Chapter 1 : causation in criminal liability

This chapter addresses the closely related components of conduct and causation. It argues that the former is nowhere near as problematic a component as is often thought and, in addition, defends a classic 'ordinary language' account of the latter.

Nature and Functions of Causation Law is concerned with the application of causal ideas, embodied in the language of statutes and decisions, to particular situations. This involves, first, a conception of what a cause is outside the law. To this a variety of answers empirical Hume and metaphysical Kant have been given and each has its contemporary supporters. Secondly, a theory is required of how causal notions should function in different contexts. In the context of application the notion of cause is a multi-purpose tool. One function, perhaps fundamental, is forward-looking: This use of cause serves to provide recipes and make predictions. It also yields the idea of a causal process. Another function is backward-looking and explanatory: A third function is attributive: For the first of these purposes the emphasis falls on a cause as consisting of the whole complex of conditions required if a certain outcome is to follow J. Even when applied to a specific situation this involves considering what generally happens when certain conditions are present. In the second, explanatory, context the focus is on selecting from the whole complex the particular condition or conditions that best explain a given outcome. The aim can be either to explain a class of events or a particular event. In the third, attributive, context the aim is again selective, but from a different point of view. Here the purpose is to settle the extent of responsibility that attaches to a particular human action or other event or state of affairs. This responsibility is then attributed to an agent or, metaphorically, to the other event or state of affairs in question e. In law the second and third of these functions of the notion of cause are prominent, often in combination. Many legal inquiries are concerned to explain how some event or state of affairs came about, especially an untoward event such as death or a state of affairs such as insolvency. But in law the third function is particularly salient and controversial. Whether someone is liable to punishment or to pay compensation or is entitled to claim compensation often depends on showing whether the person potentially liable or entitled has caused harm of a sort that the law seeks to avoid. All systems treat it as a more serious offence to cause death than to attempt to do so. It is a civil wrong to cause injury to another by negligence in driving a vehicle, but the claim is barred or reduced if the negligent conduct of the person injured is also a cause of the injury. An insurer is required to pay for losses caused by an event of the type defined in the insurance policy, such as fire or flooding, but not if the cause of the loss is something else. The attribution of responsibility on causal grounds is not confined to law. Historians and moralists, for example, assess the responsibility of agents for the outcomes, political, social, economic or military of what they did or failed to do. Unlike lawyers, they are concerned with responsibility for good as well as bad outcomes. Moore propose a general theory of causation in relation to responsibility. These uses of causation by historians, moralists and lawyers raise the question, adumbrated by Collingwood, of whether the attribution of responsibility requires a different conception of cause from that employed for prediction or explanation. In the legal theory of causation this problem is of central importance. The notion that causal connection between agency and harm must be established is however often implied even when the word is not used. In legal contexts the possible range of agency is not confined to human conduct, but may extend to damage done by the agency of juristic persons, animals, inanimate objects such as motor vehicles and inanimate forces such as fire. In all these instances the use of the notion of cause is central to the legal inquiry, since to establish responsibility it must be shown that the harm was done or brought about by the agency that the law treats as a potential basis for the existence or extent of liability. The relationship between causing harm and legal responsibility is however complex. The complexities concern the incidence of responsibility, the grounds of responsibility, the items between which causal connection must be demonstrated, and the variety of relationships that can in some sense be regarded as causal. So far as the incidence of responsibility is concerned, while in law the relevant causes may be human or animal behaviour or natural events or processes, legal responsibility attaches in modern law only to natural persons human beings and juristic persons such as states, corporations and other institutions to which

