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The role of mental health in criminal liability: A case study approach

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Abstract

A person's mental health is an important factor in determining whether they are not criminally liable. Even when a defendant is found guilty of the conduct, they may still be partly free from criminal responsibility and get a reduced or special sentence based on mental health grounds if they are deemed sufficiently sick. Possible results include re-entry into the system, sectioning, or discharge for mental health issues. In most circumstances, forensic assessments of the accused's disability or condition are conducted by psychologists or psychiatrists to determine whether a mental health exemption is necessary. All citizens have the same position under the law and government and are obliged to uphold these principles without exception, as stated in Article 27, Paragraph (1) of the Republic of India Constitution of 1945. As a result, all individuals are treated as equals in the eyes of the law in India. When considering the context of criminal law, however, it becomes clear that this objective is not easily attainable. Criminal legal practice, with a focus on offenders suffering from mental illness. Given this, research into the criminal responsibility of criminals with mental problems under Indian law is urgently required. Crime and Punishment Theory, Theory of Justice, and Theory of Criminal Responsibility are the guiding theories. Both the victims and the perpetrators of crimes committed by people with mental disorders face legal uncertainty due to the lack of regulations regarding the limitations of mental disorders. This is despite the fact that Article 44 paragraph (1) of the Criminal Code and the Mental Health Law address criminal liability by offenders with mental disorders.

Keywords: Criminal liability, crime, mental health, criminal responsibility, Justice, approach

Introduction

A foundational principle of nations' specific sentencing rules is criminal accountability, which entails holding perpetrators of crimes accountable for their acts. On the other side, maintaining the rule of law, concepts of justice and fairness require that those who are not guilty of a crime not be punished. Despite being found guilty of the crime in issue, most countries exclude certain groups of persons from full criminal responsibility: Adults with qualifying mental disabilities or diseases, as well as very young children, are seldom penalized to the same extent as the majority of adults. The 'infancy' and 'mental health' exemptions to criminal responsibility are based on a similar line of thinking: if someone clearly lacks the mental capacity to comprehend or manage their own conduct (or its outcomes), their moral and legal responsibility are diminished. Consequences for the law in these situations may include less or no penalty at all, as well as voluntary or involuntary

segregation for mental health treatment. Academics and practitioners have often seen the question of mental health exemptions in criminal cases as a simple matter of conducting medical-psychological forensic evaluations and legally integrating the results into verdicts and sentence choices. However, when the problem is examined more deeply, it becomes clear that the forensic assessment stage and the incorporation of evaluations into choices about specific offenders are far from easy. Beginning with a description of two apparently comparable jurisdictions, the United Kingdom and Norway, both located in Europe but not part of the European Union, this article goes on to show how the two countries' frameworks for operationalizing mental health exclusions to criminal culpability vary. The two nations serve as good examples to illustrate some of the contingencies because of their distinct histories, sizes, and crime and danger environments. This is especially true when comparing the regulations governing the proof of a mental

health impairment's or disorder's possible causative role, as well as when it comes to the requirements and categories of proof, the use of forensic evidence, and its commissioning and challenge. The essay begins by outlining and comparing these broad concepts, and then uses terrorism-related events as an example to better explain the complexity at play.

Both of these factors led to the selection of this category: To begin, the legal definition of terrorism is based on the terrorist's political, ideological, or religious goals or "mindset," which can make it difficult to distinguish between terrorist acts committed out of malice or sanity and those that are the product of a disturbed mind. In addition, the probable national security ramifications, strong public attention, and the fact that terrorist cases inherently target a larger audience or authority make them "high stakes." Cases involving paedophilia or sadism, for example, may just as easily sway public opinion as those involving terrorism because of the much more immediate and all-encompassing ways in which terrorism affects national security and politics. In cases involving terrorism, medical, psychological, and legal evaluations and decisions regarding potential mental health exemptions must be made in extremely "charged" environments. This can lead to a conflict between the needs of protecting and treating people with mental illness and the public's desire for justice and accountability.

