

R v Adomako (1994)

Negligence is a civil concept and is part of tort law. However, it can form part of the criminal offence of involuntary manslaughter if it is decided that the negligence is so serious that it is 'gross.' Therefore, gross negligence manslaughter covers those situations where D's actions have has gone beyond compensation i.e. death has occurred. Very few criminal offences contain negligence. GNM being the most common.

D was an anaesthetist in charge of a patient during an eye operation

 During the operation an oxygen pipe became disconnected and the patient died later due to the lack of oxygen

 The appellant failed to notice or respond to obvious signs of disconnection

The jury convicted him of gross negligence manslaughter



The defendant owes a duty of care to the victim, has breached that duty in a particularly negligent way causing the victim's death as a result. The offence can be committed through an act or an omission, neither of which need to be committed.

R v Khan and Khan (1998)

- Ds sold heroin to a teenage girl at their flat; first time she had used heroin and she overdosed in the presence of the
- V fell into a coma and Ds left the flat leaving the girl alone when it was clear that she required medical assistance
- They returned to the flat the following day and found her dead
- If the V had received medical assistance she would not have died
- Ds were convicted of gross negligence manslaughter and appealed contending that a drug dealer does not owe a duty of care to summon medical assistance to his client
- Court did not rule out the possibility of a duty of care being owed by drug dealers => convictions were quashed

R v Litchfield (1997)

- D was the owner of a massive sailing ship
- D sailed knowing that the engines might fail because of contamination to the fuel
- Ship was blown onto rocks => 3 crew members died
- D owed a duty for the safety of the crew

R v Singh (1999)

- D was a landlord of a property => has a duty of maintaining property
- Needs to see the gas supply checked + has a certificate that it is functioning properly
- Faulty gas fire caused Vs' death
- Duty to the tenants to maintain the property
- Failed to do so => gross negligence manslaughter

R v Evans (2009)

D bought some heroin and gave it to V V self-injected the heroin and then developed symptoms which D, from her own experience, recognised as being consistent with an overdose

- D and her mother decided not to seek medical assistance for fear of getting into trouble
- V died

D was convicted of gross negligence manslaughter along with her mother in relation to the death of her 17-year-old sister (died of a heroin overdose)

Contractual

Types of duties; if a

person is found to have

had one of the following

types of duties, he/she

may be found liable for

her actions

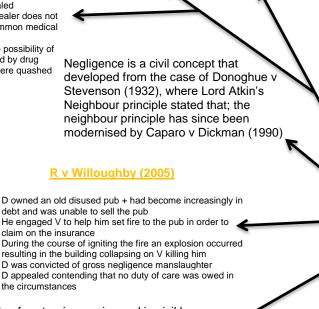
R v Pittwood (1902)

A railway crossing gatekeeper forgot to shut the gate and a passing haycart was struck by a train

- Cart's driver died
- D vas convicted of manslaughter on the bases of 'gross and criminal negligence' because he failed to do his job (his duty)

R v Gibbins and Proctor (1938)

- Father had to look after his 7year-old daughter
- Locked her in a basement, didn't feed her
- Girl died => father had failed to carry out his duty of parenting => was liable for her death



D owned an old disused pub + had become increasingly in debt and was unable to sell the pub

claim on the insurance

resulting in the building collapsing on V killing him

the circumstances

The principle of ex turpi causa is used in civil law (upon which GNM is based) and refers to the fact that legal action cannot be taken if founded on immoral or illegal conduct. This works well in civil law because it prevents compensation being awarded for something illegal or immoral. However, public policy has decided that it would not be appropriate to apply this principle to the criminal law.

