

# Challenging the insanity defense philosophy essay



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Insanity in general exculpates a person's behaviour when the person is mentally defective or challenged at the time of the crime and such defect played a vital role in affecting the person's judgment as a manifestation of his lack of intelligence and voluntariness. It may constitute as a mitigating or an exempting circumstance from criminal liability anchored on the latin maxim "actus non facit reum nisi mens rea (a crime is not committed if the mind of the person performing to act complained be innocent). As a complete defense, the accused is exculpated from punishment based on the complete absence of voluntariness, intelligence which necessarily negates intent or negligence on the part of the accused.

The defense of insanity veers away from the concept of intent and negligence as it was originally conceptualized to be a product of nature or as a result of a freak accident without human intervention. However, with the progress of society more and more problems are introduced. For one, substance abuse continues to rise and seen to be the cause of societal problems. One of which is the rise in the numbers of crimes committed under the influence of illegal drugs which alters or exacerbates mental disorders. Such continuous substance abuse has been demonstrated to result in the strange behaviour of the person intoxicated with it. Long and continuous abuse has already been proven to cause mental breakdown which is tantamount to insanity. With this, the original concept of insanity of being a product of a freak accident of nature is no longer automatically true. Insanity can now be self-induced - a product of human intervention. Hence, the intent or negligence should not be deemed absent if crimes are committed although the accused can be considered as legally insane.

The growing concern over the use of illegal drugs is manifested by the Dangerous Drugs Act of 1972 which heavily penalizes substance abuse because of its correlation with the rise in the number of crimes. This was further amended in the Dangerous Drugs Act of 2002 to answer the inadequacy of the former legislation. If the accused could successfully invoke the defense of insanity then there would be the negation of the intent of the said laws.

As of the present the safety valve the Philippines relies on is the stringent criteria for insanity to fall under the category of exempting circumstance which in its nomenclature requires a “ complete deprivation” of intelligence in committing the criminal act. The proposal would present the possible shortcomings of this stance, the overlooked violations of this stance to the rights of the accused and the recommendations on how to resolve this problem.

## **Table of Contents**

### **Introduction**

A legal luminary once said that “ law is the enterprise of subjecting human conduct to the governance of rules”[1]. The law attempts to set the conduct of man due to its faulty nature with the use of reason as its guide.[2]On this basis, social responsibility is ascribed to a person and limit him from exerting unjust violence and are met with penalties in case of any deviation from it. [3]In other words, the law prescribes a desired manner on how the conduct of men should be and this is made known to him through the setting up of penalties in case of a voluntary breach.

Based from this concept, a man is seen as a “moral creature”[4] who has the power to choose on how to conduct himself and is able to differentiate from what is good and what is evil. His social responsibility is ascribed based on this notion that a man is an intelligent creature who is free to choose the manner of his conduct. If he act in contravention of the moral standards or the law he is made responsible for it. This however is to be balanced based on the circumstances involved. The positivist theory is illuminating, it states that,

Man is subdued occasionally by a strange and morbid phenomenon which constrains him to do no wrong, in spite or contrary to his volition. That crime is essentially a social and natural phenomenon, and as such, it cannot be treated and checked by the application of abstract principles of law and jurisprudence nor by the imposition of punishment, fixed and determined a priori; but rather through the enforcement of individual measures in each particular case after a thorough, personal and individual investigation conducted by a competent body of psychiatrists and social scientists.[5]

This particular view provides for the logic behind providing exempting and justifying circumstances such as insanity to exculpate the accused from criminal responsibility. The presence of these circumstances which subdues the man's free will can be seen in the defense of insanity. In this scenario, the intent or negligence of an insane person is negated since there is a lack of voluntariness on his part. Civilized nations thus considered punishing a person who is not capable of choosing his conduct improper.[6]

