

Insanity as a Tort Defence

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ABSTRACT

Insanity is generally referred to as a state of being irrational for a period of time. In other words Insanity can also be stated as the existence of demented/lunatic behaviour of a person towards a person or a group of people or any different entity. There is technically no change in understanding the concepts and essence of Insanity as a Tort Defence for the past several decades. The concept of human behaviour is the direct result of the interactions between various factors availing in the environment i.e., Political, Social, Legal and Ecological factors. One of the most justified and valid statement/quote for insanity as a Tort Defence is "where one of two innocent persons must suffer a loss, it should be borne by the one who occasioned it."¹ In contrast to this quote stated above, it releases a person from responsibility for the harm they may have caused when a mental disorder manifests without any consent/warning, making the plaintiff responsible to bear for his/her own loss. Insanity Defence is one of the most controversial legal doctrine which relates to the lunatic/demented or mental illness and irrational behaviour of a person. "All major common law jurisdictions recognize insanity as a response to tort liability. There has been a lot of discussion about how satisfactory this situation is. Some theorists believe that tort law ought to follow criminal law and that criminal defendants who are insane ought to be exempt from liability"².

INTRODUCTION

The concept of Insanity is associated with a method of denying a criminal responsibility and this is correlated to the incapacity of an individual when it comes to the part of criminal law. There are certain aspects and conditions that can be placed upon somebody that causes them to become incapacitated in the act of committing a particular offence irrespective of the plea of insanity or intoxication or automatism.

The notion of Insanity as a Tort defence is very sensitive and vital as far as the legal system is concerned for any country. The mere presence or absence or any other severity of any mental disorder does not by itself make a legal determination. A legal conclusion cannot be drawn based solely on the existence, absence, or the condition of being severe of a mental or any psychological disorder.

There has to be a diagnosable syndrome in order to qualify for the defence of insanity under the law. It's very necessary to be able to prove your insanity which has been diagnosed by a medical or any psychological professional/Entity. This level of impairment is an extremely high bar to meet. Insanity cannot be misconstrued having a mental illness with therefore being not guilty by reason of insanity as well as the idea of relying on the particular defendant's intoxication, whether that be voluntarily or involuntarily intoxicated.



Tort law, unlike criminal law, does not recognize insanity as an answer to liability. Tort law's liability rules essentially ignore the fact that a defendant was insane at the time of his/her alleged conduct. A person should not be held liable in tort for the acts committed by the person who is believed to be lunatic or demented when the accused confers valid justifications and proves his Insanity.

The concept of automatism, capacity defences and the link between the plea of Insanity and automatism including the defence of intoxication is majority of the limited decisions available on the subject are to the contrary of the situation prevailing to the current circumstance. The difference between a lunatic or insane person's liability in civil actions for torts committed by him and in criminal prosecutions is clear. It has also always been held, and for good reason, that even though he cannot be prosecuted criminally, he is still liable in a civil action for any torts he may commit.

Insanity as a Tort defence elucidates the basic fundamental idea within the criminal law that one cannot be held criminally liable for an act or any crime that they have no control over it. Also it states that no act is punishable if that is committed involuntarily by an unsound individual.

Automatism can be used in cases of insanity and intoxication, but it is critical to understand the absolute and specific reasons of Automatism, which can also be generated from insanity and intoxication. There is a need to understand whichever type of the accused may choose to utilise, whether they plead insanity or rely on intoxication. Understanding the "defence of automatism" that exists under common law requires a thorough understanding of its application. The nature, extent, and the constituents of automatism as a defence will be assessed, as its limitations by the courts and defence reforms.

The legal defence of automatism is used when someone doesn't have conscious awareness of their acts. It is acknowledged that the overwhelming weight of authority holds that a lunatic/unsound person is civilly accountable for his torts. The trial's outcome should be realised by providing for a broadly applicable affirmative defence of insanity. The defence of automatism has given rise to incongruities that appear to be grinding to resolve.

However, it appears that the court ignores such policy considerations in attempting to identify the categories of automatism in order to limit the possibility of granting easy acquittal. The restriction was established by the factors doctrine, but it is still not very reliable due to the difficulty in producing, which prompted the Law Commission and legal experts to consider amending the law.

