P-ISSN: 2709-6254	Journal of Development and Social Sciences	Oct-Dec 2023, Vol. 4, No. 4
O-ISSN:2709-6262	https://doi.org/10.47205/jdss.2023(4-IV)24	[269-275]

Journal of Development and Social Sciences
www.jdss.org.pk

RESEARCH PAPER

Insanity Defense in US Law: A Critical Analysis

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ABSTRACT

The insanity defense is a defense against the criminal responsibility of an accused suffering from mental disorder(s). The law in the United States recognizes the doctrine of the defense of insanity. The objective of this study is to analyze the law on insanity defense in the US using the doctrinal legal analysis approach. The findings of this study suggest that the law on the insanity defense is not uniform across the United States. Moreover, forensic mental health evaluation by mental health professionals is critical in determining the plea of insanity. The forensic mental health assessment of an accused taking the plea of insanity must be detailed and comprehensive to assist the trier of the facts as it is the trier of the facts who would decide about the legal insanity of the accused. There is a need to adopt multidisciplinary approaches to further develop the law on insanity defense in the US.

KEYWORDS Crime, Defense, Evaluation, Insanity, US

Introduction

The insanity defense is an excuse defense against the criminal responsibility of an accused suffering from mental disorder(s). An accused suffering from legal insanity cannot be held responsible for his crimes, no matter how grave the charges are (*State v. Strasburg,* 1910). The defense of insanity is a controversial subject across the United States. However, the law across the United States recognizes the doctrine of the defense of insanity. In the US, each state has its own laws on insanity defense which are not in perfect harmony across the states. Even a few of the U.S. states i.e., Montana, Idaho, Kansas, and Utah have banned the insanity defense. However, the Model Penal Code along with other federal legislations played a significant role in bringing the laws on insanity defense in harmony across the United States to a great extent (Neville, 2010). The law on insanity defense in the US went through different phases of development.

Literature Review

Historical Perspective on Insanity Defense in the US

The defense of insanity went through different historical and developmental stages in the US. Like many other jurisdictions across the globe, the US first adopted McNaughton's rule as the criterion of legal insanity. The criterion of legal insanity set in McNaughton's rule was prevalent across the jurisdictions of the United States for a long. Later this criterion went through different modifications across the US and different states adopted different standards of legal insanity (Weiner & Otto, 2014). However, there was no uniform development of the insanity defense across the states in the US as each state has its own history of development of insanity defense, and the federal legislation on insanity defense went through its own developmental phases (Melton et al., 2017).

Irresistible Impulse Test

One of the biggest criticisms against the criteria set in McNaughton's rule was that it was heavily focused on the cognitive aspects while ignoring the control part of the mental disorder. In response to this criticism, another criterion of legal insanity was set in the US which was known as the irresistible impulse test. Under the criteria set in the irresistible impulse test, a person cannot be held liable for his act if he did something under such a defect of mind which made it impossible for him to control his impulse (*Commonwealth v. Rogers,* 1844). Many states across the US adopted the irresistible impulse criterion of legal insanity. However, this criterion of legal insanity was not welcomed by the legal fraternity, and it drew much criticism due to many inherent defects in it (Ajmal, 2023).

Durham Test of Insanity

With the growth of the subjects of psychiatry and psychology, a new criterion of legal insanity was adopted while discarding the standard given in McNaughton's rule. According to this criterion, an accused would be excused from the criminal charge against him if he did something because of his mental disorder. Furthermore, an act shall be believed to be a result of a mental disorder if it had not been done otherwise but due to the mental disorder an accused is suffering from. The Durham rule of insanity was more extensive in scope than the previous tests of legal insanity (*Durham v. United States*, 1954). The rules laid down in *Durham v. United States* (1954) were largely appreciated by the medical professionals but got a mixed reaction from the legal fraternity. Later, the US courts applied the Durham criterion of insanity with little interpretational variations as one worth mentioning noted in *McDonald v. United States* (1962). However, the Durham rule was also criticized for being vague and because of the inherent limitations of the subjects of psychiatry and psychology which were making the Durham standard too ambiguous to apply in legal settings (Ajmal & Rasool, 2023).

Insanity Defense and the Model Penal Code

The Durham rule was replaced by the criteria of legal insanity given in the Model Penal Code, the American Law Institute (ALI) rule. According to the standards set, an accused is not liable for an offense if, at the time of the occurrence of the offense, he was suffering from mental illness due to which he lacks in ability either to value the wrongfulness of his action or to adjust his action according to the law. This test of legal insanity considered both aspects i.e., the cognitive and volitional (*United States v. Brawner,* 1972). The American Law Institute (A.L.I) in the Model Penal Code adopted the insights from McNaughton's rules and irresistible impulse test to set a standard of legal insanity (Ajmal & Niazi, 2022).

