



Introduction to Law

Below are a variety tasks for you to work through to introduce you to some of the main concepts in the study of Law. Feel free to do them in any order, hopefully you will find them interesting and maybe inspiring!

Task 1 – Research

Find out the answers to the following questions

1. Who makes the law in England and Wales?
 2. What is the difference between civil law and criminal law?
 3. The standard of proof in criminal and civil cases is different. What is it in each?
 4. What is the name of the highest court in the English hierarchy?
 5. What is a ‘statute’?
 6. What does the ‘R’ stand for in criminal cases e.g. R v White (1910)
 7. How many people sit on a jury?
 8. What is a ‘QC’?
 9. Which court would you be tried at if you were accused of a serious criminal offence such as murder?
 10. What are ‘compensatory damages’?

Task 2 – Parliamentary Lawmaking

Create a flowchart of the parliamentary law making process explaining what happens at each stage.



Task 3 - Case Law

Every case that goes to court is recorded in ‘Law reports’ which explain the facts of the case, the verdict and the legal principles the judge used to come to the decision. Some are quite lengthy and judges, politicians and academics use them to understand how the law is being applied. Research the following cases and prepare them in a table with name, date, facts, principle of law. **Smith v Hughes, Cheeseman v DPP, R v White, R v Blaue, R v Ireland.**

I have done one for you as an example

Name	Date	Facts	Principle
Donoghue and Stevenson	1932	Mrs Donoghue found a snail in a drink of ginger beer and was ill as a consequence	You must take reasonable care not to injure your neighbour

Task 4 - .Law in the News

Research recent news articles on any legal issue. Select one that interests you. It could be a topical legal debate e.g. Should prisoners have the right to vote? Should the police have more powers to tackle knife crime? Or a particular case that interests you e.g Shamima Begum (the ‘isis bride’ wanting to return to the UK) Explain the legal issues involved, what are the areas of controversy? Explain why you chose this area and what interests you about it. Tell me what you think and why.

Task 5 – Watch 12 Angry Men

Watch the film 12 Angry Men (1957). It is in black and white and shows a fictional account of what happens in a jury room. In England and Wales serious criminal cases are decided by a jury of lay people (ordinary people like you or me). The jury is seen a fundamental principle of English law – trial by your peers. But what do you think? Research the strengths and weaknesses of the jury system, decide whether you think we should keep the jury or not and write a speech to present to the Prime Minister persuading him to follow your recommendation.

Task 6 – You be the judge

Go to <http://ybtj.justice.gov.uk/>

You Be The Judge puts you in the judge’s seat. You will get to choose from eight real life court cases, you will hear the facts of the case, and the aggravating and mitigating factors, then you will decide the sentence. Finally you get to see how your sentence compares to the one handed out by the judge in the real case. Do as many as you want – all are real cases although obviously played by actors all the facts are true. Are you a lenient judge or are you harsh?

I hope these you have found these tasks interesting, don’t worry if you have more questions than answers – a good lawyer always questions everything! if you would like some further reading have a look at the following collection of interesting cases.

Ms Upstairs Roberts 😊

8 Fascinating Cases and Legal Ideas for the Law Enthusiast



Detail of *Justice* by Luca Giordano

This is just a sprinkling of legal cases which should be accessible to anybody. Some introduce you to an area of law, whereas others go into specific rules, but hopefully they all raise questions which are worth thinking about.

There's one common theme throughout them, though, which is a common theme throughout legal study – what makes us treat very similar circumstances differently, and how do we know where to draw the line between them?

These summaries are brief and only intended to introduce you to concepts, not to be a definitive account of cases for revision or application purposes.

Taking your victim as you find them



A victim's choice to refuse medical care is insufficient to exonerate her killer.

R v Blaue [1975] 1 WLR 1411

In criminal law, the illegal act of the defendant must have caused the victim's injury or death without anything '[breaking the chain of causation](#)'. One way to break this chain is with a new and voluntary act of the victim or a third party which becomes the main cause of injury or death

– a *novus actus interveniens*. This was the decision in *R v Kennedy* [2007] UKHL 38. The defendant prepared a syringe of heroin for the victim who voluntarily injected himself, and then died afterwards. The defendant was found not guilty of unlawful act manslaughter because of the victim's free and informed decision to take the heroin.

