Culpability - can X be blamed? Was act committed & blameworthy state of mind. Act after unlawfulness. "mens rea," "actus reus" 
+ excluded by lack of criminal capacity, or other ground excluding culpability like mistake
- needs criminal capacity + intentional negligence
- mental ability

2 forms of culpability

Culpability & act at same time

Criminal Capacity: X's mental ability to appreciate wrongfulness & act in accordance with such appreciation of wrongfulness 
- excluded by insanity, youth, non-pathological mental incapacity 
  - NPHS - general defense, all not insanity/youth, Leuchter
  - mental illness: lacks criminal rap 
    - mental defect: incapable of appreciating wrongfulness of act or 
    - mental illness: not crimally responsible 
  - youth: < 10 -> crim cap & prosecution 
  - 10-14 presumed = crim cap

Knowledge Will

Intention
- Cognitive: X's knowledge/willfulness of act 
- existence of def elements

Subjective Test
- direct intention (dolus directus): causing of forbidden result is affirm (mens rea)
- indirect intention (dolus indirectus): probably result, main goal, but realising it will reasonably caused, but continues (arsen or insurance)
- dolus eventualis: probably result not main aim, but subjectively poses the possibility that probable, result may occur & resembles with will
- act of omission or withholding, actus contemptus

Objective Test
- NPHS - subjective text, direct (admission) or indirect (езульт акта)
- intention: X must know circumstances (knew tell hiding drug/thing belongs to me?)
- intention & unlawfulness: seen posseing possibility that act is unlawful & criminal

Mistake: No intention & not aware of act, all circumstances set out many elements & unlawfulness = mistake

Subject Test - nullius intention - No real crime, a question of fact: mistake must be material. Non-material mistake don't relate to crime.
- obiter dictum: going astray on blur = mistake
- Amat Y, kill Z - transported culpability approach: intention transferred to entering person unlawfulness
- culpability of wilful target or wilful victim
- X knows not covered by ground of justification (sentences for depression)
- X knows that conduct is punishable, a crime, is ignorancy a defence? Yes act to be blame, ignorance excludes intention

Negligence
- Objective Test (What a reasonable person would foresee possibility of act)
  - conduct negligence: reasonable person in same circum would foresee possibility of circuit might exist & conduct might bring result
  - Re: would take steps to guard against possible & X's conduct classified from him
  - Re: reasonable person (i.e. reasonable person) subjective standard global paternality objective, reasonable,客观
  - Re: reasonable person = possibility to save instant
Intoxication

- Intoxication
- Voluntary vs. Involuntary
- Action libera in causa: drunk to get courage to commit crime = no evidence - culpable while sober already
- Action resulting in mental illness: from chronic abuse or = mental illness/dependency, ordinary rules re mental illness apply (no intent cap = institutionalization)
- Common law: unaiding, 1981 Chetcuti ex caelis, 1988
- Acquittal: intoxication may exclude voluntary act (roas), criminal cap (not merely without experts) or intention (or mitigation)
- Intoxication = complete defense
- (UAPA) Act 1948, section 6: unacceptability sober & drunk doing same thing, sober gets opt
- 1. degree of intox: excludes intention, leaves voluntary act & criminal capacity
- 2. excludes criminal capacity, leaves voluntariness
- 3. excludes voluntary act, criminal capacity: no above

- In Someone is drunk, act appreciate wrongfulness while knowing that event & not criminal because of it. Still be guilty of an offense & penalty same as act's. Deal will: 1. no mens rea, no capacity, no voluntary
- Christian: Intoxication excludes intention (2)
- 1. no stat offence; no precedent offence, so = caution, so is about knowledge, not faculties
- 3 = (1) not punish, intox is still a defense as in Chetcuti for any crime needing intention
- Elements of crime (cont) s 1(i) Act 1 of 1948 - Consumption: consumption, can subst, impris or punish excl crim cap, knowing the effect circumstances: act prohibited under penalty while lacking crim cap, is not criminal
- only crime: prosecution must prove lack of crim cap
- Intox & culp homicide: X charged with murder into Christian can be acquitted 2 of 1st, but may be guilty of culp harm at 2nd prove that X had crim cap & also negligent (test for reg 4 objective reasonable person)
- Intox on punishment: intox can lead to a more lenient punishment. Not in intox is element of crime (1),(1) (habeas case) can also lead to lenient punishment (by drunk ecc- too you know it makes you aggressive)
**Theories of punishment**

- **Absolute**
  - Retribution
    - Focus on retribution
    - Retribution is an end
    - Retribution is an end
  - Prevention
    - Prevent crime
    - Punish a threat
  - Punishment by example
    - Punish by example
    - Punish by example

- **Relative**
  - Reference
    - Punishment to prevent crime
    - Punishment to deter crime
    - Punishment to deter crime
  - Reform
    - Reform to deter crime
    - Reform to deter crime
    - Reform to deter crime

- **Combination**
  - Trial

**On court: combination system**

- **Trial in Zim:**
  - Crime (degree of harm - retribution) and criminal (personal circumstances - reformation)

**Criminal liability:**
- Legal: X's conduct must be legally recognized as a crime.
  - Must be considered element of crime or will know.
    - Sometimes statutes must be studied.