This essay uses a modified "genealogy of the present" to examine the discourse of applicable laws, guidelines, and practices in an effort to "complexify" the often-taken-for-granted frameworks surrounding mental health exemptions to criminal responsibility. Bypassing the traditional genealogical path, this updated, modern-day genealogy seeks to trace the origins of any continuous discourse or activity. Furthermore, it makes little effort to clarify the origins of the present practice or the reasons for its seeming complexity. On the contrary, it challenges the accepted wisdom of the present while simultaneously adding complexity to it. Dreyfus and Rabinow (1983: 119), Kritzman (1988: 262), and Koskenniemi (2005) all take the stance that the current situation regarding mental health exemptions to criminal responsibility will become less apparent or 'natural' as a result of studying discourse such as statutory regulations, laws, statements, and practices. This method, which draws on some work in security studies, pays close attention to the tensions and implicit security challenges that arise when considering data pertaining to mental health in relation to questions of personal agency and punishment (Bonditti et al., 2015) ^[10].

Literature Review

Forrester, Andrew & Hopkin, Gareth. (2019) ^[3]. The 1980s saw the introduction of care pathway techniques, which have now become the norm in healthcare systems across the world. In the realm of criminal justice, they are now being used with a greater emphasis on healthcare. How strong is the evidence supporting care pathway delivery, despite its theoretical benefits of promoting a whole-systems approach to health and social care inside the criminal justice system? We aim to: Health care delivery within interagency pathway advances since 2000 will be reviewed, together with the type and scope of the evidence streams supporting it. Approach: In order to examine the breadth and depth of

evidence streams bolstering health care delivery within interagency route changes since the year 2000, we used an exploratory narrative technique. Three databases-PubMed, Medline, and Google Scholar-were searched using a keyword technique to assess the existing literature. What we found: There is a lack of longitudinal research that tracks offenders throughout all aspects of offender placement, including police custody, courts, prisons, and the community at large. No matter the study's setting, the following topics have emerged as fundamental to the existing literature: disorder or need counts, screening tool creation and assessment, and clinical intervention style evaluation. So far, the majority of data is based on observation alone, but it is now well-established that treatments within some sectors of the criminal justice system, particularly prisons, may be tested in randomized controlled trials. In summary: The disproportionately high incidence of mental disorders among criminals makes it all the more important that they have access to health treatment while they are processing through the criminal justice system. The idea of organized routes to guarantee this is appealing in theory, but it lacks empirical backing at this time. In addition, there has been very little research on the massive reductions in services that have followed government economic policies. The government and pressure groups have also invested heavily in new possibilities, but this investment is often based on theory and good intentions rather than evidence, and the programs aren't evaluated until after they've been implemented. That needs to change.

Fenge, Lee-Ann & Hean, Sarah & Staddon, Sue & Clapper, Andy & Heaslip, Vanessa & Jack, Eleanor. (2014) ^[2]. Few studies have investigated the challenges faced by those with mental health disorders who interact with the criminal justice system, and historically, mental health concerns affecting individuals involved in the criminal justice system have been grossly underrecognized. Recent legislation has emphasized the need to divert criminals into suitable mental health treatments and to identify mental health needs early on in criminal proceedings. There needs to be better training and communication between agencies in order to divert offenders with mental health issues into more suitable mental health treatment, but studies show that offenders are only partially receiving mental health services at the moment. This paper's goals are to(1) examine the present state of persons with mental health issues in England's criminal justice system and(2) propose a strategy for improving practitioners' understanding of the diversion agenda through joint interagency training. This presentation will highlight the viewpoints of many practitioners who participated in an interagency training day and provide suggestions for how this kind of training may be improved in the future.

Hector, Jada & Khey, David. (2018) ^[1]. Students of Criminology and Criminal Justice will find an overview of the connections between mental health and the criminal justice system in this textbook. Basic symptoms of major mental diseases and the number of people with mental illness who are associated with the legal system are summarized in an approachable way. When people in the US are experiencing mental health issues or distress, the criminal justice system is often the first public agency they

interact with. Research on this demographic keeps dispelling prevalent misconceptions, such as the widespread belief that people with mental illness conduct more violent crimes. Despite the fact that people with untreated mental diseases are more likely to commit criminal activities, many myths persist. There is a severe shortage of mental health facilities and resources, as well as widespread stigmatization and assumptions about people with mental illness, which leads to their incarceration and the involvement of law enforcement as first responders in situations of mental distress. Students majoring in criminal justice and criminology should be mentally prepared to work with people who suffer from mental illness in this setting. This relevant work examines the functions of the whole criminal justice system as they pertain to the treatment of people with mental illness, including but not limited to: public health, social services, sentencing, corrections, release, and re-entry. Criminal justice workers' mental health is also addressed, which is important since these individuals have a disproportionately high prevalence of stress, post-traumatic stress disorder (PTSD), and other mental health problems. Suggestions for further study are included in the book's last section. Students interested in careers in the criminal justice and criminology sectors, as well as those in public health, psychology, and allied disciplines, will find this material useful. Those in positions of authority and those actively engaged in the sector will also find it useful. All things considered, this work aspires to enlighten, educate, and motivate transformation.