Later Developments in Insanity Defense in the US

After the acquittal of John Hinckley of the murder charge of the then US president Ronald Reagon by the reason of insanity, which caused a lot of criticism and scrutiny on the defense of insanity, the criterion of the insanity defense was further modified (*United States of America v. John W. Hinckley,* 1981). Under the Insanity Defense Reform Act of 1984, the A.L.I. rule was discarded, and a stricter criterion of legal insanity was introduced. This criterion was closer to McNaughton's rule on the defense of insanity. The onus of proof of legal insanity was shifted to the accused. The stricter criterion of evidence was introduced to prove the plea of insanity and the scope of the expert testimony in the defense of insanity was made limited (Insanity Defense Reform Act, 1984).

Moreover, the addition of a guilty but mentally ill (GBMI) verdict is one the latest and much-appreciated paradigm developments in the cases of the insanity defense. GBMI verdict is different from not guilty by the reason of insanity (NGRI) as in GBMI verdict the

offender is considered guilty and mentally ill and must serve his term in a psychiatric facility unlike in NGRI in which the offender can be freed meeting certain criteria. Many states across the United States have adopted the guilty but mentally ill verdict (Ajmal & Niazi, 2022).

Diminished Capacity Defense and Insanity Defense

The defense of diminished capacity is relevant to the defense of insanity as both are dealing with the mental condition of the accused. The law in the US recognizes the defense of diminished capacity as this doctrine can be seen implemented at the federal level and in many of the states across the US. The federal sentencing guidelines allow the plea of diminished capacity in case an accused is suffering from significant mental incapacity (Miller, 2001). However, the defense of insanity is a complete defense while the defense of diminished capacity is a partial defense and is based on pleading guilty for a lesser offense by the reason of mental impairment. The defense of diminished capacity is based on the premise and can be invoked when a person cannot say to have a requisite mental state for a crime committed because of his mental condition or mental disorder (Wex Definition Team, 2023).

The law on diminished capacity is not in harmony across the US states as many states do not recognize this defense. However, the principle of diminished capacity has long been established in the US as the courts in the US as in *People v. Poddar* (1974) recognized the role of volition in diminished capacity, and in *People v. Wetmore* (1978), the court decided the significance of evidence of mental condition in the defense of diminished capacity. In *People v. Cantrell* (1973), the court ruled that diminished capacity cannot be treated at par with the insanity defense and thus consequently can only be a partial defense against a crime committed by the accused. The defense of insanity and the defense of diminished capacity are different yet these two are associated with each other and can be relevant in the same proposition (*State v. Rose,* 1988).

Material and Methods

The doctrinal legal analysis was used to analyze the law on the defense of insanity in the US.

Results and Discussion

Standard and Burden of Proof of Insanity in US Law

At the federal level, the standard of proof in an insanity plea is the standard of clear and convincing evidence and the onus of proof lies with the defendant who raises the plea of insanity (The Insanity Defense Reform Act, 1984). However, the states' laws on the standard and onus of proof in case of insanity plea are not in harmony across the US.

Role of Mental Health Professionals in Insanity Defense

The testimony of the psychiatrists and the psychologists in determining the legal insanity of an accused is relevant but such an expert debars from commenting on the ultimate legal issue (Federal Rules of Evidence, 1972). However, if a court wants to assess the mental condition of an accused, it must be through a forensic psychiatric evaluation (*Drope v. Missouri,* 1975; *Pate v. Robinson,* 1966). Moreover, the information acquired during the insanity assessment cannot be used against the accused as self-incriminating evidence unless the accused wants to use this as evidence in his/her defense (*Estelle v. Smith,* 1981). In *Clark v. Arizona* (2006) the US Supreme Court reaffirmed the significant role of forensic mental health professionals in the forensic assessment of the accused pleading the defense of insanity. The court decided that forensic mental health professionals must evaluate an

accused plead under the defense of insanity by employing objective and standardized forensic evaluation methods. Moreover, a mental health professional must be adequately qualified and trained to perform forensic mental health assessments (Federal Rules of Evidence, 1972).

