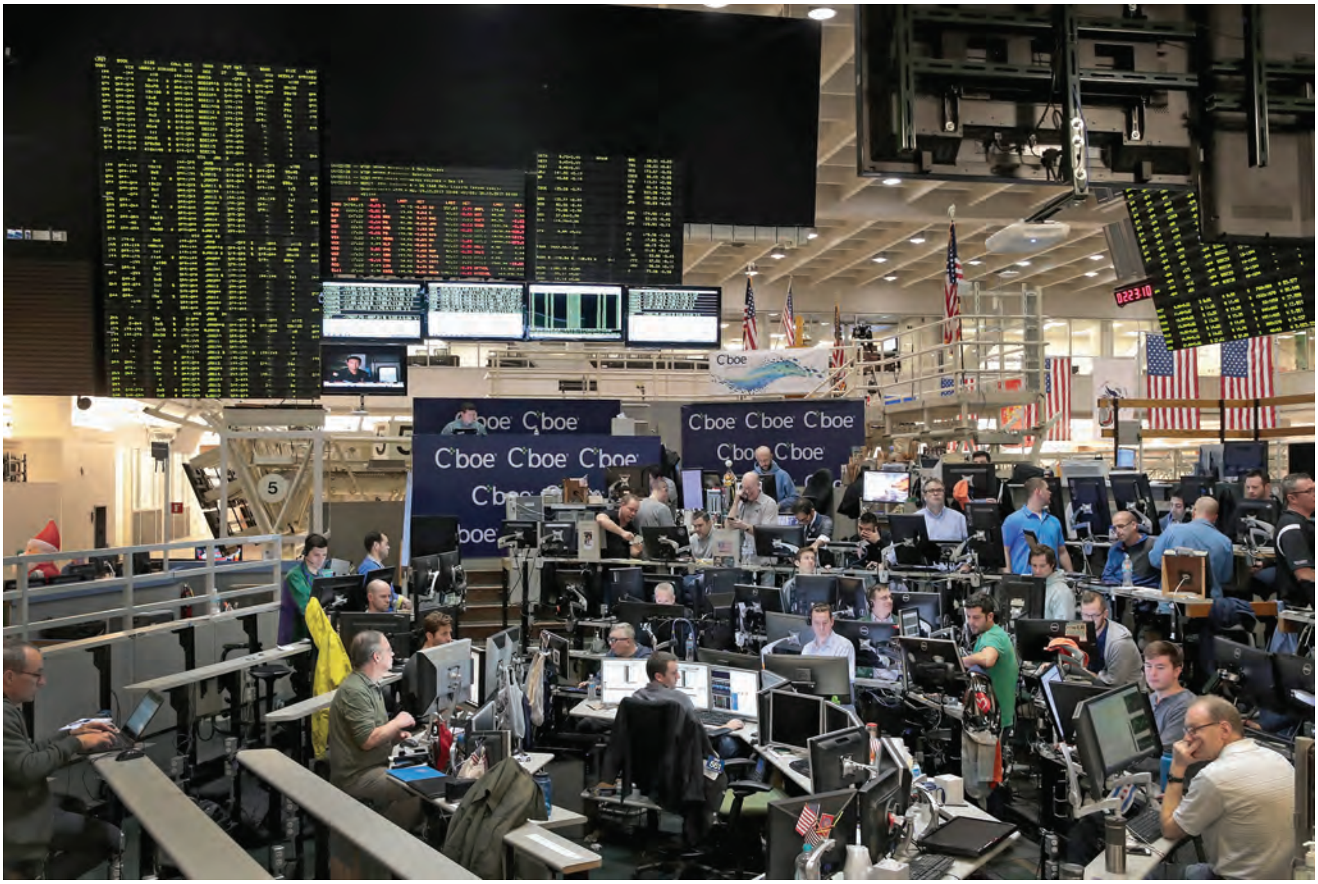
Cryptocurrency refers to a form of digital currency. This type of currency is not issued or regulated by a central authority. Instead, a decentralized system exists to record transactions and ensure that the currency is not counterfeited. Major cryptocurrencies rely on systems based on blockchain technology, which allows recording of transactions through ledgers distributed in a computer network.

