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CRIMES DONE BY MENTALLY CHALLENGED
INDIVIDUAL

ABSTRACT

This topic is a very sensitive topic when brought up in discussions as many people have their own different opinions on whether any mentally ill person be trialed in court or punished if they commit any crime which has a degree of severity attached to it. The different reasons that a person would say if they want to support the statement that a mentally challenged person should be treated in hospital than going to jail for the acts he committed would be that the person would not have been in a proper state of mind to even figure out the consequences of the act as he was not in a healthy state of mind at the time the crime was committed, on the other hand the people who think that these mentally ill people should be given jail time rather than a mere treatment through hospitalization. Here, we will also engage in a discussion and understand the different types of laws in respect to capital punishments in different types of countries to these type of people

In general, if we try and understand the intent behind any crime or what are the factors that constitute a crime then we will round up with two main factors or element that will be, actus reus and mens rea. If we look at the deeper meaning of actus reus then it means any criminal act we can also say in other words that actus reus is basically the physical act of the crime and mens rea is the actual mental intention because of which the crime is done by any person.

KEYWORDS

Mentally ill person, crime, degree of severity, state of mind, consequences, capital punishments, elements, actus reus, mens rea, physical act, mental intention.

INTRODUCTION

A person can be termed as mentally ill or challenged when he deprives the sense of reflection on life or in other words, they do not have a perfectly healthy and functioning mind. A crime consists of first, a crime itself which means an action which will be criminal in nature i.e., **actus reus** and secondly, mental intention which means whether a person who did the crime had an intention to do it. In case of a crime which has been committed by a mentally unstable person generally has one of the main factors of crime which is **mens rea**. Mens rea is the real intention or motive because of which the crime was committed in the first place. Hence, when the person who committed the crime is himself not aware of the act, he is doing then it would be unfair with him if the law punishes him for a crime, as he was not in a perfect shape of mind when he engaged in that criminal activity. A very known statement which is "**Actus Non Facit Reum Nisi Mens Sit Rea**" which means that only then a person will be held liable for the act when they are well aware of the nature and consequence of the crime and have a guilty mind.

In many countries, this debate is still going strong that whether we can hold the person accountable. In India, **The National Human Rights Commission (NHRC)** has taken the protection of these mentally unstable people under their own wings. The chairperson of the NHRC has requested the chief ministers of all the states in India to not to put the mentally disabled people in the prison as this will only depreciate their health. In these jails no special attention will be given to these individuals which they need desperately and maybe sometimes maybe if they all are placed in same cells with the normally abled people then there are chances that they can face bullying and harassment both sexual and mental which will be no good for them. Hence, it is said that people with different mental capacity as compared to the abled ones should be treated in hospitals so that they are regularly checked on, taken care of and proper surveillance can also be maintained by the court authorities.

Who is Mentally Challenged Person?

The people who are mentally challenged are generally a little slow in comprehending things which an abled human being will be able to understand with a healthy mental state. The mental illness is a kind of health issue which is very common among people nowadays. We hear people around us talking about mental illnesses and spreading awareness among the masses. Mentally challenged people are also said to be mentally disabled i.e., they have an underdeveloped brain because of which they are slow from the others and often face problem in day-to-day life with comprehending things that a person with a healthy mind will face no difficulties in.

There are different kinds of mental illnesses ranging from depression or to a person who is mentally unstable to schizophrenia and bi-polar disorders, these people are not relied upon for taking decisions and they are most of the time treated as people who are not aware of anything and who are very innocent and new to this world. But what happens if someone like this commits a crime? There are different provisions under which these people who are mentally unstable are protected by the law laid for their own benefits. These people are not at all governed as the same as a normal person.

Protection of an Unstable Person Under Law

Law protects the people who don't have the ability or who are incapable of protecting themselves, if any such person who was not in its right set of minds or who was intoxicated and more or less was not aware of his actions and the consequences does an act of crime, then according to the provisions of the Indian Penal Code, 1860 the person will not be accused of the crime as when he did it, he was not capable to know or judge his actions. For example, If A was mentally unstable and was on medications to get better but during one of his outbursts, he got so angry that he got in a tussle with B and ended up stabbing him, the court will discharge his charges as he was not in a right and conscious state of mind when he attacked B.

Under section 85 of the IPC, under this section it is stated that a person will not be held liable for any crime that they did when they were intoxicated or were not capable to judge the nature of the crime and classify it as right or wrong and hence, if they were not able to predict the consequences then we can say that there was no actual intention to commit the act in the first place therefore, no charges will be directed towards these people as their intentions were clear.

The section 85 of the IPC includes both people intoxicated, not able to comprehend and at complete loss of senses and the people who have mental disabilities or are mentally challenged.

National Human Rights Commission (NHRC), 1993 on Mentally Challenged People.

