

# The complex topic of intention law equity essay

Law



**ASSIGN  
BUSTER**

The aforementioned has frequently been advocated that mens rea plays the critical role of safeguarding that only responsible perpetrators are reprimanded for their criminalities. In the criminal law the perception of intention is the most culpable state of mind, it is generally worse to murder an individual deliberately than to murder an individual recklessly or negligently. The wish to carry out a specific outcome is not identical to intention either. A defendant can be found guilty even if the consequence of their actions is not what they anticipated. Where the intention of the defendant forms a portion of the transgression, this needs to be evidenced beyond a reasonable doubt. The House of Lords has made it well defined that the legal meaning of the term intention is in fact the ordinary meaning of the word. A person who causes another's death by an unanticipated accident does not deserve to be punished in the same manner as someone who causes another's death deliberately. The court of law has in general endeavoured to avoid defining intention instead they favour to merely have faith in the jury's own sense of common meaning of the word. Nevertheless, it is clear from the case law that the courts have acknowledged two forms of intention, they are direct intent and oblique or indirect intent. The majority of murder cases encompass direct intent and are generally uncomplicated and straightforward as the perpetrator makes evident his intention. The main difficulties are cases on the borderline of intention and recklessness but we will discuss them further throughout. A person directly intends a result when he desires to bring about that result and deliberately sets out to do so. Direct intent is the worst of intention crimes and cases are quite straightforward as the accused intention and desire to harm and injury is evident. An example of direct intent would be a man pulling the trigger of a gun which he knows is

<https://assignbuster.com/the-complex-topic-of-intention-law-equity-essay/>

loaded and aims at the chest of another man. The man's desire is to kill and his aim is the death of the other man. A case involving direct intent is R v. Byrne [1960], in this case the defendant was a vicious psychopath who enjoyed tormenting and butchering people. He murdered a young female who staying in a hostel. He strangled her to death and then mutilated her body. He was suffering from tempting desires which he was powerless over. There is direct intent to kill regardless of the defendant's mental state. In relation to the core meaning of intention, whether the defendant's act was likely to produce the consequence is irrelevant. For example, if Mary observes Kate a lengthy distance away and fires at her, wanting to wound her, but appreciating that because Kate is so far away from her that she is unlikely to be successful in her attempt, Mary will still be found to have intention to injure Kate. This is because it was her purpose and aim to kill her. An example of this can be seen in People (DPP) v. Murray [1977]. In People (DPP) v. Murray [1977], the defendant, husband and wife, had executed an armed bank robbery and in the course of their escape the wife shot and killed an off duty member of the Garda Síochána who had been in pursuit of their car and who was about to seize her unarmed husband. The accused couple were charged and condemned in the Special Criminal Court of capital murder. They couple were sentenced to death by execution which was the punishment for capital murder at the time, and they appealed. On appeal the court held that there was no evidence that the two had conversed or envisioned killing an affiliate of the Garda Síochána if they were pursued and their sentence was reduced from capital murder to murder. Oblique intent or indirect intent as it is often referred to as is much more vague and complex than direct intent. Oblique intent is where the defendant's actions

<https://assignbuster.com/the-complex-topic-of-intention-law-equity-essay/>

are deliberate and intentional but the outcome of the actions other than one intended comes about. In DPP v. Smith [1961], a policeman attempted to halt the defendant from speeding off with pilfered possessions by hopping on to the bonnet of the car and holding on to the car. The defendant drove off at an almighty speed in an attempt to get the policeman off the bonnet of his car. The policeman fell off the car and was thrown in front of an approaching vehicle and was killed. The defendant disputed that it was not his intention to harm the policeman and was only attempting to flee. The defendant was convicted of murder as the courts believed him to be a reasonable man who must have considered that grievous bodily harm was probable to result to the police officer. Smith appealed the conviction and the House of Lords referred the case to the Law Commission which led to the enactment of the Criminal Justice Act 1967 and the reversal of the decision in DPP v. Smith [1961]. In Hyam v. DPP [1974], the Defendant, a man, set fire to a house by lighting fire to a newspaper and putting it through the letter box of a house. Four people were residing in the house at the time and were asleep in bed when the incident occurred. His actions caused the death of two young girls who died in the fire as there were unable to escape. The man's motive for the crime was to frighten the owner of the house and not to cause grievous bodily harm. The jury was educated that the intent to do grievous bodily harm was satisfactory enough to convict for murder. The Defendant was condemned of two counts of murder. The Defendant appealed her conviction for murder quarrelling that he did not anticipate the deaths of the two young girls within the property and the offence of murder required intent to compromise a person's existence, not just intent to cause grievous bodily harm. The defendant was convicted of murder for consciously setting fire to