personality is ascribed in law. It is not a necessary condition for two reasons. First, in legal contexts people are often made responsible for harm caused by other persons e. In these instances the ground of responsibility is, from the point of view of the person held responsible, not that he, she or it has caused harm but that they bear the risk that some other person, animal, thing or process may cause harm. Much law is indeed concerned with the distribution of social risks. The responsibility of the person who bears the risk may be additional or alternative to the responsibility of the person if any who wrongfully caused the harm in question. Thus, if an employer is responsible for harm caused by his or her employee to another person the employee may or may not also be legally responsible for that harm. A second reason why causing harm is not a necessary condition of legal responsibility is that there are many contexts in which a person is civilly or criminally responsible irrespective of whether any harm has been caused by their conduct or that of an agency for which they are responsible. Both inside and outside the law many actions are regarded as wrongful whether or not they cause tangible harm. Moreover the imposition of penalties in civil law and of punishments in criminal law need not bear any relation to the harm if any caused by the conduct for which the penalty or punishment is imposed. To cause harm to another is also not a sufficient condition of legal responsibility, even in the eyes of those, such as the early Epstein, who would in general favour making agents strictly liable for the harm they cause. For a person to be legally responsible for causing harm to another requires, apart from a number of conditions relating to jurisdiction, procedure and proof, that the conduct should be of the sort that the law designates as unlawful e. It also requires that the purpose of the law should encompass harm of the sort for which a remedy is sought. Thus, in some contexts only physical, not economic or psychological harm grounds a legal remedy. There is also a complication concerning the items between which causal connection must in law be shown to exist. The inquiries with which law is concerned relate to particular events. Did one action, event, process or state of affairs event for short cause another? The link that must be established in legal proceedings between events is of a special type. For example, if a claim for damages is brought against a motorist for causing injury to the claimant by driving negligently, only that description of his or her manner of driving that amounts to negligence is capable of constituting a relevant cause. In a legal context, therefore, the link to be established must be framed in terms of a link between particular aspects of events. The claimant in a civil action will typically argue, for example, that the fact that Smith drove at sixty miles an hour in a built-up area on such-and-such an occasion caused the collision that in turn caused the victim to suffer a broken leg. Though it is controversial whether causal connection is to be conceived as a relation between events or facts Davidson , in law both are relevant. The events in issue must be identified from the point of view of the time, place and persons involved, but the aspect of the events between which a causal link must be shown has to be specified in such a way as to show that it falls within the relevant legal categories, such as in the example given above negligence and physical injury. The relationship between causing harm and legal responsibility is also complex because of the great variety of relationships between agency and harm that can be regarded as in some sense causal, or analogous to a causal relationship. Again, legal responsibility is often imposed, in the context of interpersonal relationships, on those who influence others by advising, encouraging, helping, permitting, coercing, deceiving, misinforming or providing opportunities to others that motivate or enable them to act in a way that is harmful to themselves or to others. Whether complicity in the agency of another can be regarded as causal or analogous has been denied Moore but defended Gardner. In some cases coercion, deceit the persons held responsible would naturally be said to have caused the persons influenced to act as they did, while in others they would not, though the weaker interpersonal relationship is in some respects analogous to more plainly causal relationships. Failing to help or provide opportunities to others by advising, warning, informing or rescuing them or supplying them with agreed goods and services are other grounds of responsibility for negative agency that, again, are at least analogous to causal relationships. The existence of this wide spectrum of causal or near-causal grounds of responsibility recognised in law and morality raises the question whether any uniform theory of causation is capable of accounting for all of them. Criteria for the Existence of Causal Connection in Law The theories concerning the criteria for the existence of causal connection in law fall into two classes. Some focus on the type of condition that the alleged cause must constitute in relation to the alleged consequence. Others are concerned with a specific feature that the cause

