

ACT AND CRIME
MICHAEL S. MOORE
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Book Review by Sally Ramage

OUP has kindly decided to publish this book in paperback, making this highly complex topic more accessible, so that many can read Michael Moore's writing in his usual flair and competence. The author travels deeply into mens rea and actus reus and even if many practitioners find it too esoteric, it does trigger a serious examination of the criminal offence and its two components, mens rea and actus reus.

Interestingly, parts II and III of this book deals with the actus reus requirement and the double jeopardy requirement respectively (pages 169 to 383). Moore first questions whether one can indeed separate mens rea from actus reus in English criminal law and he reminds the reader of the general mens rea requirement, ie absence of insanity and absence of involuntary intoxication, and of the special mens rea requirement, ie the doing of an act contrary to a statute. Moore points out that intention in mens rea is not the same as intention in actus reus and asserts that in serious crimes such as homicide, intention is complex and is usually not one single intention. He illustrates his thinking, using as an example the criminal offence of negligent homicide, which, he suggests, should have a two-pronged examination: the killing being the actus reus and the doing so negligently, the mens rea.

Taking this one step further, one could examine the killing of a person by negligently causing that person to contract the HIV virus, say, during consensual sexual intercourse. Moore's theory would cause a dilemma in English law because the offence charged would be under the statute Offences Against the Person Act.