



Determining Mens Rea in Individuals with Mental Disorder

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Abstract: The determination of Mens Rea among individuals with mental disorders poses a significant challenge in the legal system. Mental instability can make it difficult to ascertain the intent or knowledge of a particular criminal act. Taking into account, the psychological consideration, moral dilemma of criminal judgement and assertion of natural justice, this research paper examines the complexities of determining Mens Rea among individuals with mental disorders in the judicial system and explores some of the existing legal framework that addresses this issue.

Keywords: Criminal, Criminal Intent, Legal system, Mental Disorder, Mens Rea

Introduction

The criminal justice system is designed to punish individuals who have committed criminal acts based on their criminal intent or Mens Rea. However, determining Mens Rea among individuals with mental disorders can be a complex and challenging task. The mental instability of such individuals can make it difficult to correctly provide a legal judgment on their intent or knowledge of a particular criminal act. This research thereby aims to explore the complexities involved in determining Mens Rea among individuals with mental disorders and examine the existing legal framework that addresses this issue.

Mens Rea

Mens rea is a Latin term which translates to "guilty mind". It is a fundamental concept in criminal law referring to the mental state or intention of a person committing a crime and the lack of which negates the crime situation on any given occasion. Mens rea helps establish the culpability of an individual by considering their state of mind at the time the offence was committed. Mens rea encompasses various mental states, with its components varying based on the nature of the offence. The fundamental aspects of Mens Rea typically involve *Intention*; it can refer to the object, purpose, ultimate goal, or design of action in numerous ways. Intention involves the conscious application of an individual's mental faculties to act to achieve or fulfil a specific goal. As a result, the intention is frequently employed about the outcomes of an act rather than the act itself.

Knowledge; the term 'knowledge' refers to a person's awareness of his or her thinking. When a direct appeal is made to a person's senses, it can be assumed that they know. The awareness of the act's repercussions is known as knowledge. It represents a person's mental state regarding existing facts that they have either personally observed or learned from others whose credibility they have no reason to question. In contrast to intention, knowledge signifies a mental state of realisation wherein the mind passively receives specific ideas or impressions. On the other hand, intention refers to a conscious state of mind where mental faculties are actively engaged to pursue predetermined outcomes.

Recklessness; recklessness demonstrates indifference or disregard for the potential risk associated with committing a crime. One is said to be reckless when it comes to the consequences of his actions if he foresees the possibility of them happening but neither desires nor expects them to happen.

Negligence; negligence involves a failure to meet the standard of reasonable care, demonstrating a lack of awareness or an unjustifiable risk regarding potential consequences. Legal precedents often provide examples that illustrate this concept. For instance, in the landmark case of *Donoghue v. Stevenson* (1932), a woman fell ill after consuming a ginger beer contaminated with a decomposed snail. The court established that the manufacturer owed a duty of care to the consumer, emphasizing the principle that negligence can arise when one fails to exercise reasonable care, resulting in harm to another.

Strict liability – Mens Rea, not a requirement?

Crimes of strict liability do not necessitate a mental state or *Mens Rea* for a conviction. These offences concentrate exclusively on the prohibited action, overlooking the defendant's intent or awareness. Instances include statutory rape laws and the sale of alcohol to minors. Regardless of whether the accused sincerely believed they were not engaging in criminal activity or were unaware of the minor's actual age, they may still be held criminally liable. This approach prioritizes strict adherence to the law, particularly in cases concerning the protection of vulnerable individuals like minors.

Mental Illness and The Law

Mental illnesses are characterized as significant disorders affecting thinking, mood, perception, orientation, or memory, resulting in profound impairment of judgment, behaviour, the capacity to recognize reality, and the ability to meet the ordinary demands of life. This category is also associated with mental conditions linked to the abuse of alcohol and drugs. The mere existence of a mental disorder is not a sufficient basis for special legal treatment. Mental health laws typically require additional legally relevant criteria, which revolve around specific behaviours, constituting the primary focus of the law. For instance, a criminal defendant is not automatically deemed incompetent to stand trial solely due to a mental disorder. Beyond the mental disorder, the defendant must also lack an understanding of the charges or be incapable of assisting counsel. In the case of an insanity defence, also known as the mental disorder defence, the defendant must not only have a mental disorder but also be unaware of the nature and quality of their act or the distinction between right and wrong. Failure to meet these additional criteria renders a defendant incompetent or not criminally responsible because of a lack of rationality (Stephen J. Morse, 2011). In 1899, the Wisconsin Supreme Court articulated a definition of insanity that encompassed both cognitive impairment and a lack of volition. In the case of *Butler v. State*, the court endorsed an instruction stipulating that a determination of insanity would be warranted if the defendant could not differentiate between right and wrong or was not conscious of the nature of their actions.