In less than a decade, cryptocurrency evolved from an obscure peer-to-peer electronic cash system into a system of major assets sold on exchanges in an open market. During the 2010s, news about Bitcoin and other cryptocurrencies appeared regularly on mainstream news sources. As Jay Clayton, chairman of the Securities and Exchange Commission, said, "The world's social media platforms and financial markets are abuzz about cryptocurrencies and 'initial coin offerings' (ICOs). There are tales of fortunes made and dreamed to be made. We are hearing the familiar refrain, 'this time is different.'"

As an asset class, the value of cryptocurrencies has indeed grown. In April 2018, the total value of those currencies surpassed $300 billion, thanks largely to a sharp rise in trading of Bitcoin, which became the most prominent form of cryptocurrency. Well-known investment groups, such as Venrock Venture Capital, started viewing these currencies as a viable investment opportunity. However, the collective value of cryptocurrency dropped significantly in the latter half of 2018, and by January 2020, the total value was $156.7 billion.

The decline led to some commentators comparing the sudden rise in value of cryptocurrencies to the increase in value of the so-called "dot com" companies during the late 1990s. Although the value of those internet-based companies was based largely on speculation by investors, stock prices continued to increase during a period of about six years. During the height of this era, investors could make millions of dollars from an initial public offering (IPO), even if the internet company had never earned revenue. In 2001, however, the "bubble" burst, those stock values plummeted quickly, and many investors were left with nothing.

Naysayers have also warned that investors in cryptocurrencies could have experiences



Traders work at the Chicago Board Options Exchange (Cboe) in Chicago, Illinois. In December 2017, the Cboe became the first exchange in the United States to begin trading Bitcoin futures.

similar to those who invested in internet businesses during the late 1990s. Despite the major gains during the latter half of 2017, the market for cryptocurrencies has been volatile. For example, Bitcoin's price reached a peak of $17,900 on December 15, 2017. One week later, the price had dropped to $13,800, and the value continued to drop during the first quarter of 2018. The price increased sharply in April, but by June, *Forbes* had reported that Bitcoin's value had dropped 50 percent during 2018, largely due to concerns about security, a lower volume of trading, and the potential for regulation.

The trading of cryptocurrencies gave rise to numerous legal issues that were still being resolved in the early 2020s. Agencies in the United States have had to consider how to regulate these currencies, and several lawsuits have introduced a variety of legal theories that would support plaintiff recovery claims.

Cryptocurrency Defined

A cryptocurrency is decentralized, meaning that it does not require a central authority such as a bank. Ownership of this type of currency is proven through cryptography, which means that each unit of the currency has hidden code that reveals ownership. Records of ownership are provided in a blockchain, which is analogous to a ledger used for traditional accounting. A blockchain reveals various transactions, and these blockchains are ordinarily managed by peer-to-peer networks.

Since 2014, the Internal Revenue Service has treated cryptocurrency as a form of property rather than a form of currency for tax purposes. Accordingly, a gain in value from the sale of a cryptocurrency is taxed at capital gains rates as opposed to an ordinary income tax rate, the latter of which is usually higher.

Cryptocurrency is much more prevalent than some members of the general public may be aware. As of 2021, there were more than 4,000 different cryptocurrencies globally. The value of Bitcoin, which was developed in the late 2000s and became the first cryptocurrency in the early 2010s, represented more than 50 percent of the total market cap for these currencies.

Owners of start-up cryptocurrencies raise funds through ICOs, which are analogous to an IPO for a new publicly traded company. Investors trade traditional money or other cryptocurrencies for “coins” or “tokens,” which are analogous to stock shares issued during an IPO. Promoters of ICOs have not had to comply with regulations that apply in traditional public offerings, but commentators have warned that ICOs are likely to be regulated by U.S. agencies, including the U.S. Securities and Exchange Commission (SEC).