Deniz, Derya. (2020)^[4]. The field of criminology does more than only analyze criminal behavior according to the letter of the law. Given the knowledge we have about the criminal and the unlawful conduct, we may better understand the social, emotional, and cognitive components of the crime. This requirement also necessitates a more holistic approach to criminal law. That is why it is important to study recent crimes and their offenders in order to comprehend the personal and social-psychological components of crime. To be judged responsible for their illegal conduct or lack thereof, the offender must have acted with purpose, knowing full well what would happen as a result of their actions, having the mental capacity to resist temptation, and having committed the crime with full knowledge of the consequences. People who are unable to regulate their conduct should not be penalized or held accountable for their acts; this is the fundamental tenet of the rule of law. Mental health experts assess the offender's state of mind when the crime was committed. A number of mental diseases may increase the likelihood of criminal conduct, but the vast majority of persons with these conditions do not engage in criminal activity. Nevertheless, it is important to examine how factors like poor socioeconomic position, prior jail histories, or drug misuse impacted this association even if a correlation between certain mental conditions and the criminal activities could be shown. So, it's important to remember that criminals' mental illnesses do not cause them to commit crimes.

Research Methods

Since this study makes use of legislative laws, judicial rulings, and community legal norms, the methodology used might be described as normative juridical. Laws and rules

are the focus of the legal approach, which is number thirteen. 14A variety of sources, including primary, secondary, and tertiary legal documents, are consulted in normative juridical research, which is also called the library legal research approach. Code of Criminal Procedure, Code of Criminal Procedure, and Law No. 18 of 2014 pertaining to Mental Health are the main legal sources consulted. Secondary sources of law Legal resources that elucidate or bolster main legal information are known as secondary legal materials. Books, scholarly publications, and periodicals on the subject of criminal responsibility for offenders with mental illnesses are examples of primary legal documents. Theories, expert views, and websites devoted to the subject are also acceptable. The basic sources of law are known as tertiary legal resources, while the secondary sources include dictionaries such as general and legal dictionaries, as well as big Indian and English dictionaries. 15Library research methods, including document study and documentary study, were used to compile the data for this study. Researchers use deductive reasoning analytical strategies, such as deriving inferences from examined information, to sift through relevant books, online resources, journals, statutes, and scientific works in order to compile research materials.

Analysis

Article 44 of the Criminal Code governs the situations under which a person may be held liable, according to Moeljatno 16. This is according to what the Criminal Code says in Article 44: That no one should face consequences for an action for which he cannot be held accountable, whether because his reasoning is flawed or because he is tired of being wrong; If the crime in question is really genuine, and the perpetrator is found to be mentally ill or imperfect, the court has the authority to impose a one-year psychiatric hospital assessment as a condition for holding him liable. In addition, "That the provisions in paragraph (2) only apply to the Supreme Court, High Court and District Court." While the two grounds given in Article 44 for a person's incapacity to be responsible are detailed above, this law does not address mental diseases directly:

The following decisions pertain to matters pertaining to the criminal act of taking someone's life: Decision Number 144/Pid.B/2014/PN. Cianjur, which released the defendant from all charges and ordered their treatment at the West Java Provincial Mental Hospital for three months; Decision Number 105/Pid.B/2017/PN. Tsm, which acquitted the defendant and ordered their treatment at the same facility for four months; and Decision Number 119/Pid.Sus/2019/PN.Mgl. Restoring the defendant's rights in terms of his ability, position, honor, and dignity, the court ordered the defendant's immediate release from custody after his acquittal of the Public Prosecutor's allegations. There are no clear rules addressing the exclusion of mental illness or defect of reason from criminal liability, therefore it is unclear how the legislation will be applied in light of Article 44 paragraph (2). Decision Number 602/Pid.Sus/2015/PN. Pbr states that, in contrast to the obscenity crime, the defendant is not to be punished but rather treated for one year in a mental institution. According to Judge's Decision Number 20/Pid.B/2015/PN. Lbo., it is a crime to wilfully violate the law by destroying, injuring,

