

Decision tree: Intersection between Automatism, Insanity and Intoxication

Overview: **Automatism** is best for D, as it negates the AR. **Insanity** is a complete defence, but carries stigma and medicalization. **Intoxication** is worst: in the best of cases, it makes no difference to liability (it's an *inculpatory* doctrine).

Is D in an automatic state?

No
Automatism ruled out. Can be Insanity or Intoxication.

- Internal factor? Apply **Insanity** rules
- External factor?
 - Substance taken? Apply **Intoxication** rules
 - No substance taken? No legal relevance.

If combination of factors, ask which is the *predominant factor* - examples:

- Internal and external factor (Burns: brain damage and medication)
- Voluntary intoxication and other external cause (Stripp: voluntary intoxication and concussion)
- If a shocking event triggers a mental breakdown, is that internal or external?
 - o If reaction is that of person of normal sensibility: external
 - o If reaction is abnormal/extreme, there must be an internal predisposing factor: internal (Rabey [Canada], S&S p. 708-9)

Automatic state:

- Impaired consciousness (there's no reasoning)
 - o eg sleepwalking
 - o not delusions - that's normal insanity
- or**
- Lack of physical control (there's reasoning but body doesn't respond to it)
 - o eg someone grabs your arm

Yes
Can be Automatism, Insanity or Intoxication.

- Internal factor? Apply **Insanity** rules ("insane automatism")
 - Eg blood sugar dislevel by *failing* to take insulin (Hennessy), epilepsy (Sullivan), sleepwalking (Burgess), arteriosclerosis (Kemp)

Special case: "Dutch courage": **Cannot plead Automatism** (always liable).

Voluntary intoxication? Apply **Intoxication** rules ("intoxicated automatism")

- Eg Lipman (automatic state due to voluntary intoxication, MR for murder can't be constituted)

Involuntary intoxication? **Automatism**

- Eg. Quick, Bailey (took insulin but neglected to eat, reaction not foreseen)

These 2 are equivalent: voluntary intoxication also involves prior fault

External factor?

Substance taken?
Apply Intoxication rules to decide whether voluntary or involuntary

Antecedent AR + MR? **Normal liability for crime** at earlier point in time (equivalent to "Dutch courage")

- Jewelry shop example S&S p. 122

D prior fault for his state? **Cannot plead Automatism.**

- foresaw the risk of automatic behavior and unreasonably took the risk (S&S p. 120-1)

No substance taken?
Eg concussion, being pushed, grabbed, slip...

None of the above? **Automatism**

Intoxication rules (fragment):

- Whether voluntary or involuntary
 - o Meds taken with foresight of reaction, when it's unreasonable to run the risk, amount to voluntary intoxication (Hardie, Bailey)
 - o Note: Quick made the test one of foreseeability of reaction; Bailey overruled this, making the test one of subjective foresight
- Whether basic or specific intent