R v Blaue is interesting because the 'act' of the victim was to refuse the blood transfusion she would normally have received for stab wounds, because her religion forbade it. This refusal caused her to die from her wounds, when she would have survived. Did this mean she caused her own death by refusing medical care?

The judge said that **those “who use violence on others must take their victims as they find them”**, meaning the defendant could not complain that an important part of the victim's identity (her religion) meant that the injury affected her more than it would other people because she would not be treated. The stabbing was still an operative cause of her death so he was found guilty.

The case protects the freedom of religion of the victim here. If the victim's decision had been found to be a *novus actus interveniens* then the law would in a way be blaming the victim's moral beliefs and decisions, by saying they caused her death. What beliefs do we consider important enough in this area? What if the victim refused a transfusion because she firmly believed that doctors were evil? Or was petrified of hospitals? Should the defendant take the victim 'as he finds her' in this case?

The duty to take care not to harm your ‘neighbours’



The ‘neighbour principle’ means you shouldn’t be finding one of these in your drink.

Donoghue v Stevenson [1932] AC 562

Tort law covers areas where somebody’s ‘wrong’ causes loss to another person, without the two parties having to be in a contractual relationship. The name comes from the fact that tort is French for ‘wrong’ – this is the law of wrongs.

The big case which expanded this area of the law is also a strange one.

Mrs Donoghue was in a café with her friend, who bought her a ginger beer. She was ill after having drunk some of it because the bottle had a dead snail in it! However, she had not bought the bottle so she could not sue for breach of contract — she had no contract with the shop owner or the bottle manufacturer. Instead, she brought a case in negligence, a part of tort law, saying that the bottle manufacturer had a duty to make sure that the ginger beer was made in a clean place where snails could not get into the bottles.

This is where Lord Atkin set out the famous **‘neighbour principle’**: I have a duty towards “persons who are so closely and directly affected by my act that I ought reasonably to have them in contemplation as being so affected when I am directing my mind to the acts or omissions that are called in question”. This sounds like you have to think about the possible impact of everything you do on anybody it could affect, but in reality there are many limits on negligence law – including that you have to breach that duty of care. Lots of things are relevant to breach but it is overall about how reasonable the action (or decision not to act) was. One element is quite interesting though, especially for those of you who are about to start learning to drive...

Learner driver? Better learn quickly! The duty of care in negligence law



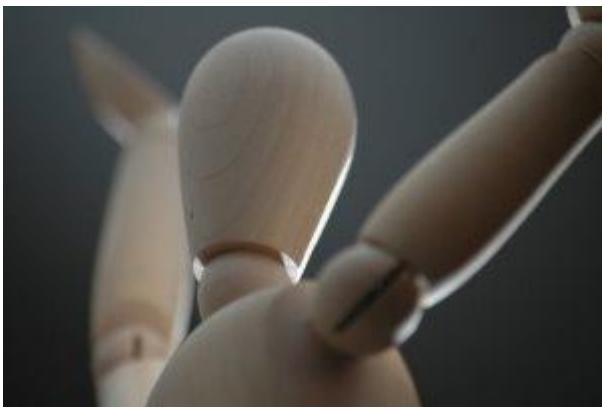
Even this learner driver has a duty to be careful and competent.

[Nettleship v Weston \[1971\] 2 QB 691](#)

A learner driver injured her instructor when they were involved in a car accident. The instructor tried to claim against the driver in negligence, but the question was what the ‘standard of care’ was that the learner driver had to breach – **do we expect learner drivers to be as careful as experienced ones?** The Court of Appeal said yes: the duty of care was that of a competent and prudent driver (that’s somebody who can drive and drives carefully), and because Mrs Weston had been driving below this standard she had to pay him money (damages) to cover his loss. She was covered by insurance anyway, so the decision just made sure the teacher received some money whilst he could not work.

This is interesting for anyone who is starting out in a profession, or doing an activity for the first time – you only get better with practice, so does it seem unfair to expect you to be at the level of a careful and competent person doing that activity the first time around? It’s probably important that there was insurance available in this case — if there is no insurance available the person who causes the harm often is not worth suing anyway. And in any case, if the claimant understood there was a risk of injury the defence of consent (*volenti*) may be available, so this isn’t as harsh a decision as it first sounds. The decision does show how the courts develop tort law with half an eye on policy considerations and the ‘real life’ situation, though — whilst Mrs Weston wasn’t really at fault this result only affected her insurance premium.

Can you own parts of your own body? Should you be able to?



