

*Explain in detail what actus reus and the chain of causation actually means.*

The term actus reus is Latin for 'the guilty act'. It is essential in criminal law, as actus reus must be there for there to be a criminal offence. It can mean a guilty act or an omission to act. In the crime of murder, then the actus reus would be the killing of a human being.

The act must be voluntary for the defendant to be guilty. For example, if the defendant acts out of reflex because of another force, it is not voluntary and the defendant cannot be found guilty. A good example can be found in the case of *Hill v Baxter* (1958) where a driver is being chased by a swarm of bees and driving a car in these conditions would be extremely hard so could not be held guilty for his actions.

If the defendant is to be found guilty of an offence then it is important to prove that the defendant caused the offence in the first place. This is the chain of causation, and means that there must be a clear and unbroken link between the conduct and the consequence. For example, if a defendant attacked a victim and the victim dies then the chain of causation has not been broken and the defendant is guilty of murder. However, if the defendant attacks the victim and the ambulance has a crash on the way to the hospital then the chain of causation has been broken. To see if the defendant is still to be found guilty we can take into account the 'but for' test. This decides 'but for' the action of the defendant, would the consequence still have happened. In this case, the answer is no as the victim wouldn't have had to be taken to hospital 'but for' the actions of the defendant so he is still guilty. The courts are very reluctant to let the defendant off.

An example of the 'but for' rule is in the *R v Pagett* (1983) case. The defendant used his girlfriend as a human shield when firing at the police. The police returned fire and shot his girlfriend and killed her. He claimed that it was the police that had killed her and not him. He was found guilty of manslaughter as the result would not have happened 'but for' the actions of the defendant.

To break the chain of causation it would take actions of a third party intervening, the victim's own contribution to the events or a natural and unforeseen event such as an earthquake.

It is no excuse if the victim has a medical condition to that means that they are more susceptible to injuries. It is unlucky on the attacker but the actus reus is still there. The defendant should 'take the victim as they find them' and this is known as the 'thin skull rule.'

*Explain in detail what is meant by the term mens rea. Discuss the different types of mens rea a defendant might have.*

Mens rea is Latin for 'the guilty mind.' For a defendant to be found guilty of a crime, it must be proven that the defendant had the guilty mind to commit the actus reus. The defendant can only be found guilty of a crime, when both the actus reus and the mens rea are present. They must be present at the same time or close together.

For the defendant to have the mens rea they must have an intention to commit the crime. There are two types of intent. The first is direct intent. This is an individual targets a victim and they plan and carry out the attack and are happy with the result. An example of this would be where the defendant intends to murder someone, they attack him or her and they die as a result. The second is oblique intent. This is where the defendant commits the crime in a roundabout way. They carry out an attack but produce another consequence that they did not intend but knew was likely to occur. For example, if a defendant throws a stone into a lake, people are swimming in the lake and the stone hits someone and wounds them.

If the mens rea is there in the later stages of the crime but not the beginning then it is brought together with the actus reus and the defendant will be found guilty.

Transferred malice is a type of mens rea. It is where a defendant intends to bring about a consequence against an individual but for some reason another separate individual is hurt instead. An example of this is the *R v Latimer* (1886) case where Latimer attempted to strike his intended victim but missed and hit a woman nearby. She was seriously injured and he was held liable for the injury caused. The mens rea was transferred from his intended victim to his actual victim.

Another type of mens rea is recklessness. It is the lower level of mens rea and is the taking of an unjustifiable risk. It is broken down into subjective recklessness and objective recklessness.

Subjective recklessness is the taking of an unjustifiable risk when the defendant realises that there is a risk but still carries out the action. An example of this is the *R v Cunningham* 1957 case, where the defendant tore off a gas meter from his cellar wall to steal the money inside it. The gas leaked and drifted up through the next house and injured a woman. The defendant did nothing to stop the gas leak. He was being reckless and realising that a possibility of harm may result.

Objective recklessness is where an unjustifiable risk is taken but the defendant does not realise that there is a risk, but an ordinary reasonable man would recognise the risk.