Many of the cryptocurrencies, including Bitcoin, are finite in volume, meaning that no new units will enter circulation. Thus, if demand for Bitcoin grows, the value will grow through operation of simple supply-demand economic principles, given that supply remains constant. The stability of the amount of the currency in circulation allows those currencies to avoid the type of inflation that affects traditional currencies.

On the other hand, cryptocurrencies are not backed by anything that has inherent value. U.S. currency, for example, is backed by the full faith and credit of the United States government, which issues the currency. With cryptocurrency, the value lies in the ability to trade it or use it in exchange for goods and services. It has become more common for individuals to “carry” cryptocurrencies in a manner similar to carrying traditional currency. Owners can carry the currency in virtual “wallets,” which may be available through apps on phones, flash drives, or other means.

Regulatory Issues

The trading of cryptocurrencies was largely unregulated throughout the 2010s, but regulators in the United States have taken notice of problems. Clayton’s letter in December 2017 outlined a few concerns that investors should consider when investing in these currencies:

- whether the product is subject to regulation, “including rules designed to protect investors”;
- whether the product complies with those regulations and rules;
- whether the product’s offering meets licensing standards;
- whether the trading market through which investors can buy cryptocurrency is fair or whether a market can be manipulated; and
- whether the currency presents “substantial risk of theft or loss, including from hacking.”

As of July 2018, no ICO had been registered with the SEC, nor had the SEC approved an exchange-traded product that holds cryptocurrencies or assets related to cryptocurrencies. By the late 2010s, the SEC had begun to take actions against companies that had conducted unregistered ICOs. Clayton warned that potential investors should be especially wary if someone promoting a cryptocurrency suggests that the currency has received SEC approval. Such a suggestion may provide evidence of fraud or deception.

The prospect of greater regulation has caused concerns for those involved in cryptocurrencies. Several commentators have said that the possibility of increased regulations of these currencies has had a chilling effect on ICOs and other aspects of trading, given that promoters are unsure whether they will need to comply with often complicated (and costly) rules and regulations. Others, however, have said that regulations can provide better clarity and can decrease volatility in the markets. For example, Diego Zuluaga, a policy analyst for the Cato Institute’s Center for Monetary and Financial Alternatives, wrote that regulations could distinguish between certain cryptocurrencies that should not be considered securities (such as Bitcoin) and others that may be securities, depending on the nature of the cryptocurrency.

One agency in December 2017 revised its rules to allow trading related to Bitcoin. The U.S. Commodity Futures Trading Commission (CFTC) announced that it would allow futures trading of the cryptocurrency. As a result of the decision, Bitcoin futures could be traded in the Chicago Mercantile Exchange. Within weeks, the value of Bitcoin jumped dramatically, but the value increase was short-lived.

Violations of Existing Regulations

In several cases, plaintiffs have alleged that existing rules that apply to trading of futures and securities should apply to the sale and exchange of cryptocurrencies. In one prominent case, the CFTC brought a lawsuit against the trader of a virtual currency, alleging that the trader engaged in fraudulent and deceptive practices. One issue before the U.S. District Court of the Eastern District of New York was whether the virtual currencies were “commodities” subject to CFTC regulations. Judge Jack B. Weinstein concluded that these currencies were indeed commodities.

Weinstein wrote, "Virtual currencies can be regulated by the CFTC as a commodity. Virtual currencies are 'goods' exchanged in a market for a uniform quality and value." He added, "They fall well-within the common definition of 'commodity' as well as the [Commodity Exchange Act's] definition of 'commodities' as 'all other goods and articles . . . in which contracts for future delivery are presently or in the future dealt in'" (quoting 7 U.S.C. § 1[a][9]). *Commodity Futures Trading Comm'n v. McDonnell*, 287 F. Supp. 3d 213 (E.D.N.Y. 2018).

