- Principals of individual and criminal liability
  - Natures of criminal offences
    - Men's rea
      - Fault element
    - Actus reus
      - Physical element
- Corporations
  - Vicarious liability
  - Direct liability
    - Directing mind and will
    - Criminal code regime
    - Corporations act regime
- Crime
  - What is a crime
    - Offence against the state
    - Breach of the crimes act
    - Element of moral wrongness
    - The state has decided as sufficiently harmful to warrant the punishment through the process of courts
- Purpose of crimes and punishment
  - Deterrence
  - Retribution
  - Rehabilitation
  - Prevention
  - More generally
    - Punish the offender
    - Protect the community
    - Protect the offender
- Relevance of theory for punishment to corporate crime
  - Deterrence, 100%
  - Retribution, often very important
  - Rehabilitate, less important
  - Prevention, very important
- Principals in crime
  - He Kaw Teh v R (1985)
    - Principal of the requirements of actus Reus and mens rea must be an element of every crime unless explicitly excluded
    - Actus Reus
    - Guilty act
  - R v Barker (1983)
    - Commonwealth has renamed this physical element
- Conduct
  - Result of conduct
  - Circumstance in which conduct or a result of conduct occurs
- Mens rea
  - Knowledge that the knowledge is wrong
- Sherras v De Rutzen (1895)
  - Exceptions
    - Strict liability
      - Mistake of fact is available
    - Offences based on negligence or recklessness
    - Commonwealth has renamed this the fault element
      - Intention, knowledge, recklessness or negligence
- Corporate criminal liability
- Vicarious liability
  - Due to the nature of the relationship one party is liable for the damages caused by the actions of someone else
  - When employees throughout the course of their employment engage in criminal law
  - Only exists for
    - Statutory crimes
    - Statute has to be made clear that there is vicarious liability for the crime
- Mousell brothers ltd v London and North-western railway co (1917)
  - Masters are not normally liable unless the legislature has made it clear that this liability should exist
  - Usually only exists for regulatory offences
    - Fair trading, consumer protection and environmental offences
      - E.g. Tiger nominees pty ltd v state pollution control commission (1992)
  - Noted that the employers be regarded as potentially vicariously responsible for acts of their employees
- Direct liability
  - Directing mind and will
  - Can be directly liable where the directing mind and will has created a physical and fault element.
  - Organic theory, doctrine of identification, alter ego doctrine
- Lennard's carrying co ltd v asiatic petroleum co ltd (1915)
  - If the person who is directing has the guilty mind and intention, then the corporation will have the guilty mind as well
- H I Bolton (engineering) Co. Ltd v T J Graham & sons
  - Whilst person can represent a controlling mind, it must be taken on the facts of the case
- Tesco supermarkets Ltd v Nattrass (1972)
  - More expensive products have been put up, whilst all the products were advertised at the cheaper price
  - Corporation had to argue that it was the fault of someone else, not the company
  - Argued that it was the store managers fault and not the business