A LINE ON LIFE

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The Insanity Defense *

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Should criminal acts by an insane person be punished? What do we mean when we say that a person is criminally **insane**?

In 1843, a paranoid Scotsman named M'Naghten had delusions that he was being persecuted by Sir Robert Peel, the English Prime Minister. While trying to shoot Peel, M'Naghten accidentally killed Peel's secretary. From his delusional ravings, everyone was convinced that M'Naghten was insane. Judged not guilty by reason of insanity, he was kept in a mental hospital for life.

However, Queen Victoria believed that attempted assassinations should not be dealt with so lightly. Because of her objections, the House of Lords reviewed the decision. It was upheld and became the **M'Naghten Rule**. Essentially someone was "*not guilty by reason of insanity*" if (1) "*he did not know what he was doing*," or (2) "*if he did know what he was doing, (he) did not know that it was wrong*."

The rule was adopted in the United States, with an additional criterion added by some states – the doctrine of "***Irresistible Impulse***." This recognizes that – even though he may know what he is doing and that the act was wrong – the mentally ill person may not be able to control his own behavior. In the 1970s, Most U.S. courts adopted even a broader definition:

> *"A person is not responsible for criminal conduct if at the time of such conduct, as a result of mental disease or defect, he lacks substantial capacity either to appreciate the wrongfulness of his conduct or to conform his conduct to the requirements of the law."*

After Hinkley's acquittal due to insanity for trying to kill President Reagan in 1981, the insanity defense was seen as a loophole that allowed guilty people to go free. Current courtroom procedures – where mental health professionals on both sides give conflicting evidence as to the defendant's mental ability – seem to confuse juries and do little to find justice.

In the United States, insanity laws are changing. In 1984, the U.S. Congress passed a bill that limited the insanity definition to the defendant not knowing that he was acting wrongfully. A dozen states adopted a "***guilty but mentally ill***" verdict. In these states, it either replaces the "*not guilty by reason of insanity*" verdict or offers it as an additional option. Although this option indicates that the defendant was impaired at the time of the crime, it is not the same as legal insanity. After receiving this verdict, the defendant

would receive psychotherapy in a hospital setting. Once the defendant is seen as mentally fit again, he would serve the remainder of the sentence in jail.

Although it is too early to tell, providing the guilty but mentally ill option will probably be used in two ways. First, this option may be more likely to be used with clearly psychotic defendants – who previously would have been judged not guilty by reason of insanity. Second, antisocial personality disorders – people who essentially lack a conscience, which would not normally be classified as insane – cannot be judged as guilty but mentally ill.

However, the public concerns about insanity being used as a loophole in the law is unfounded. Acquittals by reason of insanity are very rare. First, jurors doubt that people are not morally responsible for their acts. Second, since lawyers know this, they tend to use the insanity plea only as a last resort. Less than 1% of defendants for serious crimes successfully make an insanity plea.

Mental competency has a much greater impact on our legal processes *before* the trial begins. Our federal laws require that any defendant be **competent to stand trial**. To be judged competent for trial, the defendant must be able to understand the charges and be able to cooperate with the lawyer in presenting a defense.

The issue of competency is basic to our ideal of a fair trial. Competency for a trial is completely separate from judging whether the person was "*insane*" at the time of a crime. The judge determines the accused's mental competency in a preliminary hearing. If the crime is serious, the defendant will be committed to a mental institution until deemed competent to stand trial. With congested court calendars and the great expense of most trials – and if judges believe that the mental facility will provide adequate treatment and secure confinement – they prefer to deal with mentally disturbed people this way.

Unlike the rarity of being found not guilty by reason of insanity, many more people are in mental institutions because of incompetence to stand trial. Most of them are not dangerous to others. Even so, they often spend more time in confinement than they would have had they been convicted of their alleged crime. Some were committed to mental facilities for life. However, since 1972, judges either need to bring them to trial within 18 months or release them. To be released, the potential for future danger needs to be minimal.

Even so, newspaper headlines tend to exaggerate the danger of "*crazy people*" on our streets. You need to remember that banner headlines are reserved for news – events that are relatively rare. (When was the last time you saw "CAR STOLEN" as a front-page headline?)

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* Adapted from Atkinson, Atkinson, Smith & Bem's *Introduction to Psychology*, Harcourt Brace Jovanovich Publishers, 1990, pages 612-613.