must possess in relation to the consequence in order that causal connection may be made out. Must the cause be a necessary condition, a sufficient condition or a necessary member of a set of conditions that are together sufficient for the outcome? The second type of theory concerns the criteria for determining the limits of legal responsibility for causing harm. Even supposing that the alleged cause constitutes the right sort of condition of the outcome e. But what are the appropriate criteria of limitation? In many legal contexts and in the view of many theorists a single criterion is called for. It should be remembered, however, that the search for a single criterion may be no more than a response to legal doctrine. Some theorists for example Leon Green and others since the s up to Wright and Stapleton today hold that only the issue of causally relevant condition or cause-in-fact is genuinely causal. It alone raises questions to which an objective, scientifically valid, answer can be given Becht and Miller. Even this has been questioned by Malone, who has pointed to the incorporation of normative considerations in the rules for proving cause-in-fact in civil law. These normative considerations are, however, more concerned with the rules of proof in law than with what has to be proved. The second type of theory concerns questions of responsibility that would in the view of these causal minimalists be better addressed directly rather than by asking whether on the facts a causal relation existed between agency and harm. One way of doing this is to ask what would be the fairest way of distributing the relevant social risks. Another Posner would be to place responsibility, especially in civil law, on the person best placed to avoid the loss most cheaply. In practice legislators and judges have seldom abandoned the traditional causal terminology in discussing the second issue, but the proposal to do so has been repeatedly revived. The but-for theory, endorsed by many legal and philosophical theorists including Mackie, has the heuristic advantage that a simple and often reliable way of ruling out the existence of causal connection between agency and harm is to ask whether the harm would in the circumstances have occurred in the absence of the agency. If the harm would have occurred in any event the agency is probably not its cause or one of its causes. If it would not have occurred in the absence of the agency the agency will be a causally relevant condition or, if one endorses causal minimalism, a cause-in-fact of the harm. There are however cases in which the but-for test is difficult to reconcile with our intuitive judgements of responsibility. These concern two types of case in particular, those of over-determination and of joint determination. If two huntsmen independently but simultaneously shoot and kill a third person, or two contractors independently fail to deliver essential building supplies on time, it is intuitively clear that each should be held responsible for the death or building delay. Yet the but-for test seems to yield the conclusion that neither has caused the harm. Again, in interpersonal relationships it is often the case that advice etc. Many reasons bear on the decisions we make. Sometimes it is not possible to be sure that in the absence of one of them the decision would have been different. We know only that to the person reaching the decision the reasons taken into account were jointly sufficient to induce him, her or it to decide as he or she did. In reply it is argued Mackie that in these cases all the agencies that are singly or jointly sufficient for the outcome together constitute its cause. But in law this does not solve the problem because, unless the agents are acting in concert, the responsibility of each agency has to be independently established. This can be done either by an appeal to intuitive notions of responsibility or by recourse to an alternative ground of responsibility based on risk. On the alternative view an agency that provides an independently or jointly sufficient condition of harm bears the risk that that harm will eventuate even if it would in the circumstances have come about in any event. Some of those who reject the but-for criterion e. They advocate the view that in a specific situation a causally relevant condition is a necessary element of a set of conditions jointly sufficient for the harmful outcome. NESS supporters therefore appeal to the idea that particular causal links are instances of generalisations about the way in which events are connected.

Chapter 2 : Making Copies! Retiring the Volitional Conduct Test in Favor of Proximate Causation

The basic questions dealt with in this entry are: (i) whether and to what extent causation in legal contexts differs from causation outside the law, for example in science or everyday life, and (ii) what are the appropriate criteria in law for deciding whether one action or event has caused another, (generally harmful) event.

Destructive conduct may include arson and other intentional destruction of property. Violation of Rules Violation of rules may include: Girls are more prone to deceitful and rule-violating behavior. Additionally, the symptoms of conduct disorder can be mild, moderate, or severe: Mild If your child has mild symptoms, it means they display little to no behavior problems in excess of those required to make the diagnosis. Conduct problems cause relatively minor harm to others. Common issues include lying, truancy, and staying out after dark without parental permission. Moderate Your child has moderate symptoms if they display numerous behavior problems. These conduct problems may have a mild to severe impact on others. The problems may include vandalism and stealing. Severe Your child ha severe symptoms if they display behavior problems in excess of those required to make the diagnosis. These conduct problems cause considerable harm to others. The problems may include rape, use of a weapon, or breaking and entering. Genetic and environmental factors may contribute to the development of conduct disorder. Genetic Causes Damage to the frontal lobe of the brain has been linked to conduct disorder. The frontal lobe is the part of your brain that regulates important cognitive skills, such as problem-solving, memory, and emotional expression. The frontal lobe in a person with conduct disorder may not work properly, which can cause, among other things: A child may also inherit personality traits that are commonly seen in conduct disorder. Environmental Factors The environmental factors that are associated with conduct disorder include: If your child is showing signs of conduct disorder, they should be evaluated by a mental health professional. For a conduct disorder diagnosis to be made, your child must have a pattern of displaying at least three behaviors that are common to conduct disorder. Your child must also have shown at least one of the behaviors within the past six months. The behavioral problems must also significantly impair your child socially or at school. How Is Conduct Disorder Treated? Children with conduct disorder who are living in abusive homes may be placed into other homes. If your child has another mental health disorder, such as depression or ADHD, the mental healthcare provider may prescribe medications to treat that condition as well. Since it takes time to establish new attitudes and behavior patterns, children with conduct disorder usually require long-term treatment. However, early treatment may slow the progression of the disorder or reduce the severity of negative behaviors. Children who continuously display extremely aggressive, deceitful, or destructive behavior tend to have a poorer outlook. The outlook is also worse if other mental illnesses are present. Once treatment is received for conduct disorder and any other underlying conditions, your child has a much better chance of considerable improvement and hope for a more successful future. Without treatment, your child is likely to have ongoing problems. They may be unable to adapt to the demands of adulthood, which can cause them to have problems with relationships and holding a job. Your child may even develop a personality disorder, such as antisocial personality disorder, when they reach adulthood. This is why early diagnosis and treatment are critical. The earlier your child receives treatment, the better their outlook for the future will be. Medically reviewed by Timothy J.

