

PEER REVIEW SUMMARY REPORT

Date: January 29, 2026

Article Title: Criminal Liability for Psychiatric Deaths: A Comparative Analysis of Caregiver Accountability in England and Wales, Portugal, and Brazil **Author:** Richard Murdoch Montgomery **Reviewer Model:** Gemini
Verdict: ACCEPT WITH MINOR REVISIONS

1. OVERVIEW OF THE RESEARCH

This article examines the legal frameworks for criminal liability of informal caregivers whose gross negligence leads to preventable psychiatric deaths, specifically suicide. It identifies a critical "accountability gap" created by deinstitutionalization, where care has shifted to community settings without a corresponding shift in legal clarity regarding informal caregiver duties.

2. KEY FINDINGS & MODEL

The author proposes a robust legal model consisting of **four cumulative limiting principles** to ensure fair prosecution:

- **Documented Diagnosis & Foreseeability:** Requires a manifest and contemporaneous fatal risk, such as recent suicide attempts or clinical warnings.
- **Assumed/Legally Imposed Duty:** Kinship alone is insufficient; a duty must be voluntarily assumed (taking someone into a home) or legally mandated (guardianship).
- **Gross Departure:** Culpability only attaches to a qualitative failure that represents an exceptional departure from reasonable care, not just "imperfect care".
- **Causation as Contribution:** Frames causation as a material contribution to a foreseeable risk rather than speculative "but for" reasoning.

3. JURISDICTIONAL ANALYSIS

- **England & Wales:** Utilizes the common law of **Gross Negligence Manslaughter** (*R v Adomako*) and the principle of voluntary assumption of duty (*R v Stone & Dobinson*).
- **Portugal:** Focuses on *homicídio por negligência* and situates the debate within ECHR standards (e.g., *Fernandes de Oliveira v. Portugal*).
- **Brazil:** Highlights the unique statutory tool of **Article 133** (*abandono de incapaz*), which specifically criminalizes the abandonment of vulnerable persons.

- **Systemic vs. Individual:** The author should expand on the "justness" of individual prosecution when the state has failed its own positive obligations to provide adequate community mental health resources.
 - **Visual Integration:** The complex comparative analysis would benefit from a summary table comparing the three legal systems' approaches to "adequacy" in causation.
- 5. RECOMMENDATION** The article provides a sophisticated and necessary doctrinal framework for a neglected area of law. It is highly recommended for publication following minor refinements to its discussion on state systemic failure.
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