Actio Libera in Causa in Criminal law

by

Miriam Gur-Arye

Harry Sacher Institute for Legislative Research and Comparative Law
Faculty of Law • Hebrew University of Jerusalem
Jerusalem, 1984
# Table of Contents

**Introduction** ................................................................. 11

**Chapter One: Actio Libera in Causa in a State of Involuntariness** 14
   I. The rationale of liability under the doctrine .......................... 14
   II. Conditions for attaching liability under the doctrine ............ 22
   III. Liability under the doctrine for offences of strict liability ................................................................. 26
   IV. Liability for attempt in the situation of *actio libera in causa* ................................................................. 29
   V. *Actio libera in causa* in various legal systems .................... 34
      Continental law ........................................................... 34
      Anglo-American law .................................................... 35
      Israeli law ............................................................... 38

**Chapter Two: Intoxication and Actio Libera in Causa** ............... 42
   I. General ................................................................. 42
   II. Total intoxication ...................................................... 43
   III. Partial intoxication ................................................... 55
   IV. Offences proscribing engagement in dangerous activities whilst intoxicated ...................................................... 59
   V. Intoxication in Israeli law ............................................ 61

**Chapter Three: Actio Libera in Causa and the Defences of Duress, Necessity and Private-Defence** .................. 70
   I. Liability under the doctrine in states of duress and necessity ................................................................. 70
   II. The scope of liability under the doctrine in a state of necessity ................................................................. 72
   III. Private-defence and the doctrine of *actio libera in causa* ... 78
IV. Actio libera in causa and the defences in various
   legal systems ..................................................... 82
   Continental law .................................................. 83
   Common law ........................................................ 86
   Israeli law .......................................................... 91

Chapter Four: Grounds Negating Liability under the Doctrine of
   Actio Libera in Causa ........................................... 101

Table of Cases .......................................................... 105
Table of Statutes ...................................................... 106
Index ................................................................. 108