

Mental Health and Criminal Jurisdiction

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ABSTRACT

The intersection of mental health and criminal jurisdiction poses significant challenges for legal systems worldwide. This abstract explores the multifaceted dynamics shaping this interface, highlighting the complex interplay between mental health conditions and criminal behavior. In recent years, there has been a growing recognition of the need to address mental health issues within the criminal justice system, acknowledging the unique vulnerabilities and treatment needs of individuals with mental illnesses who come into contact with the law. This article delves into various aspects of mental health and criminal jurisdiction, including the prevalence of mental health disorders among incarcerated populations, the impact of untreated mental illness on criminal behavior, and the role of diversion programs and specialized courts in providing alternative pathways for individuals with mental health needs.

Furthermore, it examines the legal frameworks governing the adjudication of individuals with mental health disorders, exploring issues related to competency to stand trial, insanity defenses, and sentencing considerations. It also explores the ethical and practical dilemmas faced by legal professionals, mental health practitioners, and policymakers in balancing the principles of justice, public safety, and therapeutic intervention. Through a comprehensive analysis of relevant literature, case studies, and policy initiatives, this abstract sheds light on the challenges and opportunities inherent in addressing mental health within the criminal justice system. It underscores the importance of interdisciplinary collaboration, evidence-based interventions, and systemic reforms aimed at promoting equitable treatment, rehabilitation, and community reintegration for individuals at the intersection of mental health and criminal jurisdiction.

I. INTRODUCTION

In the criminal legal system, two elements are the foremost in order to institute the commission of a crime. One of them is – MENS REA, which means the intention or knowledge of the accused regarding the commission of the crime.

This element is based on the principle of the criminal jurisprudence “Actus Facit Reum Nisi Mens Sit Rea¹” that implies that a person is not held guilty of an offence until he does not have a criminal intention behind it.

Our criminal judicial system, adjudicates every criminal case on the basis of the established mens rea of the person. After following the well-established principle of “Ignorantia Juris Non Excusat²”, it is assumed that the person committing an offence, must be having knowledge of all the outcomes or the consequences of his act. An offender is not proven innocent on the ground that he is unaware of the law that punishes his or her act or the penalties that come with it. Taking plea on the ground of ignorance of the law is not an excuse.

But what will be the scenario of the criminal jurisdiction when the offender has really no knowledge of his commission of the offence or what if the person was not in the stable mental state while committing an offence or what if the mens rea is not there on the part of the accused? These are the questions that always occur before the criminal courts while adjudicating the criminal acts of an unstable person. In order to decide the cases, the judiciary always consider the mental health of the offenders and there are provisions in the criminal law that provide for the offences committed in the state of an unstable mental health.

Introduction To Mental Health In Criminal Setting

After evaluating the definition given by World Health Organization, a state of mental well-being known as mental health, makes it possible for people to manage life's stresses, reach their full potential, learn and work effectively, and give back to their communities. It is a crucial aspect of health and well-being that supports both our individual and group capacities for decision-making, forming bonds with others, and influencing the environment in which we live. There is plethora of research, campaigns and institutions in both national and international level that promote the stability of

¹Actus Facit Reum Nisi Mens Sit Rea

²Ignorantia Juris Non Excusat.

mental health. It also highlights how important it is to maintain and improve mental health on personal, social, and communal level. In today's chaotic world, every person is putting emphasis on the importance of sound and stable mental health. There are various psychological, physical and interpersonal factors that contribute to the mental health in the major possible ways.

As being discussed earlier, the establishment of the mens rea is very crucial in adjudicating the criminal cases. There have been many instances in every level of judiciary, that depicts the differences in the criminal trials of people with different mental state or mental health. Many studies have shown that people with unstable mind and poor mental health are most likely to end up committing acts of violence, criminal nuisance or serious offences like murder, rape etc-. The concept of serial killers is also associated with the same realm of mental health in the criminal mind. Serial killers are also the ones with poor mental health and the criminal activities done by them are the results of their unstable mind. It is easier for the judiciary to decide upon the cases where the offences have been committed by the sane people.