If D has caused death through an omission where he has a duty to act but fails in that duty, he could be liable for GNM

> The existence of a duty of care by D to V

> > A duty of care is owed if

There was proximity between C and D in terms

relationship

of time, space or

Damage was

reasonably

foreseeable

It was fair just and reasonable to impose a duty on D assumption of duty/responsibility

Statutory (arising

from specific

Voluntary

Through public

position/office

relationship)

A couple assumed a duty of care for an elderly sick relative; they could've easily discharged their duty by calling for help/providing even basic care Neglected the relative (didn't feed her: didn't bathe her) => she died severely emaciated

R v Stone and Dobinson (1977)

R v Dytham (1979)

A citizen was getting kicked to death in front of a nightclub

A police officer failed to observe his duty of preserving the queen's peace (took no

mattress in a room; went to the other room instead of extinguishing the fire

aware of the fire, but chose to do

Arising from

conduct/situation

R v Miller (1983)

dangerous

D accidentally started a fire on a

D was liable as he admitted he was nothing

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immigrants to be discovered Ferry was delayed => 5 hours later when the lorry was unloaded at Dover customs officials ordered the container to be opened and found 58 dead bodies with only 2 survivors

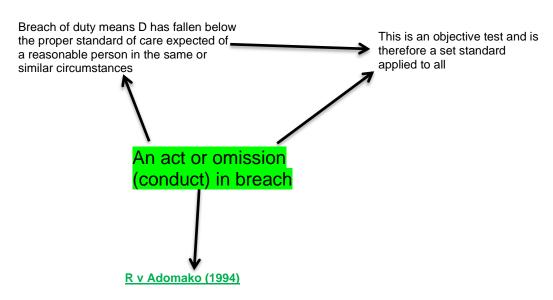
D agreed to smuggle 60 illegal Chinese immigrants into the UK from the Netherlands.

The immigrants were to be sealed into D's lorry.

R v Wacker (2003)

Before going aboard the ferry to England D closed the vent to make it more difficult for the





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The act was a substantial cause of death



CAUSATION			
Legal causation			
D's conduct was legally wrong. D must be the operative and substantial cause of the harm. There must not be a new intervening act breaking the chain of events.			
 R v Smith (1961) Two soldiers had a fight => on is stabbed V was carried to hospital; medical staff gave him artificial respiration by pressing his chest => injury worsened Smith was guilty because the wound on V's lung was still 'operating' (not healed up) and it was the substantial cause of V's death 			
 R v Jordan (1956) V was stabbed in stomach, hospital treatment => wound's healing well Suffered an allergic reaction due to being given an antibiotic; next day another doctor gave a large dose of the antibiotic V died due to an allergic reaction => doctor's actions are the intervening act => D was not guilty of murder 			
 R v Blaue (1975) D stabs a young woman, who is a Jehovah Witness => she needs blood transfusion Religion prohibits her blood transfusion => she dies (being a Jehovah Witness made it more fatal) D's guilty because he has to take V as he found her (had to respect religion) 			

The 'thin skull' rule means that D should take V as he finds them. D is responsible for any injuries arising from a preexisting medical condition.



New intervening act

- Novus actus interveniens = new intervening act
- The new intervening act breaks the chain of events, which resulted from D's conduct.
- The new intervening act must be sufficiently independent from D's actions.
- The new intervening act must be serious enough to break the chain of causation.
- Examples: actions of a third party; V's own actions; natural but unpredictable event

Actions of a third party	V's own actions	Natural but unpredictable event
 A third party's actions break the chain of events. R v Jordan (1956) V was stabbed in stomach, hospital treatment => wound's healing well Suffered an allergic reaction due to being given an antibiotic; next day another doctor gave a large dose of the antibiotic V died due to an allergic reaction => doctor's actions are the intervening act => D was not guilty of murder R v Smith (1961) Two soldiers had a fight => on is stabbed V was carried to hospital; medical staff gave him artificial respiration by pressing his chest => injury worsened Smith was guilty because the wound on V's lung was still 'operating' (not healed up) and it was the substantial cause of V's death 	 V's own actions break the chain of events. Necessary to consider the surrounding circumstances. Considers whether V's actions broke the chain of events due to a minor threat. R v Roberts (1972) Girl jumped from a car (driving between 20-40 mph) in order to escape from D's sexual advancements D was held liable for her injuries ABH under s47 of Offences Against the Person Act 1861 V's actions were reasonable + foreseeable R v Williams (1992) A hitch-hiker jumped from D's car and died from head injuries caused by his head hitting the ground D attempted to rob V (steal his wallet) Car was travelling at 30 mph V's act had to be reasonably foreseeable and had to be proportionate to the threat Did V's actions break the chain of events? 	 Tsunami Earthquake Flood Heart attack