Both mental illness and insanity are closely correlated to each other in terms of their acts and resolutions. But only a few types of mental illnesses are regarded as absurdity. Insanity not only incorporates mental illness, but also comprises mental deficiencies. Both mental or unsound condition and a connection between the sickness and the criminal action would be necessary for the insanity defence, neither of which could be scientifically proven.

Insanity is a relatively uncommon condition and those who cause injury while insane will not usually be worth suing unless they have secured applicable justifications to present legally which is authorised by any professional entity or community. Automatism suggests that involuntary do not lead to criminal liability. These two defences or these two areas of law will take precedent over ideas relating to automatism.

METHODOLOGY

This research paper topic looks at the various research methodologies and the methods which are commonly used by the researchers while publishing their scholarly work.

The terminology and topics surrounding insanity, defence, automatism, intoxication, etc. have undergone a very significant and crucial endeavour to be clarified.

This research paper starts off by providing a comprehensive introduction to insanity and its defence as a tort law. A descriptive and qualitative method of data collection was used for the completion of this research paper. This method of data extraction works best for this particular subject because it clearly explains the legal system with regard to the act of defence that the accused can use to shield themselves from being held accountable for a crime that they did not intend to commit.

When conducting exploratory research with the intention of understanding a phenomenon, this strategy is frequently used. Focus groups, observations, and interviews are some of the methods it employs.

Legal research methodologies are methods for gathering, analysing, interpreting and applying information that is legally relevant in order to address problems and present the results. This is a systematic way to solve and analyse the legal system regarding the concerned topics. Quantitative legal study is used in this research paper and both pure and applied research is involved with theory analysis and for its legal litigations and valid judgements.

Qualitative method of data collection is critical in nature as it discovers the underlying motives and analyses the human motive and their psychology. It's generally concerned with the understanding of issues or phenomena which is primarily associated with the human mind. Substantially it leads to discovery of new theories and interpretations of the legal issues on the subject matter.

DISCUSSIONS

As previously indicated, it is apparent that automatism can be used as a general defence to the accused's offences. Also a defendant cannot be held liable for an act they do not do voluntarily. It's critical to draw a distinction between someone who is intoxicated due to their own behaviour and someone else. Similarly, a person may not be criminally responsible if they were not conscious enough of their conduct at the time they committed the claimed crime for a reason other than mental illness/insanity/ automatism/intoxication.

Another important topic of discussion which arises from insanity is borderline personality disorder. It is profoundly associated with the comprehension of insanity as a tort defence.

Borderline Personality Disorder is a type of mental disorder that affects a person's capacity to regulate their emotions. A person suffering from this disorder is also not subject to criminal prosecution if valid proof from registered authorities or professionals is presented in front of the court.

To establish a defence of insanity, it must be clearly demonstrated that, at the time of the act, the party accused was suffering from such a defect of reason, from disease of the mind that he did not know the nature and quality of the act he was doing. A person who is found not guilty due to insanity has not been convicted of any crime and thus cannot be sentenced or punished. As a result, the term "disposal" is used to describe how a court may deal with such a person.

A person may enter a not guilty plea and be found not guilty if they had complete loss of control over their body at the time of the offence and that lack of control was not brought on by their own earlier wrongdoing. This is referred to as the automatism defence. It is a legitimate common law defence that can be applied to any crime.

Since insanity is a relatively rare condition, those who harm others while insane are typically not worth suing unless they can demonstrate appropriate legal justifications that have been approved by any professional entity or community. Automatism contends that involuntary behaviour is not criminally responsible. The concepts relating to automatism will be subordinated in favour of these two defences or these two areas of law.

If one relies on an argument from insanity, there would be no room for a defensive automatism. Currently, it is possible to accurately determine a defendant's level of automatism during criminal activity based on a number of factors. The idea that one cannot be held criminally responsible for an act or any crime over which they have no control is clarified by the insanity as a defence in tort law.

Additionally, it states that no act committed involuntarily by a mentally unstable person is punishable. To qualify for the legal defence of insanity, there must be a diagnosable syndrome. It is crucial to be able to back up your insanity diagnosis from a medical or psychological professional or entity.



It is extremely difficult to meet this level of impairment. As well as the notion of relying on the particular defendant's intoxication, whether that be voluntarily or involuntarily, insanity cannot be mistaken for having a mental illness and being therefore not guilty by reason of insanity. So evidence that the individual planned to seek out the crime needs an ideal judgement approved by different entities or from the certified professionals.