<https://assignbuster.com/the-complex-topic-of-intention-law-equity-essay/>

a house which led to the death of two of the residents. In *R v. Moloney* [1985], two men had been celebrating the defendant's grandparents wedding anniversary and had consumed quite an amount of alcohol when they decided to take part in a shooting competition to see which of them was better at handling a shotgun. The defendant was first to load and fire the gun at his stepfather. The defendant pulled the trigger and in doing so killed his stepfather. As the defendant was highly inebriated he did not believe that the gun was pointed at his stepfather. In his defence, it was argued that he had not fully thought through his actions as he was intoxicated. The defendant's conviction for murder was relieved to that of manslaughter. A two part test was enacted and applied to cases such as this, the jury should be asked to consider two questions. Question one being was death or grievous bodily harm the natural consequence of Defendants act? Also, was the result foreseen by the defendant as being a natural consequence to his actions? If the answer to both these question is yes, the jury would be entitled to infer intention. These developed recognition as the Moloney Guidelines. In *R v. Hancock and Shankland* [1986], the two defendants were convicted of murder. The defendants were mine workers on strike and had thrown a concrete slab over a bridge and onto a carriageway which resulted in the death of a driver in a car on the road below when it was stuck by the concrete slab. The defence argued that the pair did not intend grievous bodily harm or intend to kill the deceased but were attempting to block the road to the mine to prevent miners from breaking a picket. The jury were directed in agreement with the ruling in *R v. Moloney* [1985], that intent could only be inferred if the defendants had predicted that bereavement or serious injury was an expected consequence of their actions. On appeal, the <https://assignbuster.com/the-complex-topic-of-intention-law-equity-essay/>

House of Lords overruled this and held that death or serious injury had to be likely as well as an expected consequence. Hence, the jury must be told that intent could be inferred where death or serious injury was a natural and probable consequence and that the greater the possibility, the more probable it was that the defendants had anticipated the outcome. In *R v. Nedrick* [1986], the Court of appeal revised the test again. The facts of this case are similar to those of *Hyam v. DPP* [1974] and the jury had been guided that the defendant could be convicted if he was conscious that it was highly possible that his activities would result in the death of a person. If the jury was content that defendant accepted that death or grievous bodily harm would be an almost certain result of his actions, then they may conclude that defendant intended to bring about that outcome. In this case the defendant threw a petrol bomb through a letterbox which resulted in the death of a child. His intention was to frighten the owner of the house. He was convicted of murder but his conviction was downgraded to manslaughter. In *R v. Woollin* [1999], the House of Lords held that where a result was virtually definite, it would be regarded as being the intentional outcome. In this case, the defendant lost his temper and as a result threw his three month baby son onto a hard surface. The baby suffered a fractured skull from the incident and died. Although the defendant acknowledged that there was a substantial possibility of grievance to the child he did not intend on killing his son but was frustrated with its constant crying and lost his patience. The jury convicted him which murder but the House of Lords substituted the defendant's conviction with manslaughter. The only reported oblique or indirect intent case in Irish Law is *People (DPP) v. Douglas & Hayes* [1985]. In this case the accused had been convicted of shooting with intent to commit

<https://assignbuster.com/the-complex-topic-of-intention-law-equity-essay/>

murder and were appealing against their convictions on the basis that they had no intention to kill. The Court of Criminal Appeal adhered to the judgement of the House of Lords in *Hyam v. DPP* [1974] and held that if there was evidence that a reasonable person would have anticipated that the natural and plausible consequences of the defendants behaviour was that death would result, and that where it could be recognised that the defendants' had operated recklessly, the jury was permitted to assume from that that the defendant had proposed to cause death by his actions, subject to the prerequisite that both these facts be recognised beyond reasonable doubt. The Law Reform Commission has provisionally recommended that the *R v. Woollin* [1999] formulation be adopted into Irish Law. Another issue concerning oblique or indirect intent requires mention. Imagine X is a hospital patient who is incurable and is in a severe amount of pain and Y is a doctor who knows that a lethal administration of a drug such as morphine could fulfil the patient's wish of dying. If Y administers the injection, he has performed intentionally not to cause death but knowing that death is the outcome of his actions. Per se, Y would have adequate mens rea for murder under the *R v. Woollin* [1999] formulation. In cases like this doctors can benefit from the policy known as double effect. Under double effect the mens rea of murder will not be content when a doctor acts intentionally to deal with a patients pain knowing full well the side effects of his actions will result in the death of his patient. Double effect is evident in *Airedale NHS Trust v. Bland* [1993] and *R (Pretty) v. DPP* [2002]. In conclusion, the topic of intention is extremely broad and complex and is not clearly defined. One needs to distinguish between intention and foresight, intention and motive, intention and premeditation and before being able to clarify the core notion <https://assignbuster.com/the-complex-topic-of-intention-law-equity-essay/>

of intention. There are several borderline cases of intention such as intoxication and intent. The concept of intent has expanded since the two part test known as the Moloney Guidelines were enacted.