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Determination of Criminal Responsibility of Offenders with Personality Disorders

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Abstract
The purpose of this research is to analyze how criminal law addresses offenders with personality disorders in determining criminal responsibility. The doctrinal legal analysis research method was employed for this purpose. Criminal law allows the defense of insanity and the defense of diminished responsibility to offenders with severe personality disorders. However, there are some ambiguities and reservations, based on certain misconceptions, in the criminal justice system around the world in allowing insanity defense to offenders with personality disorders. Moreover, the statutory provisions dealing with the insanity defense are more inclined towards cognitive and behavioral aspects of offenders, while not giving due weightage to the pathological behavioral and thinking patterns of offenders due to personality disorders. The relevant statutory provisions in criminal law are recommended for amendment to include personality disorders in determining the criminal responsibility of offenders.
Keywords: Crime, Disorder, Insanity, Law, Personality

Introduction
Since many criminals have personality disorders, the successful plea of insanity defense based on severe personality disorders is a contentious issue. The criteria of the insanity defense given in the statutory provisions are primarily focused on the cognitive aspects of mental disorders. Generally, an accused is considered to have a lack of criminal responsibility because of his inability to understand and/or to control his behavior due to mental disorders (Math et al., 2015). The inability of an accused to control his behavior and his proneness to commit a crime due to severe personality disorders are not given due consideration in the defense of insanity. The way severe personality disorders can make an individual commit a crime is underrepresented in the criteria of legal insanity given in the statutory provisions in the legal systems across the globe (Ajmal et al., 2023a).

Statutory provisions dealing with insanity defense do not explicitly mention personality disorders in insanity defense. Moreover, there is not enough jurisprudence developed on the relationship between personality disorders and the insanity defense (Pickard, 2015). Even in countries with developed legal systems like the US, the UK, Canada, and Australia, personality disorders in the context of legal insanity are not given due weight. The same is the scenario in the Middle East and Asia (Ajmal & Rasool, 2024b). However, there is a little more acceptance of personality disorders in the context of legal insanity in some European countries, but not sufficient to address it properly (Sparr, 2009).

Literature Review

Offenders with Multiple personality disorder, which is renamed as dissociative identity disorder, are frequently allowed by the courts to take the insanity defense. Criminals with dissociative identity disorder cannot be considered criminally responsible (Slovenko, 1993). An offender with dissociative identity disorder must be assessed for his competency to stand trial and criminal responsibility (Steinberg et al., 1993). Offenders with dissociative identity disorder are neither competent to stand trial (*State v. Badger*, 1988) nor criminally responsible (Keyes, 1981). The Supreme Court of Hawaii also decided that dissociative personality disorder is the same as other mental disorders in the context of the insanity defense (State v. Rodrigues, 1984).

Offenders with psychopathic personality disorders, antisocial personality disorders, and sadistic personality disorders are generally not allowed to take insanity defense. Psychopathy is typically associated with a lack of guilt and empathy, exploitation, and display of hostility towards others (Zeigler-Hill & Marcus, 2016). A sadistic personality is associated with taking pleasure in inflicting pain on others (Chester et al., 2019). Antisocial personality is primarily characterized by involvement in antisocial activities such as ignoring and disregarding right and wrong, harming and manipulating other people (Glenn et al., 2013). The critics of the inclusion of these personality disorders believe that people with such kind of personalities must not be allowed to take the insanity defense, while the proponents believe that these conditions are of a pathological nature and are beyond the control of an offender to such an extent that he must be allowed to take the insanity defense (Ajmal & Rasool, 2025b). Moreover, ambiguities are found concerning schizotypal personality disorder, borderline personality disorder, and insanity defense (Felthous, 1986).

Method

The doctrinal legal analysis research method was used to study the law on the determination of criminal responsibility of offenders with personality disorders.

Analysis

Determination of criminal responsibility of offenders with personality disorders has different legal interpretations. In some decisions of the courts, the offenders with personality disorders are declared not guilty, whereas in other decisions, they have been declared partially responsible for their criminal acts. Moreover, some personality disorders are considered relevant in insanity defense, whereas others are not at all considered relevant. But generally, the defense of insanity can be taken based on personality disorders (Fornari, 2006). A breakthrough in the role of personality disorders and insanity defense has been witnessed in the legal landscape when the Supreme Court of Italy decided that suffering from severe personality disorders is sufficient for insanity defense (Corte di Cassazione n. 16574/2005). After this judgment, insanity pleas based on personality disorders became common in Italy (Rocca & Carrossino, 2012). A fundamental contention about the role of personality disorders in insanity defense is that the diagnosis of mental disorder and its effects is a matter of criteria defined in the field of mental health, but the determination of the legal responsibility of an offender is the prerogative of the courts. Thus, the ambiguities lie in the translation of mental health criteria into legal criteria, with differences in opinion among mental health and legal professionals. Moreover, there are certain limitations of psychiatric and psychological tests in terms of accuracy and precision required in the standard of evidence in law (Diamond, 1985).