In order to establish an insanity defence, it must be unmistakably shown that the accused person had a mental illness or defect at the time of the act that prevented him from understanding the kind and extent of the act he was committing.

A person who is declared legally insane is not found guilty of any crime, and as a result, they cannot be sentenced to prison or otherwise punished. It's very important not to misconstrue having a mental illness or insanity with therefore not being guilty by reason of insanity.

Technically this is a proven concept that people with mental illness are far more likely to be the victims of crime than they are to be perpetrators. If we carefully analyse the different competencies that the law provides, then we can conclude that the law provides various exemptions which the accused can use to relieve the liability or charges against him/her.



LITERATURE REVIEW

J Goudkamp - Oxford Journal of Legal Studies, 2011(Insanity as a Tort Defence) - Unlike the criminal law, tort law does not recognize insanity as an answer to liability. The fact that a defendant was insane at the time of his impugned conduct is essentially ignored by tort law's liability rules. It will be argued that this situation is unsatisfactory. A person should not incur liability in tort in respect of acts committed while insane. This result should be realised by providing for a generally applicable affirmative defence of insanity. The fact that a defendant was insane at the time of his impugned conduct is essentially ignored by tort law's liability rules. It will be argued that this situation is unsatisfactory. A person should not incur liability in tort in respect of acts committed while insane. This result should be realised by providing for a generally applicable affirmative defence of insanity. The word 'defence' bears several meanings in the tort setting and significant confusion has been spawned by a consistent failure of courts and commentators to make their intended meaning clear, both in discussions of the effect of the defendant's insanity and generally. Indeed, few, if any, words in tort law's vocabulary rival it in terms of the amount of obfuscation that it has caused. Accordingly, it is essential to clarify how the term will be used in this article. It is necessary for present purposes to distinguish between 'absent element defences'⁹ and 'affirmative defences'. An absent element defence is a denial by the defendant of one or more of the elements of the tort in which the claimant sues.¹⁰ A defendant advances an absent element defence when, for example, he denies that he is the tortfeasor, denies that his impugned act was voluntary, denies that he was at fault when proof of fault is required, or denies that the claimant suffered damage when damage is the gist of the tort in which the claimant sues.

WGH Cook - Colum. L. Rev.1921 (Mental deficiency in relation to Tort)- The condition of internal opposition, which has produced this continual movement from wide magisterial power to narrowly limited formal procedure beset with checks and then back to summary and arbitrary administrative action, is inherent in criminal law. Criminal law exists to maintain social interests as such. But the social interest in the general security and the social interest in the individual life continually come into conflict and in criminal law, as everywhere else in law, the problem is one of compromise, of balancing conflicting interests and of securing as many as may be and as completely as may be with the least sacrifice of other interests. In criminal law the most insistent and fundamental of social interests are involved. Civilised society postulates peace and good order, security of social institutions, security of the general morals and conservation and

intelligent use of social resources. But it demands no less that free individual initiative which is the basis of economic progress, that freedom of criticism without which political progress is impossible, and that free mental activity which is a prerequisite of cultural progress. Above all it demands that the individual be able to live a moral and social life as a human being. These claims, which may be put broadly as a social interest in the individual life, continually trench upon the interest in the security of social institutions and often, in appearance at least, run counter to the paramount interest in the general security. The practice of the individual companies in modifying the recommended clause, or in granting the privileges sought by the assured in the service, is illuminating on the question of what risks were actually assumed. All companies insisted as a condition of the issuance of the policy that the insured secure a permit before or within a certain time after entering the service. It was usually granted by life insurance companies, to whom entrance into the service and assignment to a camp in the United States meant no increase beyond the hazards of ordinary life. If the assured died in France from natural causes or from causes not peculiar to the war, the companies paid the claims without dispute, though the assured had not paid the extra premium charged for nor secured the required permit for service abroad.

GS Sharpe - Chitty's L.J, 1975 (Mental state affecting the liability in Tort)-Apparently on the theory that only persons with the faculty of clear thought and reason are capable of legal fault, the civil law historically does not hold insane persons responsible for the damage they occasion by their acts.' Some civil codes, while not classifying mental defectives into types, exclude from liability all those of unsound mind or of impaired mental processes. The responsibility of guardians or custodians of incompetent persons is dependent upon a duty of surveillance and negligence or fault in the accomplishment of this duty. The more modern civil codes state that guardians of mental defectives are liable only when they are at fault and are not held to an absolute liability. There are three reasons usually given to support the argument that insane persons should be held accountable for their torts. The first is that, where a loss has been incurred, it must be borne by him who occasioned it. The second is the fear that as insanity is sometimes feigned, the defence of insanity would be fraudulently used to escape liability for tortious acts. And third, that if lunatics are made liable for their torts, their custodians and those interested in their welfare will keep a closer surveillance over them.