Chapter 3 : What do "Causation" and "Concurrence" (both law terms) mean? | Yahoo Answers

How, then, did the plaintiff's conduct affect causation? Well, in Pennsylvania strict liability, the mere comparative negligence of the plaintiff isn't a defense/admissible evidence. However, under a series of lower court decisions, a plaintiff's "highly reckless" conduct can be the "sole cause" of an accident and is admissible.

She has a spark of inspiration and sets out developing a story. Characters are sketched out. Index cards bearing plot points are written up, arranged, and rearranged. As the story takes shape, she calls in her assistant, who, sitting at a computer, types in the first draft of the story as the author dictates. Now, we ask, who has written the story? Common sense would tell us the author, of course, has written the story, and few would dispute that answer. Beyond semantics, that narrow definition is not particularly useful. Only the trivia buff would be interested in the participation of the assistant; most of us want to know who the author was, who is responsible, in the real sense, for the story we are reading. In recent decades, due to technology, copyright law has increasingly had to deal with a similar question. Because copyright law is concerned primarily with the act of copying, some courts have had to ask who has made the copy. When a copy has been made without authorization, who is the author of the infringement? Aereo on April However, it does cast a long shadow over the proceedings. This argument is unsound for at least two reasons. First, the Cablevision decision, upon which Aereo relies on, only applies within the Second Circuit, so the fact that cloud computing has flourished in other parts of the US, and throughout the world, suggests the decision is not the panacea Aereo supporters claim it is. Second, service providers already have safe harbor from liability for infringing activity stemming from user-directed storage. So any protection Supreme Court affirmation would provide would largely be redundant. In this article, I want to take a look at this case law to see how courts have approached the question, which is not a novel question in the law. I note that most often, this test resembles the legal doctrine of proximate causation and argue that ditching volitional conduct entirely in favor of a more direct focus on proximate causation would offer more clarity and better results. I finish by sketching out what a proximate causation inquiry might look like. Copying, causation, and volition in the courts Prior to the popularization of the internet, a handful of cases examined the contours of liability for those who make, own, or operate copy machines utilized by others. Gem Electronic Distributors , F. But little attention is paid to the fact that, years before the highest court would consider indirect liability, the district court considered whether Sony should be directly liable for infringement of Betamax users. Columbia Pictures Industries, Inc. Professional Real Estate Inv. Frena , F. It does not matter that Defendant Frena claims he did not make the copies itself. In , the Northern District Court of California was confronted with the question of copyright liability for an internet access provider based on infringement occurring on Usenet groups. A critic of the Church of Scientology had posted a number of unpublished and published works, without permission, of Scientology founder L. Ron Hubbard to a religion newsgroup. The copyright holders of the works sued for copyright infringement, naming the critic who uploaded the works, the operator of the BBS where the works were uploaded, and Netcom, which provided internet access to the BBS and, by extension, to the critic. Netcom moved for summary judgment on the issue of its own direct liability. Nearly every subsequent case where the issue of direct liability for the owner or operator of a copying service or platform arose refers to the case. There must be actual infringing conduct with a nexus sufficiently close and causal to the illegal copying that one could conclude that the machine owner himself trespassed on the exclusive domain of the copyright owner. The Netcom court described this nexus as requiring some aspect of volition or causation. In Cartoon Network v. Other cases have taken the same view as Cablevision and held that Netcom stands for the proposition that the design of automated technical processes is never causational. Some courts describe this rule as saying the lack of human intervention means there is no volitional conduct. Kodak Imaging Network, Inc. Hotfile , F. Humans certainly intervened, volitionally, to design the system and maintain and operate it. And the Ninth Circuit seems to have implicitly taken the position that volitional conduct is equivalent to proximate causation. In Fox Broadcasting Co. The decision was appealed, and the Ninth Circuit affirmed. The Circuit does not once mention volition, nor does it cite to the granddaddy of volitional conduct, Netcom though it does cite