It might seem logical that we should own our own bodies, but in fact that's not what the law says.

[Yearworth v North Bristol NHS Trust \[2009\] EWCA Civ 37](#)

The law has historically refused to say that anyone owns their own body. If you can own your body you can sell it, including selling organs, prostitution or selling yourself into slavery. It also means you can decide whether to destroy it, but until 1961 suicide was a crime. Obviously this was more important for prosecuting those planning or

encouraging suicide, which is still illegal, or attempted suicide, than for trying to prosecute people who had succeeded in killing themselves!

However, this rule has been tested by changes in medicine which now mean that **we may want to be able to say that (former) parts of our body are our ‘property’**. The claimants in *Yearworth* had deposited semen samples with a clinic before undergoing chemotherapy for cancer, having been told that the therapy could make them infertile. The hospital did not store the samples with enough care and they were damaged, and the men in the case suffered psychiatric injury when they discovered they now could not have children. The problem was that because the semen was no longer part of their body they could not bring a claim for personal injury, but the law would not have called bodily fluids personal property for the reasons set out above.

However, the court did decide that the semen samples were personal property because of the control the men had over it – they were the ones who could decide what to do with it, despite some limitations set by the Human Fertilisation and Embryo Act 1990, and so the relationship had most of the hallmarks of ownership. The claimants could therefore claim for the psychiatric damage which resulted from the negligent damage of their property.

This case seems like the right decision on the facts, but it opens a whole area of law which has normally been tightly closed. Can you think of similar cases where we might be less comfortable with such an outcome? And how should the courts decide where to draw the line? Is your kidney your property if you're donating it to a friend, and the doctors damage it and you suffer mental distress because your friend can't have a transplant? What if you change your mind about saving your friend and decide to sell it? What's the difference?

Is a Stormtrooper helmet a work of art?

It turns out this is not sculpture.

[Lucasfilm v Ainsworth \[2011\] UKSC 39](#)

Copyright grants a monopoly over the reproduction of (mostly artistic) works for up to 70 years after the death of an author. That's why the cheap editions of books only ever cover old works; once the copyright runs out then anybody can make copies, and because you don't need to pay the author the costs of production are lower so the price goes down. There is also what is known as a 'design right' in the designs of functional products (like kettles or toasters) which is limited to 10 or 15 years after creation. This means that the protection of something against copying without the right-owner's permission can vary a lot depending on whether it is a functional item covered by design rights, or an artistic one protected by copyright.



In *Lucasfilm v Ainsworth* the man who designed the Stormtrooper helmets for Lucasfilm to be used in the Star Wars films had begun to reproduce and sell them worldwide without their permission. Had Lucasfilm been able to show that the helmet was a "sculpture" under the Copyright, Designs and Patents Act 1988 and that they owned the copyright in it they would have been able to claim money from Mr Ainsworth for the sale of those helmets already sold, and prevented him from making any more. However, the UK Supreme Court decided that helmets made for use in a film, even Stormtrooper ones which are more artistic than (say) a replica of a real battle helmet, are not "sculptures" under the Act because their use is functional instead of artistic. The design right protection in the sculptures had ended so Mr Ainsworth was free to continue making and selling them.

This was great news for Mr Ainsworth. However, is it fair to say that something created for the purpose of being in a film is never a sculpture or work of art in its own right? The shorter protection period prevents creators of such works and the producers of the films from controlling reproduction of items which were created for the film and might have helped to make back a lot of the money put into it – think of the cost of replicas you buy in gift shops at amusement parks! **Do we think a Stormtrooper helmet is 'artistic' enough to be a sculpture?** Is Gandalf's staff, or the Tardis? Do we think they deserve to be protected from copying without permission or a licence for over 70 years, the same as a painting?

This case is also important for understanding how important it is that legislation is clear on what it intends to achieve, and that judges interpret it clearly. Had Mr Ainsworth lost his case, Lucasfilm were making a claim for around £20million, but the legislation says very little about what makes 'a sculpture' so the judges have to develop their own tests for what one is.

"In accordance with the law" — prosecuting guidelines and assisted suicide



Assisted suicide is legal in Switzerland, leading to cases of ‘suicide tourism’.