RESULTS

The concept of insanity as a tort defence is very sensitive and important for any country's legal system. Insanity is a rare condition, and those who cause injury while insane are unlikely to be worth suing unless they have appropriate justifications to present legally that are approved by any professional entity or community. According to automatism, involuntary actions do not result in criminal liability.

The internal/external test has also been shown to generate arbitrary distinctions, resulting in unfairness and difficult-to-reconcile decisions. We can conclude that eliminating the insanity defence is more consistent with general criminal law principles. The elimination of a special defence for the mentally ill would result in the conviction of people who could not have avoided committing the crime due to their mental illness. Strictly speaking, the insanity verdict is intended to imply only if the defendant was insane at the time of the alleged offence and not that the defendant is "insane" in general.

Substantially the general rule in the common law world is that tort liability cannot be avoided on the basis of insanity. It is important to distinguish between non-insane and insane automatism as both involve an involuntary act. However, in the case of insane automatism, the involuntary action must be caused by an internal factor and in the case of non-insane automatism, the involuntary action must be caused by an external factor.

Insanity and automatism have similarities and contrasts in their descriptions, actions, and outcomes. The first factor to assess is whether the defendant was aware of the nature of the crime committed by him/her and was able to control it or not, so that the proceedings would be moved forward on that basis. Intoxication on the other hand is basically a denial of the criminal responsibilities charged against the person.

Furthermore, it declares that no involuntary act by a person with mental instability is punishable. A diagnosable syndrome is required for the defence of insanity to be admissible in court. Your insanity diagnosis must be supported by a medical or psychological expert or organisation.

It's very predominant to consider that insanity defence in general and forensic psychology in particular are similar to each other as they share the same common ground on which the future considerations could be applied. And even because they both deal with fundamental psychological and legal issues of responsibilities, volition and morality.

On different grounds the acts and its associated outcomes vary from case to case and even from person to person. So, when the accused is presented in front of the magistrate, whether he/she is fit to stand in front of the court or unfit both cases results in two different consequences or judgements. If a person commits a crime because of either mental disease or defect, and the person was incapable of appraising the conduct to what an ordinary person would do, then the court may take a decision of not guilty of the charge by the reason of insanity.

And if the jury finds not guilty then the charges against the person are dismissed. If you plead not guilty by the reason of insanity, then the period of commitment at the department of health or mental health institutes can charge a specific period of maximum incarceration. Intoxication on the other hand is basically a denial of the criminal responsibilities charged against the person.



CONCLUSION

From the stated discussions, judgements and other legal litigations we can finally conclude that the concept of insanity, automatism, intoxication and other inter related terminologies plays a vital role in court hearings. In order to qualify for the legal defence of insanity, there must be a diagnosable syndrome. It is critical to be able to demonstrate your insanity, which has been diagnosed by a medical or psychological professional/entity. For the past several decades, there has been no change in understanding the concepts and essence of insanity as a tort defence.

The notion of insanity is linked with a strategy of rejecting criminal culpability and is related to an individual's incompetence in the area of criminal law. Certain characteristics and conditions can be imposed on someone, causing them to become incompetent in the act of committing a certain offence, regardless of the plea of insanity, drunkenness, or automatism.

The presumption of automatism, capacity defences, and the relationship between the plea of insanity and automatism, including the defence of drunkenness, is that the majority of the limited rulings available on the issue are diametrically opposed to the current circumstances. There is a clear distinction between a lunatic or mad person's culpability in civil lawsuits for torts committed by him and his liability in criminal prosecutions.

It has also always been recognized, and rightly so, that even though someone cannot be tried criminally, he is nevertheless accountable in a civil action for any torts he does. Insanity is recognized as a defence under Indian law under Section 84 of the Indian Penal Code. The term "insanity" is not used in this clause. The Indian Penal Code employs the phrase "mental soundness."



REFERENCES

For the successful completion of this research paper, the following references were used very effectively and efficiently to extract the desired outcome from this particular research paper.

FOOTNOTES:

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