The Philippines adhere to this notion and considers these circumstances- those affecting free will- as either mitigating or exempting circumstances which is based on the factual nature of each case. The court will necessarily look into the defendant's manifestation of free will before or at the time of the commission of the crime[7]. The factual nature would determine if the criminal responsibility is mitigated or exempted. To be exempted, there must be a total deprivation of committing the act.[8]

Insanity must be understood in its legal and not in its medical term. In order to constitute insanity in the legal term the Court has adopted the tests of cognition and volition[9]. The Court does not consider mere mental infirmities. The involuntariness must be the result of the total absence of intelligence.[10]

In our jurisprudence, the Court was faced with cases of insanity concerning abnormal behaviour brought about by natural circumstances. It does not dwell on the problem of intent for the cause of the insanity was natural and not because of free will. However, with the rise of substance abuse which necessarily breath life to the Dangerous Drugs Act of 1972 and its amendment in 2002, insanity can now be self-induced. Human intervention is now possible. The court is now faced with the possibility of considering the presence of intent.

In *People vs Caneta* (309 SCRA 199), the Court decided that the accused suffering from drug psychosis is not insane in the legal term. The Court said that mere mental infirmities are not enough but a complete deprivation of intelligence is necessary. The case also did not consider the disease as a

mitigating circumstance of the crime involved. This, however, is not conclusive since the problem lies in the presentation of evidence and not on the possibility of the use of drugs to exacerbate an individual's mental infirmities which would be tantamount to legal insanity. In other words, self-induced insanity as an exempting circumstance was not totally ruled out.

The non-inclusion of the mitigating circumstance in the case may be considered as a manifestation that intent was not reckoned at the point of the commission of the crime but on the point of taking the illegal substance.

## **THESIS STATEMENT**

Self-induced insanity is a distinct strain of insanity which should not be used as a viable defense against criminal liability. Insanity caused by substance abuse must work against a criminal's cause rather than save him from the perils one has entered into. The stringent condition imposed by the court to deter the use of insanity as a defense is an inadequate safeguard for the possible abuse of the insanity defense.

## **Objectives of the Study**

This paper endeavors to explore the criminal responsibility of persons who voluntarily ingest illegal substances rather than excuse their criminal behaviour by invoking the oversweeping defense of insanity. As such, it would present a distinction between being voluntarily and involuntarily afflicted with insanity. But, before we could dwell on these distinctions, it would be necessary to discuss at length the different methods by which insanity is established. An examination of the pertinent provisions in our laws defining insanity would thus be imperative. It is also endeavoured that a

comparison with the tests of insanity be compared with other jurisdictions in order to grasp the elusive concept of the term insanity. Moreover, it would determine the problematic areas on the inconsistent stance of the Court in applying the test of insanity and provide possible remedies therefor.

### **Significance of the Study**

The significance of this study is to remove the protective mantle of the absolute defense of insanity in cases where mental defects and diseases are procured due to the use of illegal substances which impair the rational thinking of an individual so as to exploit the gray area in our Criminal Law and to provide an analytical framework for the basis of applying the test of insanity and the basis for holding the self-induced insanity liable.

### **Scope and Limitations**

The scope of this study will be limited to self-inflicted insanity through voluntary intoxication of harmful substances covered by the Dangerous Drugs Act of 1972 and its amendment in 2002 which causes mental illness or diseases as to deprive the accused of voluntary will, intelligence and intent. The comparison of the test of insanity would be limited to that of the United States.

### **Definition of Terms**

Insanity refers to a state of mind of a person which makes the person not fit to enjoy the freedom of action because of his destructive behaviour and the danger he poses for himself and to others. In relation to criminal responsibility, the insanity referred to would be the degree of mental illness

that a person suffers which deprives him of legal responsibility or capacity.

[11]

## **Discussion**

### **Laws Governing Criminal Responsibility**

Revised Penal Code

#### I. Criminal Responsibility

##### History and Theoretical Foundation

The Historical foundation of criminal liability is based on the voluntariness in the human beings action. The concept trace its roots to ancient times and civilized nations ascribed to a person social responsibility based on the law imposed which guides human conduct.