approvingly to Cablevision. The Ninth Circuit denied the rehearing but amended the original opinion to note the misquotation, though the ultimate outcome remained unchanged. Lackman and Scott J. Focusing on proximate causation instead of volitional conduct would provide better results. Proximate Causation and Copyright Copyright infringement is a strict liability tort. Knowledge or intent are not required for copyright infringement. Waccamaw Construction , No. But infringement does require, like all torts, some element of causation , an act that results in the harm. Put another way, did the act actually cause the harm and, if so, should the law, as a matter of policy, hold the actor liable for causing the harm. Seidel , F. Bell , NE 2d , Ill App 4d Factual causation is not typically difficult to establish since it is such a broad concept. Proximate causation, on the other hand, is an entirely different story. It is not a philosophical or scientific question, but a legal one. Long Island Railroad Co. The factual causes of any occurrence are seemingly limitless. One could trace forever the chain of events that lead to a specific harm, but it has long been recognized that there is little sense in extending legal responsibility throughout those chains. The chief mechanism animating this recognition is proximate causation. I would not lightly assume that Congress, in enacting a strict liability statute that is silent on the causation question, has dispensed with this well-entrenched principle. It is easy enough, of course, to identify the extremes. The farmer whose fertilizer is lifted by a tornado from tilled fields and deposited miles away in a wildlife refuge cannot, by any stretch of the term, be considered the proximate cause of death or injury to protected species occasioned thereby. At the same time, the landowner who drains a pond on his property, killing endangered fish in the process, would likely satisfy any formulation of the principle. The task of determining whether proximate causation exists in the limitless fact patterns sure to arise is best left to lower courts. Innovative Health Care Systems, Inc. See also Benner v. Finally, proximate causation contains a recognition that liability must necessarily cut off. Allbritton , SW 2d , Texas If we revisit the Netcom decision through the lens of proximate causation, we can easily see that the court was considering the same policies. Saying direct liability requires volitional conduct is redundant. And that is because to say that there is a right to free speech on Tuesdays implies that there is something different or special about free speech on Tuesdays as compared to some background or baseline understand. Proximate causation itself is already a proxy for an unspecified set of policies that underlie law. By skipping over analysis of proximate causation, courts miss the opportunity to be informed by those policies. At the same time, there have been little or no underlying policies that have emerged as guidance since Netcom for applying the volitional conduct test. That is precisely the type of question that proximate causation seeks to answer. One initial result of this decision is that courts need to take care in per se rules regarding automated processes. In a world with self-driving cars and computers that can play chess, it should be apparent that the mere fact that an act occurs via an automated function that can operate independent of the operator should not preclude the operator or programmer of the function as a causal agent of the consequences. Indeed, you rarely see cases outside the copyright context reflect this sort of thinking. For example, just last month, a federal court held that search engine results are protected by the First Amendment. And indeed, at least a few courts have bucked the trend and found the design of automated processes indicative of causation. So what would a proximate causation analysis look like? A full dissertation on proximate causation of copying online is beyond this article, but I think it is still worth attempting to trace out some rudimentary factors that courts might consider. Since we are concerned with who makes a copy, it makes sense to focus much of our attention on the various steps and elements needed to create a copy. This is not so much a question of geography, but rather over the nature of the place, particularly who has dominion over the premises. There are, it turns out, quite a few other differences, most far more relevant to any legal issue that may arise. But the copy machine at a business is open to a potentially continuous stream of people coming to copy. How has this factor been handled by courts? Sony Corp , F. Even Cablevision, which found no direct liability for the provider of a remote DVR service, grudgingly admitted this point. One example of this can be seen in Columbia Pictures Industries v. That is, since it had rented the video tapes to its customers, it was no longer responsible for any performances that resulted. WTV Systems rejected a similar argument. This is one of those questions that can either threaten to swallow every other consideration or become redundant and act as a sort of meta-factor in the analysis. But I think case law does offer some guidance that can help shape this element into something meaningful and