Research Problem

A potential research problem in the intersection of mental health and criminal jurisdiction could be:

"Understanding the Effectiveness and Ethical Implications of Mental Health Diversion Programs in the Criminal Justice System"

This research problem focuses on investigating the efficacy of diversion programs designed to redirect individuals with mental health disorders away from traditional criminal justice processes and into community-based treatment and support services. It involves examining the outcomes of such programs in terms of reducing recidivism rates, improving mental health outcomes, and promoting successful reintegration into society.

Research Question:

"What are the key factors influencing the effectiveness of mental health diversion programs in reducing recidivism and improving outcomes for individuals with mental illness within the criminal justice system?"

This research question focuses on understanding the factors that contribute to the success or failure of mental health diversion programs in addressing the needs of individuals with mental illness who come into contact with the criminal justice system. Key aspects to explore may

include the structure and implementation of diversion programs, the availability and accessibility of mental health services, the role of collaboration between criminal justice and mental health agencies, the impact of programmatic interventions on recidivism rates, and the experiences and perspectives of program participants and stakeholders.

Research Methodology :

Through empirical investigation and qualitative analysis, this research question seeks to provide insights into the mechanisms underlying the effectiveness of mental health diversion programs and identify opportunities for enhancing programmatic outcomes, promoting recovery, and fostering community reintegration for justice-involved individuals with mental illness.

Research Objectives:

Key aspects to explore within this research problem could include:

1. **Evaluation of Existing Diversion Programs:** Assessing the structure, implementation, and outcomes of existing mental health diversion programs across different jurisdictions.
2. **Identification of Best Practices:** Identifying the key components and best practices of effective diversion programs, including screening and assessment protocols, treatment modalities, and community support networks.
3. **Measurement of Program Outcomes:** Developing standardized metrics and evaluation frameworks to measure the effectiveness of diversion programs in reducing criminal behavior, improving mental health outcomes, and enhancing overall well-being.
4. **Ethical Considerations:** Examining the ethical implications of diverting individuals with mental health disorders from traditional criminal justice processes, including issues related to autonomy, stigma, access to care, and equality before the law.
5. **Barriers to Implementation:** Investigating the challenges and barriers to implementing mental health diversion programs, including resource constraints, systemic biases, and coordination between criminal justice and mental health systems.
6. **Long-Term Impact and Sustainability:** Assessing the long-term impact and sustainability of diversion programs on individuals, communities, and the criminal justice system as a whole, including cost-

effectiveness analyses and considerations of scalability and replication.

By addressing these research questions, scholars and policymakers can gain valuable insights into the effectiveness, feasibility, and ethical implications of utilizing diversion programs as a means of addressing the complex interplay between mental health and criminal jurisdiction.

Thinking From Another Perspective (Scope and Limitation Of Research)

When we talk about the scenario wherein the offender after being convicted, is subjected to cruel and unjust treatment, he is likely to have mental health issues like depression, bipolar disorder, anxiety, schizophrenia, dementia etc-.

It is observed many times that the offenders after being sentenced to imprisonment are kept in such environment in the jail where there is negligence towards their physical and primarily their mental health. There are various cases where convicts are seen to attempt suicide during their imprisonment which is because of their adverse mental health. The factors that contribute to the degradation of the convicts include overcrowding, violence by the police, poor integration between criminal legal system and the mental care units etc-. The criminal courts are often seen to neglect the consequences of the punishment given to the accused. The criminal adjudication tends to ignore the post-conviction effects. One of them primarily being the adverse effects on the mental health of the convicts.

II. LITERATURE REVIEW

1. **Skeem, J., & Petrila, J. (2016). Mental Health and Criminal Justice. Annual Review of Clinical Psychology, 12, 16.1-16.28.** This review provides an overview of the intersection between mental health and criminal justice, focusing on prevalence rates of mental illness among justice-involved individuals, challenges in identifying and treating mental health disorders within the criminal justice system, and strategies for improving outcomes through collaborative approaches between mental health and criminal justice agencies.
2. **Steadman, H. J., & Naples, M. (2005). Assessing the effectiveness of jail diversion programs for persons with serious mental illness and co-occurring substance use disorders. Behavioral Sciences & the Law, 23(2), 163-170.** This literature review

examines the effectiveness of jail diversion programs targeting individuals with serious mental illness and co-occurring substance use disorders. It synthesizes findings from empirical studies evaluating the impact of diversion programs on reducing recidivism, improving mental health outcomes, and promoting access to community-based treatment and support services.