In essence, various criminal competencies such as the ability to stand trial, plead guilty, represent oneself, undergo sentencing, and face execution, are fundamentally based on standards of functional rationality and the accused with mental disorder should be unable to realise most of them. When a defendant employs the insanity defence, they are essentially admitting to committing the crime they are accused of but are asserting that they should not be held criminally responsible due to a severe mental health condition. For example, in 1999, a schizophrenic man, previously discharged from a hospital against his wishes, pushed a woman onto New York City subway tracks, leading to her death. Although acknowledging his mental illness, the jury found him guilty, as the man understood his actions and admitted to the police that he knew his actions were wrong.

The following factors test proof of Insanity defence:

- a. Diagnosed Mental Disorder or the confirmation of the existence of a mental disorder.

- b. Examination of the legitimate relationship between Mental Disorder and Criminal Conduct.
- c. Evidence demonstrating the defendant's inability to comprehend the nature and consequences of their actions or between right and wrong.
- d. Whether the defendant could control their conduct due to their mental disorder.

Historically, the courtroom has often overlooked psychological factors due to their complex nature and the challenge of measuring them. Instead, the focus was primarily on the readily observable deeds and outcomes in a case to ascertain criminal liability, also known as culpability. David Carson and Alan Felthous have identified four essential criteria that establish culpability in legal proceedings:

- a. The defendant must have performed a legally forbidden action (actus reus)
- b. The defendant must be the cause of the forbidden outcomes
- c. The defendant must have possessed the requisite mental state (mens rea) during the act, and
- d. The defendant must not be under any circumstances that might provide a legal defence against the charges brought.

However, recent trends in the field of neurolaw (i.e. the application of neurological knowledge to the subject of jurisprudence) suggest a more nuanced approach to assigning blame. This perspective holds that if an individual cannot comprehend the nature of their actions, then they cannot be held fully culpable in the eyes of the law.

Challenges in determining Mens Rea in individuals with Mental Disorder

Mental disorders in criminal defendants impact all phases of the criminal justice process, ranging from investigative matters to questions of competence for execution.

Firstly, Mental disorders can affect a person's ability to understand the nature and consequences of their actions. This complicates the assessment of whether the individual had the necessary intent or knowledge to commit a crime. *Secondly*, the spectrum of mental disorders is broad, encompassing a variety of conditions that each present with distinct symptoms and influence cognitive and behavioural functions in unique ways. Accurately assessing the impact of a particular disorder on an individual's mental state during the commission of an offence demands meticulous and specialized analysis. Moreover, the influence of a mental disorder on an individual can be highly variable. Even among two people sharing the same diagnosis, there can be significant differences in their ability to understand and control their actions. Studies suggest that schizophrenia affects about 1% of the population, yet the manifestation of symptoms can be highly individualized.

Thirdly, mental disorders often exhibit symptoms that can fluctuate significantly, making the assessment of an individual's mental state a complex task. For example, mood disorders like bipolar disorder can show dramatic shifts in mood, energy, and activity levels, often cycling between manic and depressive phases. It is also important to understand that, relying on psychiatric evaluations introduces the challenge of potential biases or differing opinions among experts. The interpretation of mental health assessments can vary, leading to challenges in court proceedings. *Fourthly*, the legal system must protect the rights and seek justice for victims while also upholding the rights of defendants, including those with mental disorders. This includes considering the impact of the crime on the victim and the community, alongside the mental state and treatment needs of the defendant.

Lastly, balancing public safety concerns with the goal of rehabilitating mentally ill offenders is another aspect of this challenge. It requires assessing the risk posed by the offender to society and their potential for successful rehabilitation.

Legal Tests for Assessing Mens Rea in Insanity Defense

The current legal framework consists of several tests to find the mens rea in criminals or accused suffering from apparent mental health issues. Some of the popularly used tests are the M'Naghten Rule, the Durham Rule and the Model Penal Code Test.