useful. Google , F. Robertson , F.

Chapter 4 : Â» Texas Penal Code â€“ Causation: Conduct and ResultsLawServer

The concepts of conduct and causation Considering the views expressed above, write a critical analysis of the concepts of conduct and causation as interpreted by the courts. This paper will argue that criminal law is not a consistent and rational body of law taking conduct and causation as the basis, this will be supported by demonstrating the.

Background concepts[edit] Legal systems more or less try to uphold the notions of fairness and justice. If a state is going to penalize a person or require that person pay compensation to another for losses incurred, liability is imposed according to the idea that those who injure others should take responsibility for their actions. Although some parts of any legal system will have qualities of strict liability , in which the mens rea is immaterial to the result and subsequent liability of the actor, most look to establish liability by showing that the defendant was the cause of the particular injury or loss. Even the youngest children quickly learn that, with varying degrees of probability, consequences flow from physical acts and omissions. The more predictable the outcome, the greater the likelihood that the actor caused the injury or loss intentionally. There are many ways in which the law might capture this simple rule of practical experience: However it is phrased, the essence of the degree of fault attributed will lie in the fact that reasonable people try to avoid injuring others, so if harm was foreseeable, there should be liability to the extent that the extent of the harm actually resulting was foreseeable. Relationship between causation and liability[edit] Causation of an event alone is insufficient to create legal liability. Sometimes causation is one part of a multi-stage test for legal liability. For example, for the defendant to be held liable for the tort of negligence, the defendant must have owed the plaintiff a duty of care , breached that duty, by so doing caused damage to the plaintiff, and that damage must not have been too remote. Causation is just one component of the tort. On other occasions, causation is the only requirement for legal liability other than the fact that the outcome is proscribed. For example, in the law of product liability , the courts have come to apply to principle of strict liability: The defendant need not also have been negligent. On still other occasions, causation is irrelevant to legal liability altogether. For example, under a contract of indemnity insurance , the insurer agrees to indemnify the victim for harm not caused by the insurer, but by other parties. Because of the difficulty in establishing causation, it is one area of the law where the case law overlaps significantly with general doctrines of analytic philosophy to do with causation. The two subjects have long been intermingled. Establishing factual causation[edit] The usual method of establishing factual causation is the but-for test. The but for test is a test of necessity. Tally , 15 So , Ala. It is quite sufficient if it facilitated a result that would have transpired without it. However, legal scholars have attempted to make further inroads into what explains these difficult cases. Some scholars have proposed a test of sufficiency instead of a test of necessity. This is known as the NESS test. This arguably gives us a more theoretically satisfying reason to conclude that something was a cause of something else than by appealing to notions of intuition or common sense. For them, there are degrees of causal contribution. A member of the NESS set is a "causally relevant condition". This is elevated into a "cause" where it is a deliberate human intervention, or an abnormal act in the context. An intermediate position can be occupied by those who "occasion" harm, such as accomplices. Imagine an accomplice to a murder who drives the principal to the scene of the crime. However, the causal contribution is not of the same level and, incidentally, this provides some basis for treating principals and accomplices differently under criminal law. Leon Green and Jane Stapleton are two scholars who take the opposite view. They consider that once something is a "but for" Green or NESS Stapleton condition, that ends the factual inquiry altogether, and anything further is a question of policy. Establishing legal causation[edit] Notwithstanding the fact that causation may be established in the above situations, the law often intervenes and says that it will nevertheless not hold the defendant liable because in the circumstances the defendant is not to be understood, in a legal sense, as having caused the loss. In the United States, this is known as the doctrine of proximate cause. Proximate cause The but-for test is factual causation and often gives us the right answer to causal problems, but sometimes not. Two difficulties are immediately obvious. The first is that under the but-for test, almost anything is a cause. But for the victim of a crime missing the bus , he or she would not have been at the site of the crime and hence the crime would not have