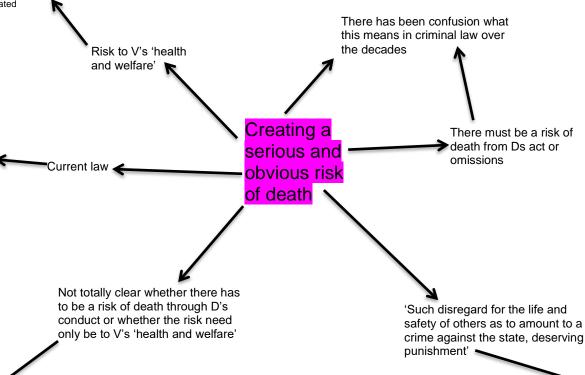


R v Stone and Dobinson (1977)

- A couple assumed a duty of care for an elderly sick relative; they could've easily discharged their duty by calling for help/providing even basic care
- Neglected the relative (didn't feed her; didn't bathe her) => she died severely emaciated

R v Misra and Srivastava (2004)

- V had a knee operation
- Ds were senior house doctors responsible for V's post-operation care
- Ds failed to identify a post-operation infection threat and V died
- Ds were convicted of gross negligence manslaughter, but Ds appealed that the elements of the offence were uncertain and so breached Art. 7 of the ECHR stating that no one shall be guilty of a crime if it was not an offence at the time it was committed
- Court followed R v Adomako (1994) => not sufficient to show a risk of bodily injury or injury to health => conviction upheld



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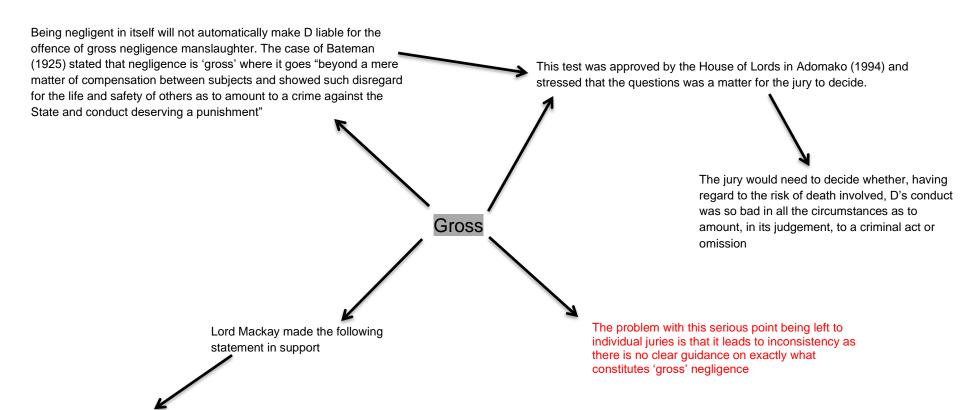
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 D was a doctor who attended V for the birth of her child at her home

R v Bateman (1925)

- Part of V's uterus came away during the birth
- D didn't send V to hospital for 5 days => V died
- D had carried out the normal procedures any competent doctor would've carried
- D's convictions of gross negligence was quashed





"The jury will have to consider the seriousness of the breach of the breach of duty in all the circumstances in which it occurred and whether it was so bad as to be criminal"