

THE CRIME OF MANSLAUGHTER

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What is Manslaughter?

Manslaughter can be regarded as the the twin brother of murder. According to the provision of **S.317 of the Criminal Code**, any killing that doesn't amount to murder would be regarded as manslaughter. A lot of scholars, particularly **Clarkson & Keating** are of the view that manslaughter occurs when there is the actus reus of murder but the offender is not entirely blameworthy so as to warrant the offence of murder.

The offence of manslaughter is usually classified into two:

1. Voluntary manslaughter
2. Involuntary manslaughter

Voluntary Manslaughter

This is a situation in which the accused kills the deceased through provocation. Where provocation is successfully pleaded, the charge of murder would be reduced to manslaughter. Thus, the raising of the defence of provocation in a murder trial has now become a common plea. Provocation is pleaded due to the fact that if one is convicted for murder, such person would be sentenced to death. See: **S.318 CC, S.283 CC and S.222(1) PC.**

According to **Conklin** in his book **Criminology**, he raised the issue of victim precipitation of a crime by saying that the person who suffers eventual harm from a crime might have played a direct role in causing that crime to be committed. This provides a ground for justifying the defence of provocation which reduces the offence from murder to manslaughter.

This position gained credence by the provision of **S.3** of the **English Homicide Act (1957)** which provides inter-alia that:

“In a charge of murder, where there is evidence on which the jury can find that the person charged was provoked, whether by things done or said or both, by the deceased which warrants the accused to lose his self control. All these shall be taken into account in the defence of provocation.”

In the case of *Â R vs Doughty (1986) vol 83 C.A.* the accused was to take care of his baby and the home at the same time. This was due to the fact that his wife had a caesarean section and could not assist. On a particular night, his 17 day old baby was crying profusely and the accused in an attempt to stop the crying, covered the baby's mouth. Due to his exhaustion and confusion, he pressed too hard and it resulted in the baby's death.

At the trial court, it was held that this could not amount to provocation. On appeal, the court of appeal held that the circumstances of the scenario could end up provoking the man and thus, his sentence was reduced from murder to manslaughter.

In *Â R vs Bassey (1963) vol 1 ANLR*, the accused was attacked by the deceased and some others while he was in his sitting room. During the course of this attack, the accused defended himself with a pen knife while his assailants were without weapons. The accused delivered four blows to the deceased in quick succession. The trial court held that in this instance the defence of self defence or provocation would not be adequate.

On appeal, the Supreme Court held that while the defence of self defence would not avail, provocation would. This was due to the fact that the four blows delivered were done in a matter of seconds and thus, there was no time for tempers to cool. The sentence was thus reduced to manslaughter.

In the case of ***Mareni vs The State (2010) vol 3 NWLR pt 1181***, the court provided three ingredients that needed to be proved in an offence of manslaughter:

1. The death of a human being took place.
2. Such death was caused by the accused.
3. The accused intended such act to cause death or such bodily injury as is likely to cause death or it was caused by a rash or negligent act.

Lastly in the case of *Ewo Akang vs The State (1971) vol 1 ANLR*, the court stated:

“Provocation which reduces what will otherwise amount to murder to manslaughter is a legal concept. It is of paramount importance in the consideration of this concept that the act held out as a natural and justifiable reaction of the provoked person was done not in self revenge, but in ventilation of a natural, sudden and contemporaneous feeling of anger caused by the circumstances of the occasion.”

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Involuntary Manslaughter

This is a killing that is done unintentionally and independent of the will of the accused person. SeeÂ **S.24 CC, S.4 of Federal Highway Act (1971)**, State vs Felix Usifo (1977) Vol 1 NMLR, Moses vs The State (2006) vol 11 NWLR pt 992.

The punishment for manslaughter, as provided for inÂ **S.325 of the Criminal Code**, is life imprisonment.

SOURCES

1. Lecture delivered by Dr Mrs. M.A. Abdulraheem Mustapha, Faculty of Law, University of Ilorin.
2. Okonkwo and Naish: Criminal Law in Nigeria
3. The Nigerian criminal Code
4. The Nigerian Penal Code
5. John E Conklin: Criminology

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