Several other cases have focused on allegations that promoters of cryptocurrencies have violated federal or state securities laws. For instance, a plaintiff in California alleged that an ICO of a currency known as Tezos was actually an illegal sale of an unqualified security in violation of California securities law. The plaintiff had sought a temporary restraining order to prevent the promoters from "selling, transferring, converting, or otherwise disposing" of the proceedings from the ICO. However, U.S. District Judge Richard Seeborg ruled against the plaintiff, saying he did not prove that he had suffered irreparable harm. *MacDonald v. Dynamic Ledger Solutions, Inc.*, No. 17-CV-07095-RS, 2017 WL 6513439 (N.D. Cal. Dec. 20, 2017).

The basis of several cryptocurrency claims focused on allegations of fraud. In one class-action suit filed in the U.S. District Court for the District of Connecticut in 2016, plaintiffs alleged that those who sold products and investment contracts to thousands of ICO investors had engaged in fraud by promising profits from the currency. The plaintiffs asserted that the defendants had made several misrepresentations that misled investors. The defendants sought in 2017 to dismiss the case, arguing that the plaintiffs had failed to state a claim on which the court could grant relief, but U.S. District Judge Michael P. Shea denied the motion. Shea concluded that the plaintiffs had stated plausible claims based on both federal law and Connecticut state law. *Audet v. Fraser*, 3:16-CV-940, 2017 WL 4542386 (D. Conn. Oct. 11, 2017).

In another case filed in federal court in Florida, investors characterized the sale of Bitcoin as a part of a Ponzi scheme. The allegations have focused on a platform known as BitConnect, which was purportedly to be used to allow investors to deposit Bitcoins in exchange for a return on the investment. The plaintiffs have alleged that the founders of BitConnect did not make any real return on investment and instead paid existing investors with funds obtained by new investors, which would describe a classic Ponzi scheme. *Wildes v. BitConnect International*, PLC, No. 9:18-CV-80086 (S.D. Fla.) (filed Jan. 24, 2018).

Use of Cryptocurrency for Criminal Purposes

In at least one case, use of cryptocurrency has been the focus of a criminal case. A defendant named Gal Vallerius was charged based on his alleged role in international narcotics transactions. Prosecutors alleged (among other allegations) that Vallerius allowed those buying illicit narcotics to pay by using cryptocurrency. Investigators found evidence that Vallerius had received payment from those buying drugs through a "Bitcoin tip jar," which allowed users to deposit the cryptocurrency electronically. He sought to suppress evidence of the transactions found on his computer, but U.S. Magistrate Judge Edwin G. Torres denied the motion, concluding that the search did not violate Vallerius's Fourth or Fifth Amendment rights. *No. 17-CR-20648-SCOLA/TORRES*, 2018 WL 2325729 (S.D. Fla. May 1, 2018).

Other Legal Issues Affecting Cryptocurrencies

Cryptocurrencies have given rise to several legal problems in addition to those described above. For example, at least one lawsuit has focused on use of the word *Bitcoin*, which describes a particular virtual currency but has also become an almost ubiquitous term to refer to cryptocurrencies in general (much like *Kleenex* to describe tissues or *Xerox* to describe photocopiers). Additional litigation will also likely result from additional regulation, both from agencies themselves and from parties who claim economic damages based on losses sustained due to the purchase of these virtual currencies.

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CTA

An abbreviation for the term cum testamento annexo, *Latin for "with the will attached."*

CUBAN MISSILE CRISIS

The 1962 Cuban Missile Crisis was a dangerous moment in the Cold War between the United States and the Soviet Union. The actions taken by President John F. Kennedy's administration prevented the installation of Soviet nuclear missiles in Cuba, just 90 miles from Florida. The crisis also illustrated the limitations of international law, as the United States relied on military actions and threats to accomplish its goal.