occurred. This often does not matter in the case where cause is only one element of liability, as the remote actor will most likely not have committed the other elements of the test. The legally liable cause is the one closest to or most proximate to the injury. This is known as the Proximate Cause rule. However, this situation can arise in strict liability situations. Intervening cause[edit] Imagine the following. A critically injures B. As B is wheeled to an ambulance, she is struck by lightning. She would not have been struck if she had not been injured in the first place. The effect of the principle may be stated simply: But if the new act breaks the chain, the liability of the initial actor stops at that point, and the new actor, if human, will be liable for all that flows from his or her contribution. Note, however, that this does not apply if the Eggshell skull rule is used. This is an element of Legal Cause. Tice Rule[edit] The other problem is that of overdetermination. Each shot on its own would have been sufficient to cause the damage. But on the but-for test, this leads us to the counterintuitive position that neither shot caused the injury. However, courts have held that in order to prevent each of the defendants avoiding liability for lack of actual cause, it is necessary to hold both of them responsible, See Summers v. Tice , 33 Cal. This is known, simply, as the Summers v. This is two negligences contributing to a single cause, as distinguished from two separate negligences contributing to two successive or separate causes. These are "concurrent actual causes". In such cases, courts have held both defendants liable for their negligent acts. A leaves truck parked in the middle of the road at night with its lights off. B fails to notice it in time and plows into it, where it could have been avoided, except for want of negligence, causing damage to both vehicles. Both parties were negligent. An actor is liable for the foreseeable, but not the unforeseeable, consequences of his or her act. For example, it is foreseeable that if I shoot someone on a beach and they are immobilized, they may drown in a rising tide rather than from the trauma of the gunshot wound or from loss of blood. However it is not generally speaking foreseeable that they will be struck by lightning and killed by that event. This type of causal foreseeability is to be distinguished from foreseeability of extent or kind of injury, which is a question of remoteness of damage, not causation. There is no novus actus interveniens. However, I may not be held liable if that damage is not of a type foreseeable as arising from my negligence. If Neal punched Matt in the jaw, it is foreseeable that Matt will suffer a bodily injury that he will need to go to the hospital for. Other relevant considerations[edit] Because causation in the law is a complex amalgam of fact and policy, other doctrines are also important, such as foreseeability and risk. Foreseeability tests[edit] Some aspects of the physical world are so inevitable that it is always reasonable to impute knowledge of their incidence. So if A abandons B on a beach, A must be taken to foresee that the tide comes in and goes out. But the mere fact that B subsequently drowns is not enough. A court would have to consider where the body was left and what level of injury A believed that B had suffered. If B was left in a position that any reasonable person would consider safe but a storm surge caused extensive flooding throughout the area, this might be a novus actus. That B was further injured by an event within a foreseen class does not of itself require a court to hold that every incident falling within that class is a natural link in the chain. Only those causes that are reasonably foreseeable fit naturally into the chain. So if A had heard a weather forecast predicting a storm, the drowning will be a natural outcome. But if this was an event like a flash flood , an entirely unpredictable event, it will be a novus actus. If A honestly believes that B is only slightly injured and so could move himself out of danger without difficulty, how fair is it to say that he ought to have foreseen? The test is what the reasonable person would have known and foreseen, given what A had done. It is the function of any court to evaluate behaviour. A defendant cannot evade responsibility through a form of wilful blindness. Fault lies not only in what a person actually believes, but also in failing to understand what the vast majority of other people would have understood. Hence, the test is hybrid, looking both at what the defendant actually knew and foresaw i. In cases involving the partitioning of damages between multiple defendants, each will be liable to the extent that their contribution foreseeably produced the loss. Risk[edit] Sometimes the reverse situation to a novus actus occurs, i. Abbott Laboratories, P. The manufacturer of the particular medication that caused the injury could not be ascertained for certain. The defendant was held liable because of the amount of risk it contributed to the occasioning of the harm. However, it does show that legal notions of causation are a complex mixture of factual causes and ideas of public policy relating to the availability of legal remedies. In R v Miller [] UKHL 6, the House of Lords said that a person who puts a person in a dangerous