Psychiatric Evaluation of the Mental Condition of An Accused at the Time of Commission of Offense

The forensic psychiatric evaluation of the mental health condition of an accused at the time of the commission of an offense is a thorough and comprehensive assessment that usually comprises three fundamental components i.e., an interview with the defendant, administration of forensic assessment instruments, and third-party information (Packer, 2009). In the insanity evaluation of an accused, along with the application of standardized tools of forensic mental health evaluation, considering other relevant information about the accused is also recommended as it can be helpful for a comprehensive forensic evaluation. This information generally includes witness and victim statements, police reports, and different kinds of records such as previous hospitalization records, school records, and crime scene records (Melton et al., 2007).

The studies found that most of the accused declared insane by the mental health professionals after an insanity evaluation had a history of hospitalization for their mental health issues and most of them were having psychoses (Warren et al., 2004). Likewise, the studies found that most of the people who successfully availed the defense of insanity had a history of hospitalization for their psychoses (Nicholson et al., 1991; Nestor & Haycock, 1997; Cochrane et al., 2001). Moreover, the mental disorders mostly considered relevant in declaring a person legally insane are characterized by prolonged illness rather than short-term transitory mental health issues (Rogers & Shuman, 2000).

Forensic psychiatric evaluation of an accused plea under the defense of insanity must be detailed and comprehensive. The forensic evaluation report must include the details of the mental condition and the mental disorders an accused is suffering from. Moreover, it is pertinent for psychiatrists and psychologists to evaluate the relationship between the crime committed and the mental health conditions of an accused associated with the crime committed at the time of the commission of the crime. Mental health professionals are barred from giving their opinion on the ultimate cause, but these professionals must assist the trier of the facts by analyzing the relationship between the mental condition of an accused and the crime committed by the accused (American Academy of Psychiatry and the Law (AAPL), 2014).

There are some inherent limitations of behavioral sciences to answer the question of whether the act of an accused at the time of the commission of an offense was completely voluntary or not (McSherry, 2003). Mental health professionals must include the limitations of their methods of assessment in their evaluation reports. The disclosure of the psychometric properties of the tools used in the psychiatric evaluation of an accused will help the trier of the facts to draw interferences from the evaluation report accurately (Ajmal et al., 2022).

Moreover, mental health professionals must be cautious about malingering during the insanity evaluations (Giorgi-Guarnieri et al., 2002, AAPL, 2014). Malingering by the accused is found in taking insanity pleas to avoid punishment (Ajmal et al., 2022). The detection of malingering during an insanity evaluation requires a thorough and comprehensive approach on the part of mental health professionals taking part in the insanity evaluation (Resnick & Knoll, 2018). It is important to mention that the forensic mental health assessment of competency to stand trial is different than the evaluation of insanity of an accused as both the evaluations assess different abilities of the accused (Ajmal & Rasool, 2023).

Conclusion

The law in the US recognizes the defense of insanity against the criminal liability of an accused. The law on insanity defense went through different phases of development before coming to its current form in the US. However, the law on the insanity defense is not uniform across the United States. Different states adopted different criteria of legal insanity across the US. Most of the states have either adopted MacNaughton's rule standard or the ALI Model Penal Code standard of legal insanity. Some states took a different approach regarding the standard of legal insanity than these two standards while a few states abolished the defense of insanity. As far as the burden and the standard of proof to determine the plea of insanity are concerned, the law of evidence is also not uniform across the US. Most of the states put the onus of proof of plea of insanity on the defendant while a few put the onus of proof on the state in case of insanity defense. The law on the verdicts of guilty but mentally ill (GBMI) and not guilty by the reason of insanity (NGRI) is different across the US as some states allow GBMI verdicts while others do not. Moreover, there is no uniformity in law on the doctrine of diminished capacity across the US.

The part of forensic mental health evaluation is critical in determining the plea of insanity. An accused who takes the plea of insanity is generally examined by mental health professionals. The law across the US recognizes the role of mental health professionals as expert witnesses in case of insanity plea. These professionals are allowed to testify in case of determination of the plea of insanity, however, they are barred from giving their opinion on the final cause as it is up to the trier of the facts to decide. The mental health professionals must give their evaluation reports based on detailed analysis of the mental health conditions of the accused, but they cannot determine whether the accused was having requisite mens rea for a crime at the time of the commission of the alleged offense or whether the accused is legally insane or not as it is the exclusive domain of the trier of the facts to decide about. Moreover, the experts who are responsible for the mental health evaluation of an accused in case of an insanity plea must be adequately qualified and trained.

It is pertinent to mention that the defense of insanity is rarely invoked and more rarely successful because of the strict criteria of legal insanity. One of the reasons for this is the stereotypes about insanity defense among the public which are reflected by the jurors. There is a need to reformulate and revise the criteria of insanity defense considering the latest developments in the fields of jurisprudence, mental health, and behavioral sciences.

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