The crisis grew out of political changes in Cuba. In the 1950s Fidel Castro, a young lawyer, led a guerrilla movement against Cuban dictator Fulgencio Batista. Batista lost the confidence of the Cuban people and on January 1, 1959, fled the country. Castro became premier of the new government.

At first, the United States supported the Castro government. This changed when Castro seized U.S.-owned sugar estates and cattle ranches in Cuba. The United States subsequently embargoed trade with Cuba, and the Central Intelligence Agency (CIA) began covert operations to topple Castro. In 1960 Castro openly embraced Communism and signed Cuba's first trade agreement with the Soviet Union.

Many Cubans had left the island of Cuba for the United States following the Castro revolution. Aided by the United States, a Cuban exile army was trained for an invasion. Although most of the planning took place in 1960, when President Dwight D. Eisenhower was finishing his second term, the final decision to invade came during the first months of the Kennedy administration. In April 1961 Cuban exiles invaded Cuba at the Bay of Pigs. The invasion was a debacle, in part because U.S. air support that had been promised was not provided. The exile army was captured.

Convinced that the United States would attempt another invasion, Castro asked Premier Nikita Khrushchev, of the Soviet Union, for nuclear missiles. Khrushchev agreed to what would be the first deployment of nuclear weapons outside the Soviet Union. President Kennedy at first did not believe the Soviets would follow through on their promise. On October 14, 1962, however, photographs taken by reconnaissance planes showed that missile sites were being built in Cuba. The president convened a small group of trusted advisers, called the Executive Committee of the National Security Council (Ex Com). Attorney General Robert F. Kennedy served on Ex Com and became the key adviser to President Kennedy during the crisis.

Military officials advocated bombing the missile sites or invading Cuba. Others argued for a nuclear strike on Cuba. These ideas were rejected in favor of a naval blockade of Cuba. All ships attempting to enter Cuba were to be stopped and searched for missiles and related military material. President Kennedy, believing that the Soviets were using the missiles to test

A reconnaissance photo shows the Soviet missile site at Mariel Naval Port in Cuba, during the Cuban Missile Crisis in 1962.

his will, resolved to make the crisis public. Bypassing private, diplomatic procedures, Kennedy went on national television on October 22 and informed the United States of the missile sites, the naval blockade, and his resolve to take any action necessary to prevent the missile deployment.

Tension built during the last days of October as the world awaited the approach of Soviet missile-bearing ships at the blockade line. If Soviet ships refused to turn back, it was likely that U.S. ships would either stop them or sink them. If that happened, nuclear war seemed probable.

During the crisis, the United Nations was not used as a vehicle for negotiation or mediation. The United States and the Soviet Union ignored an appeal by Secretary General U Thant, of the United Nations, that they reduce tensions for a few weeks. Instead, the Security Council of the United Nations became a stage for both sides to trade accusations. Ambassador Adlai Stevenson, from the United States, presented photographs of the missile sites to back up U.S. claims.

On October 24 the crisis began to ease, as 12 Soviet ships on their way to Cuba were, on orders from Moscow, diverted or halted. However, construction on the missile sites continued. On October 26, Premier Khrushchev sent a long, emotional letter to President Kennedy, claiming that the missiles were defensive. He implied that a pledge by the United States not to invade Cuba would allow him to remove the missiles. President Kennedy replied, accepting the proposal to exchange withdrawal of the missiles for the promise not to invade. He also stated that if the Soviet Union did not answer his reply in two or three days, Cuba would be bombed. On October 28 the Soviets announced on Radio Moscow that the missile sites were being dismantled.

Some historians maintain that President Kennedy acted heroically to meet a threat to the security of the United States. Others claim that the missiles at issue were of limited range and were purely defensive, and that Kennedy was reckless in brandishing the threat of nuclear war. Most agree that the crisis was probably the closest the Soviet Union and the United States ever got to nuclear war.