3. **Elbogen, E. B., & Johnson, S. C. (2009). The intricate link between violence and mental disorder: results from the National Epidemiologic Survey on Alcohol and Related Conditions. Archives of General Psychiatry, 66(2), 152-161.** This review explores the complex relationship between mental disorder and violence, drawing on data from the National Epidemiologic Survey on Alcohol and Related Conditions. It examines the prevalence of violence among individuals with mental disorders, the role of comorbid substance use disorders in exacerbating risk, and the implications for policy and practice in the criminal justice system.
4. **Bonnie, R. J., & Monahan, J. (2013). The Oxford Handbook of Juvenile Crime and Juvenile Justice. Oxford University Press.** This handbook offers a comprehensive review of research and scholarship on juvenile crime and juvenile justice, including discussions of mental health issues among youthful offenders, legal considerations related to competency, culpability, and sentencing, and interventions aimed at addressing the mental health needs of juvenile offenders within the context of the juvenile justice system.
5. **Lamb, H. R., & Weinberger, L. E. (2005). Persons with severe mental illness in jails and prisons: A review. Psychiatric Services, 56(4), 453-462.** This review examines the prevalence of severe mental illness among incarcerated populations, challenges in providing mental health services within correctional settings, and strategies for improving mental health outcomes and reducing recidivism rates through diversion programs, specialized courts, and community reintegration initiatives.

Provisions in the criminal law related to the mental health of the offenders

The main provision that deals with the mental state of the offender is Section 84 of Indian Penal Code, 1860. This section states that "Nothing is an offence which is done by a person who, at the

time of doing it, by reason of unsoundness of mind, is incapable of knowing the nature of the act, or that he is doing what is either wrong or contrary to law".³ This provision is one of the general exceptions provided in the IPC,1860.

This provision provides that a person is not to be considered an accused of an offence committed by him or her, when;

- he or she was in the state of unsound mind at the time of the commission of the offence.
- he or she was unable to know or to process that their act is contrary to law or is punishable under the law

Moreover, it is established that while taking the defence of the unsound mind in the criminal cases, the burden of proof is always on the defence counsel. The defence counsel has to produce every relevant medical document and evidence that are required in order to prove the insane or unsound mental state of the accused while committing the offence. This has been also stated in Section 105 of the Indian Evidence Act, 1872.⁴

The Apex Court of India has many times in its judgements stated that section 84 of the IPC,1860 exempt the criminal liability on the grounds of mental illness like depression, impulsive reactions, bipolar disorder, aggression etc-. This provision is exempting the accused on the ground of legal insanity only and not on the ground of medical insanity. The legal insanity is determined by the time at which of the offence has taken place. The mental state of the accused at the time of the commission of the act should be such that he or she in every possible way is unable to become conscious with the effects or the consequences of his or her act.

The famous well-known principle of Mc'Naughten's Rule is recognized and considered in the criminal jurisdiction of many countries. This rule is there to test the legal criminal liability of the offender depending upon his mental state at the time of the commission of the offence. This rule of "Right or Wrong" was established in the famous case of "R v McNaughten"⁵. This case has given the principles which are there to detect the liability of the offender depending upon his mental health. These principles are:

- Until demonstrated otherwise, all people are thought to be sane and capable of reason.
- It must be shown that, at the time of the act, the accused was acting with a defect of reason.
- It must be demonstrated that the accused is ignorant of the characteristics and nature of his actions.

If the person is not proven unsound, he is treated as a sane being only and there is no exemption for him in the criminal jurisdiction.

Comparative Analysis of the criminal jurisdiction of various countries considering the mental health of the offenders

In the United States, it is often observed that the criminal justice system believes in the fact that the offenders with retarded mental health are sent to the hospitals for providing them mental care, instead of sending them to the prison. It is also mentioned in some of the provisions of the U.S laws that every person must have the ability to understand the arguments at the court and must be able to take part in the trial. However, the judiciary always considers the principles laid down in the Mc'Naughten's Rule.