[*Purdy v DPP \(2009\) UKHL 45*](#)

Mrs Purdy lives in England and has multiple sclerosis, a degenerative disease which affects your muscle movement, vision and balance. She had decided that one day her life will become unbearable and that she will want to go to Switzerland to end it, where this is legal under certain circumstances. If she did this relatively soon then she

would be able to end her own life, but if she were to wait longer then her husband would have to help her and she was concerned that he would be prosecuted for assisted suicide when he returned to the UK. This has not however been prosecuted before in similar circumstances, and Mrs Purdy asked the Director of Public Prosecutions (DPP) for guidance as to what factors the Prosecution Service would use in deciding whether to prosecute her husband. The DPP refused to publish guidance and she brought a claim that this was incompatible with her Article 8 right to a private life under the Human Rights Act. This cannot be interfered with except ‘in accordance with law’ and where necessary in a democratic society, but Mrs Purdy’s decision on when to take her life was being affected by the uncertainty of what would happen to her husband if he went with her to Switzerland – there was no clear law on the matter because she didn’t know the sentencing guidelines. The House of Lords agreed and sentencing guidelines have now been issued on the matter.

There’s something really important to be noticed about this – **human rights claims can be as much about procedure as about the actual law**. Mrs Purdy wasn’t asking for the law to say one thing or another, but to know how the law would be enforced. This uncertainty was having a huge impact on major decisions about her life, and by refusing to issue guidelines the DPP was asking her to decide between taking her life before she felt it was necessary, or risking the imprisonment of her husband. The State can have a huge impact on our private lives in the least obvious way – you would think the law on this area is clear but the prosecuting guidelines are as important as the statute.

Indirect discrimination – think about your impact!



‘Scene at the Signing of the Constitution of the United States’ by Howard Chandler Christy.

[Griggs v Duke Power Co 401 U.S. 424 \(1971\)](#)

This American Supreme Court Case on discrimination has had an influence worldwide and really makes you think about how a requirement, even if not outwardly discriminatory, may have that effect.

Mr Griggs’s complaint was that the company he worked for required a high school diploma and a certain result in an IQ test in order to work in its higher-paid department, when neither a high IQ nor a diploma were necessary in order to be able to do the job well. The company had also included a rule that black people could not work in the better paid department, but that was removed when the Civil Rights Act made such clauses illegal. The two remaining requirements did still however *in practice* prevent black people from moving into the roles, because they were much less likely to have passed their high school diploma.

The Supreme Court applied Title VII of the Civil Rights Act, which said that if such a test has a ‘**disparate impact**’ on a particular minority group the employer had to prove that it was related to the job and ‘consistent with business necessity’. It concluded that this was not the case here and the requirements had to be removed.

This is known as indirect discrimination – a company may not outwardly refuse to employ members of a particular minority group, for instance, or try to impact them more with a policy, but their policies or job requirements may have that effect. Examples include companies which will not (but reasonably could) allow flexible working so that Muslims can go home for prayers on Fridays, or which pay part-time workers less per hour – more women work part-time so the impact will disproportionately be on women. Indirect discrimination is subject to a defence in the UK so there is always the possibility of justifying a practice that affects one minority group more than another, but it is a very useful tool for going beyond the obvious discriminatory statements which have almost completely disappeared nowadays.

“Sorry officer, I didn’t mean it” — *mens rea* and *actus reus* in criminal law



Assaulting a police officer is treated more harshly than common assault, even if the defendant is unaware the person being assaulted is a police officer.

[Fagan v Metropolitan Police Commissioner \[1969\] 1 QB 439](#)

Mr Fagan, the defendant, was asked to move his car by a police officer. He reversed his car as told, but accidentally drove onto the officer’s foot. When the officer told him to get off his foot, Mr Fagan told him to wait, and refused to

move. He was convicted of assaulting a constable in execution of his duties, but complained that the two necessary elements of the offence – the act (*actus reus*) and mental state (*mens rea*, or guilty mind) – had not happened at the same time. When he drove onto the officer’s foot he did not intend to harm him, and at the point where he did intend to continue doing him harm he only *omitted* (failed) to move his car off the officer’s foot. In criminal law the two elements have to happen at the same time, so he argued that he should not be convicted.

This cunning submission however did not work. The court said that driving onto the officer’s foot and staying there was one long battery (unlawful touching of another), so that when he began intending to continue hurting the officer he was still performing the *actus reus*. Mr Fagan was therefore convicted of assault. Normally an omission is not an *actus reus*, apart from in certain circumstances such as gross negligence manslaughter, so it is interesting how the court managed to decide this was one long act rather than an act followed by an omission to correct the situation.