The significance of the crisis to international law and the management of international crises has led to many books, articles, and scholarly conferences. In October 2002 a conference hosted by Fidel Castro was held in Havana. It was a rare event because participants from the United States, Soviet, and Cuban governments attended the gathering, sharing their impressions of what had happened during the crisis. Participants included former U.S. defense secretary Robert McNamara, Kennedy presidential aides Arthur Schlesinger, Ted Sorensen, and Richard Goodwin, as well as Ethel Kennedy, the widow of Robert Kennedy.

The Cuban government declassified documents relating to the crisis and Castro took center stage, arguing that Khrushchev had inflamed the situation by lying to Kennedy that there were no nuclear weapons in Cuba. McNamara confirmed that most of Kennedy's advisers, both military and civilian, had recommended he attack Cuba. The conference ended with a trip to a former missile silo on the western side of Cuba.

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CROSS REFERENCES

Embargo

CULPA

[Latin, Fault, blame, or neglect.] *A civil law term that implies that certain conduct is actionable.*

The word *culpa* is applied to acts of commission and omission in both tort and contract cases. It implies failure to perform a legally imposed duty, or negligence.

Lata culpa means gross or wanton fault, or neglect. *Levis culpa* is common or ordinary negligence, or the absence of reasonable care. *Levissima culpa* is slight neglect or fault.

CROSS REFERENCES

Negligence

CULPABLE

Blameworthy; involving the commission of a fault or the breach of a duty imposed by law.

Culpability generally implies that an act that has been performed is wrong but does not involve any evil intent by the perpetrator. The connotation of the term is fault rather than malice or a guilty purpose. It has limited significance in criminal law except in cases of reckless homicide in which a person acts negligently or demonstrates a reckless disregard for life, which results in another person's death. In general, however, culpability has milder connotations. It is used to mean reprehensible rather than wantonly or grossly negligent behavior. Culpable conduct may be wrong, but it is not necessarily criminal.

Culpable ignorance is the lack of knowledge or understanding that results from the omission of ordinary care to acquire such knowledge or understanding.

CROSS REFERENCES

Criminal Law; Homicide

CULPRIT

An individual who has been formally charged with a criminal offense but who has not yet been tried and convicted.

Culprit is a colloquial, rather than a legal term, and is commonly applied to someone who is guilty of a minor degree of moral reprehensibility. According to Sir William Blackstone, the term is most likely a derivative of the archaic mode of arraignment during which upon a prisoner's plea of not guilty the cleric would say *culpabilis prit*, meaning "he is guilty and the crown is ready." The more common derivation is from *culpa*, meaning "fault or blame."

CROSS REFERENCES

Arraignment; Blackstone, Sir William; Plea

CUM TESTAMENTO ANNEXO

[Latin, With the will annexed.] *A phrase that describes an administrator named by a probate or surrogate court to settle and distribute an estate according to the terms of a will in which the testator, its maker, has failed to name an executor, or in which the one named refuses to act or is legally incapable of doing so.*

The term is often applied to the administration conducted by such a person.

CUMMINGS, HOMER STILLE

Homer Stille Cummings was the 55th attorney general of the United States, serving from 1933 to 1939 in the administration of President Franklin D. Roosevelt. Cummings was a Democratic Party leader and an advocate for reform of prisons in the United States. He was instrumental in establishing the Alcatraz Island Prison, which was envisioned as a model for housing maximum security-level inmates in the federal prison system.

Cummings was born in Chicago, Illinois, on April 30, 1870. He attended Yale University where he received his undergraduate degree in 1891 and two years later, his law degree. Cummings was admitted to the Connecticut bar in 1893 and began a private practice in Stamford. He rose in prominence as a litigator, becoming a member of the New York bar. He also was admitted to practice before a number of federal district courts and the U.S. Supreme Court.

Cummings became involved with the Democratic Party and was elected mayor of Stamford for three terms. He also served, from 1908 to 1912, as the city's corporation counsel. In 1902 Cummings ran for a seat as congressman at large

GALE, A CENGAGE COMPANY.

Homer Stille Cummings 1870–1956