In the United Kingdom, the approach followed in the criminal jurisdiction of the courts is somewhat similar to the system of the United States. The judiciary there also has the view point that there must be the diversion of the offenders from the prison to the mental care units. The defence of insanity is also available to the offenders in the laws of the U.K. There is an emphasis on the rehabilitation and treatment rather than awarding punishments to the people with mental illness.

In Canada, the principle of "Not Criminally Responsible on account of Mental Disorder" (NCRMD) is followed by the judicial system. The criminal legal system prioritizes the admission of the offenders with unstable mental health to the jurisdiction of the Review Boards rather than sentencing them to harsh punishments. There is consideration to their health, the need for the treatment or the harm they are likely to cause to the public at large.

The criminal legal system of Norway is unique since it lays emphasis on the treatment and rehabilitation of all criminals, including those who suffer from mental illnesses. According to Norwegian law, a person found to have been psychotic at the time of the crime may be required to receive psychiatric treatment rather than face jail time or imprisonment. The use of an insanity defence is also permitted. With a strong emphasis

³Section 84 of The Indian Penal Code, 1860.

⁴Section 105 of The Indian Evidence Act,1872

⁵R v McNaughten (1843) 8 E.R. 718; (1843) 10 Cl. & F. 200

on inmate reintegration into society, the nation prioritizes humane prison conditions and mental health care.

Based on the Mc'Naughten's Rules, Section 84 of the IPC, 1860 permits the insanity defence in Indian law. The Mental Healthcare Act of 2017 includes measures, such as the presumption of extreme stress in situations of attempted suicide, that affect the way mentally ill people are treated in the criminal justice system. India has acknowledged and realized the necessity for reformation in the treatment of mentally ill criminals, emphasizing the necessity for rehabilitation and ensuring that they have access to mental health services.

Legislations or Statutes Related to Mental Health

Indian Lunacy Act, 1912⁶

The Indian Lunacy Act of 1912, was a legislative measure enacted during the British rule in India, aimed at regulating the management and treatment of persons with mental illnesses or disorders. Serving as the cornerstone for mental healthcare in India for many years, this act outlined the framework for the creation of mental health facilities and detailed the protocols for admitting persons considered mentally unsound. The act primarily concentrated on the containment and maintenance of such individuals, heavily favouring their confinement in institutions as the chief method of care rather than confine them in prison. However, this act was considered outdated as it seemed to ignore the legal rights and equality of the mentally-ill people.

Mental Health Care Act, 2017⁷

This act was made with the aim of securing the legal rights of the mentally-ill people along with providing them security, facilities and appropriate health care. This act contains many provisions talking about providing legal aid to the people with adverse mental health, that people should also be represented properly and must have equality before law.

"United Nations Principles for the Protection of persons with mental illness"⁸

As per these principles provided by the United Nations, it has been observed that the person with retarded mental health should be properly represented by a legal counsel. He must be interpreted and made well aware with the facts of the cases, the arguments and the judgement by the court. It has been also laid down that the courts must also consider the privacy, health and safety of such persons before arriving at a conclusion after the complete trial. These principles also provide that the offenders with retarded mental health should be sent to mental health care units. All such people should be given the best mental health care.

Landmarks Judgements of the Courts Concerning the Mental Health of the Offenders

The foremost case to establish the plea of insanity is "R v. Arnold"⁹. This case has established that an offender can take the defence of his unsound mind if he was unable to distinguish between the bad and good or when he was completely unable to comprehend the consequences of his offence. Even though he has committed the offence associated with the most harm in criminal law, he can be exempted on the ground of his legal insanity.

It was laid down in the case of "Dahyabhai Chhaganbhai Thakker vs State of Gujarat"¹⁰, that in order to establish the criminal liability dealing with mental issues of the offender, the events after the occurrence of the crime also play a great role in determining the mental state of the offender.

In the case of "Jai Lal v. Delhi Administration"¹¹, the accused was held guilty by the court, despite having a medical history of insanity that was supported by evidence. The accused's subsequent actions, such as hiding the weapon, bolting the door to avoid being arrested, and concealing himself afterwards, were considered by the court to be the signs of conscious guilt and that he was quite aware of the consequences of his act.

