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The Relational Paradox between Mental Derangement & Criminality

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ABSTRACT

For long it's been argued that derangement in mental faculties causes one to lose rationality, however its relationship with criminality, and the treatment of same in legal field is called into question multiple times. Its cannot be pointed out with certainty that if one is a suffering from mental illness, the result action of his behaviour is only crime. There are two sides to this paradox, primarily that in most cases mentally ill are victims and secondly that in some extreme of cases it might lead to creation loss of ability to judge between good and bad causing one's personality to erode over time and commit actions that seen to them to be mostly moral and legal but aren't in the contrary. With this given the question is how law treats the offenders, while in most cases insanity refers to legal insanity and law doesn't merge with needlessly curtailing liberty of an individual just because they don't fall within the mental ability of sanity. Its also pertinent to note that legal insanity is defined very narrowly and doesn't include insanity in general but that which exists at the time of commission of offense, not before or after. The article seeks to explore the status and draw meaningful conclusion from the it. It checks through the legal provisions and tries to understand the mental status of a person and show the duality of the situation to present the problem to the society.

Keywords: Mental derangement, law, criminality, criminal behaviour, legal insanity.

I. INTRODUCTION

“Criminal Behaviour is not the stem to social imbalance but lack of balance in community shapes criminality, it is not be punished but treated”.

An argument always related to decoding criminal behaviour is inherent in the fact that, it emerges from mental illness or disorders. The world health organisation (WHO) defines mental illness as “*distress in emotional understanding, cognitive perception or behaviour of an individual*”², there can be various such turbulences in the form of anxiety, depression, PTSD, bipolar disorder, schizophrenia, or even psychopathy. The Mental health care Act of 2017

¹ Author is a student at Reva University, India.

² WORLD HEALTH ORGANISATION, <https://www.who.int/news-room/fact-sheets/detail/mental-disorders>, (May. 03, 2023)

identifies mental illness as “a disorder of perception, thinking, orientation, mood, memory that grossly impairs capacity, judgment, & behaviour to recognise reality and meet ordinary life demands, but it excludes mental retardation”,³ this given connotation also provides to include alcohol and substance abuse into the category of mental illness which require treatment. Though any person at far can get cumulated by disorders, it is pertinent to note that those with background of distress, can easily be stimulated if accompanied with genetics into any form of mental illness.⁴

It is important to establish a proper relation between mental illness and criminality before proceeding further, it is often believed that mental illness reduces the level of rationality of a person. Certain serial killers or regular offenders are those identified with characteristics like lack of remorse, empathy, selfishness, compulsiveness is seen as those with tendencies of a psychopath, *Dr Robert Hare* has also devised a test to identify these categories of individuals. People with paranoia, manic illness and schizophrenia show considerable levels of acting out of exclusive impulse, but they are not psychopaths.

To diagnose and point out that a particular Act has been stimulated from a particular internal imbalance, it is dependent upon myriad of factors, one cannot blame a single element for the cause of action. Each crime has certain psychological background, studying which one can easily understand the reason behind the action. Countries like *New Zealand* create a plan for each prisoner though they are found to have a disorder or not, but to illustrate the psychology of crime and to reduce the reason to reduce the crime.

But this rather doesn't prove that the person suffering from a mental health issue, is in high probability going to dwell towards criminality or become a criminal, the research by *National library of medicine*, notes through that such people are more likely to be attacked by the perpetrator rather than attack another person.⁵ Research has showed on the other side of the coin that, if people with mental illness are not properly treated, they may tend to use violence. Those with substance abuse and other similar comorbidities or those impacted by societal conditions are present within this fraction of criminals, yet their number is not that significant to point out.⁶

To curtail this, one needs to clearly draw a line between determining who is a criminal with issues of mental illness? And who is one committing an act out of sheer criminal intent? Only

³ The Mental Health care Act, 2017, S.2(s), No. 10 of 2017, Acts of Parliament, (India)

⁴ *Supra Note 1*

⁵ Noman Ghiasi; Yusra Azhar & Jasbir Singh, *Psychiatric illness and criminality*, NATIONAL LIBRARY OF MEDICINE, (May.3, 2023), <https://www.ncbi.nlm.nih.gov/books/NBK537064/>.

⁶ *Ibid*

the legal regime can uncover this paradox.....

Stephan Morse speaks about “*Desert-disease jurisprudence*” as something that plays an important role in creating culpability of a mentally ill person (MIP), i.e., our criminal justice system doesn’t interfere with the freedom and liberty of a MIP unless he/she is involved in commission of any crime, this he calls as deserting due to disease.⁷ He also suggests that it is hard to properly substantiate without a possibility of doubt which of the elements form brain damage and which don’t as, mental illness in itself is perceived vast, there needs to be a cut down in number of elements used to determine insanity. While it is also important to note that legal insanity⁸ is different from depression or anxiety that might or might not affect the thinking of a person.

The Indian Penal code 1860 under *Section 84*, states that nothing is a crime, if it is committed by a person of unsound mind and due to the same, he/she is not capable of understanding the consequences of it. It is necessary to establish insanity in court, to be acquitted of crime. It is here pertinent to note that though rehabilitation is recommended for habits as alcoholism and drug abuse and it is seen as mental illness under the Act, it is not considered as mental disorder for the purpose of *section 84*, though alcoholism is an exception under *section 85* coming under the category of intoxication, drug abuse is subject to punishment under the *Narcotic Drugs and Psychotropic Substances Act 1985*.⁹ simple, argument that exists here is that the one who contains rationality and reason while committing acts violated legal and moral code should not be brought under the bracket of insanity, hence those affected by subtle mental illness though identified by the Mental health Act cannot claim freedom from intervention of law, as they still retain their reasoning power. As pointed out in the case of *State of Rajasthan V Shera Ram*¹⁰, any individual found suffering from mental disorder or deficiency, can claim release from liability as per general exceptions of IPC. This makes a distinction between disorder and illness; illness is not considered as mental health disorder, but every mental health disorder is illness. Given this plethora of conditions, it is not possible to establish exoneration from crime, if mental illness is put into the same box as disorder, it can help in mitigation of crime as, the CrPc statute on the other hand prescribes persons with unsound mind should be remanded in psychiatric

⁷ Stephen J Morse, *Mental Disorder and Criminal Law*, Vol 101, JOURNAL OF CRIMINAL LAW AND CRIMINOLOGY, 886, 892, (2011) at <https://scholarlycommons.law.northwestern.edu/cgi/viewcontent.cgi?article=7406&context=jclc>

⁸ Insanity during the commission of crime and not before or after commission of crime is considered to be legal insanity.

⁹ Section 27: any person consuming drugs as specified under section 27(a), shall be punished with imprisonment of 1 year and twenty thousand rupees fine and those consuming any other drugs shall be punished with 6 months imprisonment and 10,000 Rs.

¹⁰ (2012) 1 SCC 602

hospitals for the purpose of treatment.¹¹ Treatment and drawing of a proper plan in reduction and diagnosis of all forms of mental illness can reduce both victimisation and criminality, legal provisions for early family nurture and care can bring a lot of development in current conditions of direct presumption of remorseless or emotionless people as criminals or labelling them into increasing recidivism.

Most of the so-called criminals, on being convicted for the first time are sometimes further jinxed into the criminality also because of the reason that there is no treatment for the cause of the crime, but only punishment. This doesn't bridge the gap so created between the prisoner and the person but increases the line of fragment.

Hence, one must create both before and after intervention programs to at least reduce crimes occurring purely out of mental illness.

¹¹ Criminal Procedure Code, 1973, Section 471(i)