**Crime:**
- Public interest, public law, State possesses, result in punishment, respect of law.
  - Criminal procedure, criminal law, public law, private party, result in damages.

**Legality:**
- Can't be convicted of a crime.
  - Unless conduct is recognized by law as a crime.
    - In clear terms, before conduct took place.
  - Indecent should know precisely what conduct is criminal.

- **Legality = 5 rules:**
  - Usus acceptum: Court can't create a crime, must already be an accepted crime.
  - Usus praevium: Already a crime when act was performed.
  - Usus cœtūm: Crime must be defined.
  - Usus strictum: Court must use strict narrow definition.
  - Milla poena: Same on above goes for sentence.

**Legal norm = no crime.**
- Criminal norm = crime.
- Criminal sanction = punishment.
- Convicted.


(RW 260) Cases

Zinn: "Trials in Zinn". Crime, criminal, interests of society with sentencing, furniture found.

Francis: Statutory crimes

Marry: legislative must reform law, not courts. Separation of power must be accepted. If no rope included, no court.

Marry: Common law ten and only rational, but may exceptionally extend application of law to promote Consit. Const. changes could be made. Common law. Legalities shouldn't be developed by Courts, but only prospectively. CC said: Marry is indeed, assault, all facts oral. Rope = no possibility a part of legality.

Donald: Lamini. Killed someone while dreaming = automatism (involuntarily behaviour). Not convicted.

Trickett: If X relies on some automation (automaton), seems to prove voluntary acts on state.

(Henry: A qno. = guilty. Med & Storing a qno. rejected defense of sane automatism on m' produce, show possibility.)

Majin Polisse v Fevules. Legal duty upon X to act positively up conviction of criminal offence. Also if office required.

(Leon: Exception or effort needed doesn't mean impossible.)

Daniels: Facts = cause of action is determined. Conditional go at rotten.

Mokagathi: Policy cause. A factual cause is also legal cause. Must consider all policies. Common X s not necessary.

Toombi: If X, intentional negligence. Negligence would consist of such actual or possible circumstances to result.

Furnace: Conduct = sentimental. Can shows more. Manifestation later, so steady. No cause shows cause because he was acting to judge.

Van Wyke: Privacy. Privacy may protect oneself. May deny kill (may be manslaughter). Betraying stoppage killed others = private.

Pote: Priv defense may protect oneself. 3rd person. Mad and poor. Wives are not care and neglected, M may hit first to avoid blow.

Majohowera: Y steals from X. Then, X runs to home, got gun. Covered E are present X stabbed E X to save property.

Goliath: X kills X, 1st person. No excuse, so kill. X faced not guilty = suspicion, Goliath. Not guilty = suspicion (Goliath). Not guilty = suspicion (Goliath), Berekura.

L: Woman mentally ill, wronged, drunk, desire, murder. Can't content voluntarily. Into is "halted" being scared of amount by liquor cap.

Morton: "Disobedience of order of lawful authority" = duty to obey. No more harm than remaining there while obliging.

Christian. Drink X, crowded into people. Killed one injured. Charged murder. At first murder, is drunk he thought he'd more murdered.

M: Murder culp. Lorn: No act, murder or no intent, not guilty if not murder or common assault.

Interrogator: Volat. (no act) or crim cap or infection = too least? Act 1980 passed not A. Each X may have capacity as result of provocat/verbal, street noise, shocks should be care automation.

Kathy: Hokey, proper, mag x kills X. Relays in non-pathological. Can increase penalty, could reject. Barellel, X can't NCI from emotional stress. Epavison = same automation. Sane = act. Care of capacity.

Marskile: X "halted" V & brand the horse. X actually due to the ps. = murder, not 2 separate 2 exceptions to contemporaneously.

Goosen: Aaron & Bryne are named time of death may exclude others. We cannot uninterestedly exclude. Nquabe, Mitshika, Ntuli, De Koni, De Olivier, Conable.
CRIMINAL LAW CASES

Zinn - Furniture company fraudulent borrowing & theft. Zinn appealed sentence.

- Court would not count act twice as an offence & sentence

Manslaughter - taking minor away from parental control to enable someone to marry/minor sexual

- Principle of legality: conduct must be prohibited & punished by common law statute (became
- Conduct count must be crime. Must be offence at time of commission

- Intentional killing of 18th week post - is crime

Mogalabhi - no theory of causation is self - alter. fair & just & public policy

- Proactive causation & factual & illegal cause. Accused injuries, victim's fault in getting medical assistance, victim's
- Conduct is nunc pro tunc retroactive

- Intoxication may exclude voluntary, not for crime, capacity or intention

- Another unusual thing involuntary intoxication. Voluntary intoxication is an defence but created a new
- Offence of committing an offence while intoxicated where accused would otherwise not be criminally liable.

- CLA to fix Christina - for escaping from liability because intoxicated, not mentally not guilty or mental disorder.

- Accused's mistake no manner/this a place of death may exclude mens rea. Braced confusion of

- CPD is not involved (pioneer) & intention.

- Masilela; thought boy'd be killed by strangling, test set for: if actually killed = attempted murder? No.