The Mens Rea as a determining factor to determine criminal responsibility

Mens Rea constitutes the intent of the accused. It is the mental factor which is manifested through overt acts. The mental and overt acts must concur.

Exempting and Mitigating Circumstances to affect criminal responsibility

These are the factors used to determine the extent of liability of the accused

Aggravating Circumstances

Illegal drugs are seen to aggravate the penalty imposed to maximum instead of being seen as an exempting of mitigating circumstance

#### II. Insanity as a Defense

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## History and Theoretical Basis

Without voluntariness and intelligence, the mental state and the overt acts are not one. Civilized nations find it not to punish a man who is deprived of intelligence.

## Definition and Rationale of Insanity as a defense

### Philippine Setting

#### Revised Administrative Code providing insanity as a defense

This serves as the preliminary definition of insanity which involves a process of elimination instead of specifically defining the term.

#### Revised Penal Code providing insanity as an absolute defense

RPC as setting no other classification to the defense of insanity as absolute with no other qualifications based on the total absence of intent without regard to self-induced insanity.

- - Test applied by the court in a series of jurisprudence

### US setting

#### The tests used to determine insanity

#### The M'Naghten Rule

#### Irresistible Impulse Test

#### The Durham Test

## Model Penal Code Test

## Federal Insanity Reform Act

The tests refers to the different components used by the US in determining insanity. There was a relaxation of classification but returned to the original rule which considers the cognition and volition prong.

## III. Intoxication, Mens Rea and Insanity

### Kinds of Intoxication

#### Voluntary Intoxication

##### General intent crimes

Refers to crimes inflicted without particular intent to cause a particular result.

##### Specific intent crimes

The presence of a specific results intended.

#### Involuntary Intoxication

-situations when there is involuntary intoxications

Involuntary intoxication as an exception to intoxication due to total lack of intent on the part of the accused.

- Mental Disease or illness brought by long term intoxication

- Self-induced insanity as a defense

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- Insanity as an absolute defense
- Classifying self-induced insanity as a strain of insanity outside the sphere of absolute Defense
- Legal implications and support

#### IV.. Role Of Psychologists and Psychiatrists

- Burden of Proof required
- Degree of Proof required
- Type of Evidence Required
- Constitutional Flaws in the Court Reasoning
- inconsistencies in jurisprudence
- bias towards insanity in illegal drugs.

#### V. Crux in the Constitutional rights of the Accused, Intent, and Insanity

### **Analysis**

The defense of insanity was originally conceptualized to exempt persons devoid of the freedom to choose one's action. The maxim *actus non facit reum nisi mens rea* (a crime is not committed if the mind of the person performing to act complained be innocent) is illuminating to explain it. However, such was conceived with the circumstance that the person is inflicted with insanity not of his own volition. The discussions earlier present a different scenario. Insanity is now purposely inflicted to escape criminal

liability. The presentations in this paper demonstrate a different strain of insanity which should be distinguished from the early notions made about insanity.

## **Conclusion**

Self-induced insanity is a subset of insanity not within the protective mantle of the concept of “ absolute defense”. The reasoning of the Court in depriving illegal substance user of the defense of insanity is misplaced for it did not consider that the case of illegal drugs user may fall in the exempting circumstances or with the justifying circumstances. The cognition prong of insanity is actually the one considered in exempting circumstance and the volition prong is actually the justifying circumstance of irresistible force separated but must be taken as a whole. One must not exclude the other.

## **Recommendations**

It is recommended that the Revised Penal Code be amended to be explicit in making categories in the absolute defense of insanity and to remove all doubts as to its applicability. Moreover, the rigid test of considering only the cognition part of the test should be modified so as to include the volition part to have a holistic approach in determining insanity.