making useless, or removing anything that completely or partially belongs to another person. After sentencing the defendant to one month in prison, the judge also ruled that he or she would not be required to serve that time unless another judge rules differently, citing the fact that the defendant violated the terms of their four-month probation. In the case of murder, the penalty is limited to less than one year of mental hospital treatment, but in the two previous rulings, the maximum punishment is a combination of incarceration and mental hospital treatment. Defendant further knowingly violated copyright or associated rights when he broadcast, displayed, distributed, or sold to the public an item or work that was the product of such a breach (Decision 50/Pid.Sus/2015/PN. Kbu). The defendant was found guilty of a crime and sentenced to 6 months in prison. The judge made it clear that the sentence would not be carried out unless another order was made in the judge's decision mandating a 10-month probationary period following the conviction. The defendant had issues with insomnia and anxiety. Also distinct from the preceding rulings is this one, which does not mandate mental hospital treatment for offenders but instead imposes a 10-month probationary term.

The ability to seek legal protection is unjustly denied to victims of crimes perpetrated by those with mental problems. For Aristotle, distributive justice is all about figuring out who gets what in the social contract between the state and its people, especially when it comes to the legal protections that citizens should be entitled to. Everyone is "enjoined to uphold the law and government without exception" according to Article 27, Paragraph (1) of the 1945 Constitution. In this article, we are assured that the duty to ensure the equality of all citizens before the law rests with the state. The first paragraph of Article 44 of the Criminal Code provides indirect protection for those with mental problems who perpetrate crimes including murder, sexual assault, property damage, and copyright infringement. Evidence like this suggests that victims of crimes committed by people with mental illness do not get the same level of protection as those who commit such crimes.

Conclusion

According to Article 44 paragraph (1), no one may be punished for an act they cannot be held accountable for, either because their mind is imperfect or because they are sick of changing their opinion. This regulation governs criminal culpability by offenders with mental problems. The next step is for law enforcement to conduct a mental health evaluation on anybody they suspect of criminal activity. The Mental Health Law regulates the psychiatric examination and its purpose, among other things, is to ascertain whether or not the examined individual is competent to face legal proceedings and accept responsibility for their illegal actions. A specialized psychiatrist will assist the judge during the psychiatric examination, and a VeRP will be used to present the findings of the mental health evaluation. Nevertheless, criminals do not exhibit any signs of mental illness. As a consequence, the legal status of victims and perpetrators alike is clouded by a lack of understanding of the limits of mental illness.

References

1. Hector J, Khey D. Criminal Justice and Mental Health, 2018. In: 10.1007/978-3-319-76442-9.
2. Fenge LA, Hean S, Staddon S, Clapper A, Heaslip V, Jack E. Mental health and the criminal justice system: The role of interagency training to promote practitioner understanding of the diversion agenda. *J Soc Welfare Fam Law.* 2014;36. DOI: 10.1080/09649069.2014.891338.
3. Forrester A, Hopkin G. Mental health in the criminal justice system: A pathways approach to service and research design. *Crim Behav Ment Health.* 2019;29. DOI: 10.1002/cbm.2128.
4. Deniz D. Mental Health and Risky Behaviors in The Context of Criminology. *J Forensic Legal Investig Sci.* 2020;6:100048. DOI: 10.24966/FLIS-733X/100048.
5. Muslich AW. *Criminal Law According to the Qur'an.* East Jakarta: Diadit Media; c2007. p. 1-2.
6. Hamzah A. *The Procedural Criminal Code and the Criminal Code.* Jakarta: Rineka Cipta; c2015. p. 5.
7. Rahayu S. Implication of the legality principle towards law enforcement and justice. *J Inovatif.* 2014;7(2):4-25.
8. Herdaetha A. Criminal liability of people with mental illness. *J Jurisprudence UMS.* 2015;5(1):34-42. Available from: <https://journals.ums.ac.id/index.php/jurisprudence/article/view/4219>.
9. Adami C. *Lesson on Criminal Law Part 2: Criminal Law Interpretation, Aggravation, Alleviation, Crime Complaint, Concursus, and Causation.* Jakarta: Rajawali Persada; c2011.
10. Bonditti P. Les concepts, parent pauvre des études (critiques) de sécurité? Proposition pour une archéologie des savoirs de la sécurité. *Études internationales.* 2015;46(2):167-88.

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