

Mental health and the law (guilty but mentally ill)

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MENTAL HEALTH AND THE LAW

Introduction

The administration of justice is based on the principles of retribution, equity and use of just punishment (in relation to the gravity of the crime committed). In this regard, there are many cases in which the suspected criminal has been found guilty although mentally ill. This implies a criminal was not in his or her right senses when the crime was committed. There was a loss of his mental faculties which connotes he is not aware of the consequences of the crime. There are several high-profile cases in which the accused got off from penalties and incarceration because he cannot be held criminally liable due to questions of having a sound mind. This defense is also exemplified by claims of insanity. This brief paper discusses mental health in relation to the law.

Discussion

The rule of law is the bedrock of modern society. This means there is a social contract in which civilized people agree to surrender some of their rights in return for being governed by some elected or appointed authority. Further, the contract denotes the obligation or responsibility to abide by those rules and norms of behavior as agreed upon in order to maintain social order. A criminal is someone who is deviant of these rules and defiant of this authority. It is therefore just and proper that a corresponding punishment is imposed on those who deviate through the proper administration of justice.

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However, before punishment can be considered and imposed, it is also incumbent upon the proper authorities, as embodied by the three pillars of justice which are the police, the courts and the penal system, to determine if there is sufficient ground to impose such a punishment on the accused once found guilty beyond reasonable doubt by a proper court.

Criminal law has evolved into a complex set of rules designed to convict the guilty or acquit the innocent to avoid wrongful convictions. Along this line, criminal law relies on concept of mens rea, the Latin phrase for “ guilty mind” which means there must have been the criminal intent prior to the commission of a crime. It is an important element in criminal justice together with motive, opportunity and means in order for a criminal to successfully carry out a crime. The concept of mens rea is used together with actus reus (Latin for “ external element” or in laymans parlance, the “ guilty act”) as the essential elements to reach a guilty verdict of beyond reasonable doubt. However, the criminal justice system as an institution often fails to consider the mental health of many accused, resulting in their unjust punishment and imprisonment. This failure to protect those with mental disorders from prosecution and incarceration obviates the purposes of an enlightened justice system which are retribution and rehabilitation; those found as mentally ill are to be sent to mental hospitals to protect their rights (Freeman, Pathare & WHO, 2005, p. 76).

Conclusion

People who are not aware of what they are doing or what they just did, as in the case of mentally ill criminals, are not fit to stand trial. This is one improvement over previous concept of punishment regardless of the mental state of an accused as practiced in earlier times which are considered

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barbaric and inhuman nowadays. This is somewhat similar to sentencing youngsters when they do not know yet the consequences of their actions because they cannot distinguish the right from wrongful acts, known as *dolci incapax* (Siegel, 2009, p. 660). By the same token, the people with mental health issues should be spared from criminal prosecution after forensic exam and diagnosis by qualified mental health professionals (Koenraadt & Mooij, 2007, p. 142).

Reference List

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