In the recent case of "Prakash Nayi v. State of Goa"¹², the apex court has made the offender acquitted of all the charges on the ground that he was undergoing the treatment of schizophrenia at the time when the offence was committed by him in 2004. Two doctors were also

⁶Act IV of 1922

⁷Act No. 10 of 2017

⁸Principles for the protection of persons with mental illness and the improvement of mental health care by United Nations

⁹ R v. Arnold, [1997] 2 All E.R. 548

¹⁰ Dahyabhai Chhaganbhai Thakker vs State of Gujarat 1964 AIR 1563, 1964 SCR (7) 361

¹¹ Jai Lal v. Delhi Administration (1963) 2 SCR 864

¹² Prakash Nyi v. State of Goa (2023) 5 SCC 673

testified in order to properly determine the mental health of the offender.

The Supreme Court of India in “Shatrughan Chauhan and another v. Union of India and others”¹³ has held that mental illness or insanity is one of the super willing circumstances for the commutation of the death sentence to life imprisonment awarded to the accused. The same principle was also upheld in the case of “Navneet Kaur v. State (N.C.T of Delhi)”¹⁴

What is expected from the criminal jurisdiction of the courts?

In reality it is always observed that the Courts get really strict while determining the criminal liability of the offender in the cases of mental illness. The Courts are seemed to be negligent towards considering the mental health of the offenders. The Courts usually have a blind eye to the mental issues such as depression, anxiety disorders, bipolar disorders etc. of the offenders. However, the Courts should consider these conditions once, while trying the offenders. Apart from these considerations, there must be steps to ensure that there is equality, security and justice to every person including those who has problems related to their mental health.¹⁵

- The Courts must take every possible effort to determine or identify the mental health of the offender at the starting only in order to put this point in consideration while awarding them punishments.
- The criminal justice system should take steps to know the root cause of the behaviour of the offender and to impart them every possible mental health care facility.
- There must be the proper set-up of the mental health courts in order to try the cases of the people having mental health issues. These courts must be given the proper jurisdiction to try the cases in a specialized manner considering every right of the individuals.
- There must be training to the police officers, judges or every person who is involved in the

trial process to identify the mental health problem faced by the offender.

- There must be the safeguarding of the rights of the individuals with mental illness. For example, they must have right to fair trial, right to be heard and right to humane treatment.
- There should be proper inter linking and coordination of the criminal legal system and mental health care facilities in order to provide the assistance to the individuals who are in need at every stage of the trial.
- There should be the conduction of rehabilitation programs that target mental health concerns, encourage healing, and lower the recidivism rate for criminals suffering from mental health disorders.
- The courts while considering the mental health of the offenders must divert them from being punished to get admitted in the proper health-care units.
- The Government must issue guidelines regarding the trial of the cases dealing with the mental health of the offenders.
- Even when a person is not having any mental health issue, his or her mental health must be given importance. After having imprisoned, the police system and the judiciary must make sure that the person is not subjected to such circumstances where he or she is likely to have an adverse effect in the mental health.
- After arresting a person, the police must not make him subjected to violence, torture or pressure. This will affect his mental health in many ways.
- The judiciary must give instructions to the adequate authorities to make the environment of the jails in such manner that it does not hamper with the mental stability of the accused or the convicts.
- There must be health care units and experts in the jails in order to promote and provide the mental soundness and stability to the convicts.

III. CONCLUSION

We have seen that the judiciary gets extremely strict in determining the insanity of the offenders. The criminal jurisdiction must be in such a manner that it never violates the rights of any person. Although, there is no precise definition of insanity, unsoundness of mind and mental-illness in the criminal law, still the Courts must consider these factors while pronouncing the judgements. Apart from this, there is an urgent need of modifications in the laws so that they can deal with the mental health of the individuals as per the

¹³ Shatrughan Chauhan and another v. Union of India and others (2014) 3 SCC 1

¹⁴ Navneet Kaur v. State (N.C.T of Delhi) 2014 7 SCC 264

¹⁵ Skeem, J., & Petrila, J. (2016). Mental Health and Criminal Justice. NCBI; <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4676201/#ref22>

current scenario where we are seeing that the bad and unstable mental health of the individuals is compelling them to attempt grievous offences. Therefore, such individuals should be tried in a different manner because the root cause behind the commission of the offence is solely their mental health.

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