The M'Naghten Rule – Old Method

The M'Naghten Rule, also spelt as M'Naghten or McNaughton, is a legal principle that addresses the insanity defence in criminal cases. This rule originates from the case of Daniel M'Naghten in 1843, who was acquitted on the grounds of insanity for the murder of Edward Drummond, whom he mistook for British Prime Minister Robert Peel. The M'Naghten Rule aims to determine whether the defendant was incapable of understanding the nature of the act committed or distinguishing right from wrong at the time of the offence, due to a mental disorder. This rule sets a standard for legal insanity that hinges on the cognitive ability of the accused. The application of the M'Naghten Rule in legal proceedings requires a detailed examination of the defendant's mental state at the time the crime was committed. This examination is essential to determine if a mental disorder impaired the defendant's ability to comprehend the nature of their actions or to distinguish between right and wrong. In this process, the court typically depends on the expert opinions of mental health professionals, such as psychiatrists and psychologists, to evaluate the defendant's mental capacity. There are some key points required for this application.

Firstly, the defence must present evidence that the defendant was suffering from a mental disorder when the crime was committed. This involves not just stating the presence of a disorder but also substantiating it with appropriate medical and psychological evaluations. *Secondly*, it is crucial to demonstrate a direct connection between the diagnosed mental disorder and the defendant's inability to understand their actions or to differentiate between right and wrong at the time of the offence. This requires showing how the symptoms of the disorder specifically affected the defendant's cognitive abilities. *Thirdly*, expert testimonies play a vital role in supporting the insanity defence under the M'Naghten Rule. These experts provide insights into the nature of the defendant's mental disorder and its impact on their cognition and decision-making processes. Their testimonies must align with the criteria set by the rule, affirming that the defendant's mental state at the time of the crime fits the legal definition of insanity. *Lastly*, the responsibility to prove insanity rests with the defendant. This is a significant aspect of the M'Naghten Rule, as the defence must provide "clear and convincing evidence" of the defendant's insanity at the time of the crime. This standard of proof is typically higher than the general "preponderance of the evidence" but lower than "beyond a reasonable doubt," which is required for establishing guilt in criminal cases.

The Durham Rule and the Model Penal Code Test – Modern Methods

The Durham Rule, also known as the Durham Standard, is a legal principle concerning the insanity defence in criminal law. It originated from the case of *Durham v. United States* in 1954. This rule marked a significant departure from the traditional standards of legal insanity, such as the M'Naghten Rule, by introducing a broader criterion for determining insanity. Under the Durham Rule, a defendant could be considered not criminally responsible if their unlawful act was the product of mental disease or mental defect. This rule did not require the defendant to be incapable of knowing right from wrong, as is the case with the M'Naghten Rule. Instead, it focused on whether the defendant's actions were a result of a mental disorder. However, the Durham Rule faced criticism for being too vague and for potentially allowing too many people to evade criminal responsibility on the grounds of mental illness. Critics argued that it was difficult for experts to reliably determine whether a specific act was the product of a mental disease or defect. This criticism led to its limited adoption and eventual replacement in many jurisdictions.

One significant alternative that arose was the *American Law Institute's Model Penal Code* (MPC) test for legal insanity, introduced in the 1960s. The MPC test combines elements of both the M'Naghten Rule and the Durham Rule, focusing on the defendant's

ability to understand the wrongfulness of their actions and their capacity to act within the confines of the law. The Model Penal Code (MPC) test for legal insanity provides that a defendant cannot be held criminally responsible if, at the time of the offence, due to a mental disease or defect, they lacked “substantial capacity” in one or both of the following aspects:

- a. **Appreciate the Wrongfulness of their Conduct**, this criterion focuses on the cognitive ability of the defendant. It assesses whether the individual, because of their mental condition, was unable to understand that their actions were wrong. This goes beyond just knowing the legal status of the act (illegal or not) and extends to an appreciation of its moral or societal wrongfulness.
- b. **Conform their Conduct to the Requirements of the Law**, this part addresses the volitional capacity of the defendant. It looks at whether the individual, due to their mental state, was incapable of controlling their actions or behaving per the law. Essentially, it considers if the person was unable to refrain from doing the act, despite potentially understanding its wrongfulness.

Conclusion

Mens rea or the "guilty mind," is a crucial element in criminal law, necessitating a defendant's intention or knowledge of wrongdoing to establish criminal liability. However, the presence of mental disorders significantly complicates this assessment, challenging traditional legal frameworks and raising ethical, legal, and psychological questions. Throughout this paper, we have observed that individuals with mental disorders often experience altered perceptions and cognitive functions, which can profoundly impact their ability to form mens rea as typically understood in criminal law. This observation calls for a meticulous and multi-directional approach in legal systems, one that balances the need for justice with the recognition of the unique circumstances presented by mental disorders.

With the growing need for more inclusive reforms constituting diverse situations, the Legal systems are increasingly acknowledging an approach towards a more individualised assessment of mental state at the time of the offence, integrating psychological evaluations and a deeper understanding of how mental disorders impact cognition and decision-making.

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