position, in that case a fire, will be criminally liable if he does not adequately rectify the situation. Evidence proving causation[edit] To be acceptable, any rule of law must be capable of being applied consistently, thus a definition of the criteria for this qualitative analysis must be supplied. Let us assume a purely factual analysis as a starting point. A injures B and leaves him lying in the road. C is a driver who fails to see B on the road and by running over him, contributes to the cause of his death. Roads are, by their nature, used by vehicles and it is clearly foreseeable that a person left lying on the road is at risk of being further injured by an inattentive driver.

DOWNLOAD PDF CONDUCT AND CAUSATION

Chapter 5 : Element (criminal law) - Wikipedia

Causation is the "causal relationship between conduct and result". In other words, causation provides a means of connecting conduct with a resulting effect, typically an injury. In other words, causation provides a means of connecting conduct with a resulting effect, typically an injury.

This is a necessary elementâ€”that is, the criminal act must be voluntary or purposeful. It stems from the ancient maxim of obscure origin, "actus reus non facit reum nisi mens sit reas" that is translated as "the act is not guilty unless the mind is guilty. Mens rea is almost always a necessary component in order to prove that a criminal act has been committed. For murder, the mental element requires the defendant acted with " malice aforethought ". Others may require proof the act was committed with such mental elements such as "knowingly" or " willfulness " or " recklessness ". Arson requires an intent to commit a forbidden act, while others such as murder require an intent to produce a forbidden result. Motive , the reason the act was committed, is not the same as mens rea and the law is not concerned with motive. In general, guilt can be attributed to an individual who acts "purposely," "knowingly," "recklessly," or "negligently. Actus reus All crimes require actus reus. That is, a criminal act or an unlawful omission of an act, must have occurred. A person cannot be punished for thinking criminal thoughts. This element is based on the problem of standards of proof. For example, threats, perjury , conspiracy , and solicitation are offenses in which words can constitute the element of actus reus. The omission of an act can also constitute the basis for criminal liability. The necessary mens rea may not continually be present until the forbidden act is committed, as long as it activated the conduct that produced the criminal act. However, for criminal liability to occur, there must be either overt and voluntary action Main article: Causation law Many crimes include an element that actual harm must occurâ€”in other words, causation must be proved. For example, homicide requires a killing, aggravated battery requires serious bodily injury and without those respective outcomes, those respective crimes would not be committed. A causal relationship between conduct and result is demonstrated if the act would not have happened without direct participation of the offender. The act may be a "necessary but not sufficient" cause of the criminal harm. Intervening events may have occurred in between the act and the result. Therefore, the cause of the act and the forbidden result must be "proximate", or near in time.

Chapter 6 : Correlation and Causation

Conduct and Rational Causation Conduct and Rational Causation LANDESMAN, CHARLES When an agent provides reasons explaining his conduct to himself or to some other person, he is often interested in providing a justification, in putting his act into a good light, in showing that what he did was the right, the reasonable, the correct, the prudent thing to do, or at least in.

Chapter 7 : Causation and Plaintiff's Conduct in Pennsylvania Strict Liability | Drug & Device Law

The term proximate cause is somewhat misleading because it has little to do with proximity or causation. Proximate cause limits the scope of liability to those injuries that bear some reasonable relationship to the risk created by the defendant.

Chapter 8 : Causation (law) - Wikipedia

Causation is the "causal relationship between conduct and result." That is to say that causation provides a means of connecting conduct, complete with actus reus, with the resulting harm or result element.

Chapter 9 : Conduct and Causation - Oxford Scholarship

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Conduct disorder is a serious behavioral and emotional disorder that can occur in children and teens. A child with this disorder may display a pattern of disruptive and violent behavior and have.