Criteria of Insanity Defense and Personality Disorders

Personality disorders are more frequently used in the successful defense of diminished capacity than in the defense of insanity (Sparr, 2009). Disorders characterized by loss of emotional control can be considered in diminished capacity defense (*State v. Galloway*, 1993). The criteria of legal insanity given in the statutory provisions exclude personality disorders not explicitly, but by description of the criteria of legal insanity (Ajmal et al., 2023b). However, it is unfair to exclude personality disorders from the insanity defense. Offenders with personality disorders may not appear to meet the criteria of legal insanity, but severe personality disorders can affect the faculties of a person to act in a way that he cannot be declared guilty of his crime (Diamond, 1985). To negate the responsibility of offenders, personality disorders and their consequent adverse effects on an individual must meet the standard of legal insanity set in the statutory provisions (Slovenko, 2009). Offenders with severe personality disorders meet the criteria of legal insanity and must not be considered criminally responsible (Bonnie, 2010).

Severe Personality Disorders and Insanity Defense

The courts around the world allowed insanity defense to offenders with severe personality disorders. Offenders with severe personality disorders meet the criteria of legal insanity. Personality disorders have not been given due consideration in the insanity defense due to a lack of proper understanding and interpretation of personality disorders in legal matters (Ajmal & Rasool, 2025a). However, despite the reservations about the inclusion of personality disorders in the determination of legal insanity, there are a few proposals, although not yet acknowledged, for the consideration of severe personality disorders in the insanity defense (Reznek, 2005). The law must be interpreted in a way that includes severe personality disorders in the determination of legal insanity. A person cannot be punished who cannot decide freely or cannot control their behavior due to a severe personality disorder. The exclusion of personality disorders from the insanity defense is not justified. Personality disorders must be taken like other mental disorders in determining the criminal responsibility of an offender (Mohíno et al., 2011).

Moderate Personality Pathologies and Insanity Defense

Insanity defense cannot be taken with minor to moderate personality pathologies. Criminals having minor to moderate personality disorders cannot be absolved from criminal responsibility. However, the courts allow the defense of diminished responsibility to such offenders. Criminals with nonpathological dark tetrad personality traits and minor personality disorders do not meet the essence of legal insanity. Offenders with these personality pathologies, in some cases, can only be partially absolved from criminal responsibility (Edens & Cox, 2012). Only an offender can be allowed the defense of insanity if he is suffering from a personality disorder to such an extent that his ability to control his conduct is pathologically affected beyond his control. One of the misperceptions about personality disorders and the insanity defense prevalent among its critics is that the defense of insanity is allowed in cases of minor personality pathologies (Ajmal & Rasool, 2024b).

Criminal Justice System and Offenders with Personality Disorders

The acceptance of criminals with personality disorders in the criminal justice system in the context of the insanity defense is very low. The law enforcement agencies and courts all over the world are reluctant to consider personality disorders in the context of the insanity defense due to different reasons (Lieberman & Krauss, 2016). A large chunk of the legal fraternity has reservations over the largely adopted criteria and process of determination of the insanity defense (Erickson, 2022). The critics believe that the inclusion of personality disorders in the insanity

defense can be taken as an excuse by the offenders to avoid criminal responsibility (Reichlin et al, 1993). Critics further believe that many criminals who commit a crime somehow lack something. This lack varies from momentary control to pathological personality traits to personality disorders (Tollefsrud, 2022). It must not be an excuse to avoid criminal responsibility. Because of such notions, offenders with personality disorders do not appear to meet the criteria of legal insanity (Morse, 2008), and they are considered criminally responsible (Milani & Gharibi, 2016). Even though many criminals suffering from personality disorders are not considered under the principle of diminished capacity, the data shows they are even awarded relatively severe punishments. The attitude of courts towards antisocial personality disorder primarily represents this phenomenon. Anti-social personality disorder is not properly understood in the criminal justice system, and instead of considering it a pathological condition, criminals with antisocial personality disorders are given harsh punishments (Spaans et al., 2011).

Recommendations

The likelihood of committing a crime under the influence of severe personality disorders and the criminal responsibility of an offender is an issue that needs to be addressed in criminal law. Severe personality disorders are like any other mental disorder, which can affect the mental and behavioral faculties of an offender to allow him to take the plea of insanity. It is recommended that countries change their legal approaches towards the insanity defense to include severe personality disorders. Offenders with personality disorders must be allowed to enter the plea of insanity. Necessary amendments to the relevant statutory provisions are recommended. Moreover, the jurisprudence on personality disorders in the context of the insanity defense must be developed to properly address this issue. Specialized training of professionals from the criminal justice system is also recommended.

Conclusion

Offenders with severe personality disorders cannot be considered responsible for their crimes. These offenders meet the criteria of legal insanity, like offenders with other mental disorders. However, based on certain misconceptions, personality disorders are overlooked by the courts across the world in the determination of criminal responsibility of offenders. Moreover, the jurisprudence on the relevance of personality disorders in the insanity defense is not well developed. Criminal law, as evident from the relevant statutory provisions across the world, is more inclined towards other mental conditions and disorders in the determination of criminal responsibility of offenders, while ignoring personality disorders. The law must be amended to include personality disorders in the insanity defense.

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