National Human Rights Commission was first mentioned in the constitution of India in 1993 which talked about the rights of every human being and protecting it. The national human rights commission also talked about protecting the rights of the mentally challenged people and the chairperson of the commission requested to all the chief ministers of all the states in India that they should not put these mentally challenged people in jails with regular criminals.

If any person who is mentally disturbed or challenged is put in regular jail cells then that would affect their mental health more, hence, according to the NHRC if any crime has been done by a mentally unstable person, then the court should hospitalize the person as he needs a good treatment to better his condition. It's the duty of the NHRC to protect the rights of every person and when it comes to people with special mental needs then they are usually very serious and cautious about the situation.

When Can We Say That a Mentally Challenged/Unstable Person is Liable/Responsible for the Act?

As we know, mentally challenged people are protected under the law for whatever harm they do as their intentions are most of the time pure and they face difficulties in determining the nature of the act. But not every time in every situation can the law protect them. The main basis on which a person is said to be liable for his/her crimes are the level or severity of harm and the intention or motive behind the crime.

If a person is aware of his acts and is in full conscious while committing a crime then the intention is said to be immoral then the person will be charged and will be punished accordingly.

In the same sense if a person who is mentally unstable but not all the time, which means if he has fits or attacks or seizures and if he commits a crime then to prove that he is guilty the prosecution has to shift the burden of the crime on the person and will have to prove some basic facts which would then confirm whether the person can be held liable or not.

- 1) When the crime took place, at that time the person was in his full consciousness and knew what was happening around them. Which would then tell us that whether the intention of the person was pure or not. If he was conscious and had a sound mind at the time, he committed that crime then he will be said to be liable and the accusations will hence sustain.
- 2) He did the act to cause harm or pain to the person and knew very well that this act is wrong and hence, the consequence would also result in a punishment.
- 3) The act was done with the intention of revenge and was done with an angry mindset, to inflict pain to the person.

MC NAGHTEN'S RULE – Standard Test of Determining the State of Mind.

Daniel Mc Naghten man from England, he shot a man who was a secretary to the president, Edward Drummond, whom he believed was the president, here he shot a man and killed him. Once he was rounded up for investigation, he confessed in the investigation that his intentions were to kill the president as he believed that the government wanted to kill him. Later it was proved that he was delusional. At trial, McNaghten's counsel put forth the defense of insanity and showed different trustworthy evidences in support of their statement, after going through all the evidences and proves of a mentally unstable state of Mr. Naghten the court after discussing with the jury came forward with the decision that he was not guilty as his intentions were not to kill the secretary and plus, he was delusional at that time.

There are different types of rules, activities and tests made for the main aim to determine the intention of the mentally challenged person, in Mc Naughten's rule the main question which a person should ask is that whether the person who committed the crime knew that what was wrong or what is right. According to this rule, a judgement was given forward consisting of decisions of in total 15 judges who were to decide that if a mentally disabled or challenged person can understand the nature of the crime, which is whether the crime or the act done was right or wrong in nature. 14 of the 15 judges stated that a person who is not in a healthy mental state or is mentally challenged then it becomes difficult for them to interpret the act or nature of the crime.

This method works the best as the intention behind the crime or act is very important to follow, any person can be accused of a crime if he/she has a guilty mind.

Capital Punishment and Mentally Challenged People

(Before and After 2019) With Respected Case Law.

There are different types of capital punishments, first of all a capital punishment is a kind of punishment where a person is killed using legal methods i.e., an order by the court of death to

the person who has committed a very serious crime, according to which he/she should be given a very serious punishment. The main capital punishments are from electrocution, tranquilization, beheading, stoning, shooting and hanging. These punishments are given by the court only when they suspect that the person was aware of the nature of the crime and hence he had a guilty mind,

A person who is mentally challenged would not be aware of the crime that he committed as he was most probably not conscious at that time. But there are many times when the accused who was mentally challenged but he was well aware of what he was doing and hence, he will be punished after the investigation of the severity of the crime committed by him/her.

Before the year 2019, any person whether mentally stable or not was punished and even was given a capital punishment if he was proven guilty, that he/she was aware of the act and there was a guilty mind. In the **year 2001, Devender Singh Bhullar** was given a death sentence after he pleaded to supreme for mercy and that being in the jail for 11 years has taken a toll on his mental health but the said court denied his plea and he was executed despite of him saying and issuing a writ that his mental health was not right.

The laws are totally reformed since then and according to the **section 84 of the Indian Penal Code, 1860**, A person who is not mentally stable cannot be punished with a capital punishment and also according to the manual of the Tihar jail it is very important for the convicted person to be in his proper shape of being both mentally and physically at the time of his/her execution.

This changed after the year 2019 after a landmark case, **Accused X vs The State of Maharashtra**, the accused is mention 'X' in this complaint so as to continue maintaining his identity anonymous. In this particular the accused had raped and murdered two young girls and when waiting on death row, the defense claimed that the accused was facing a post-conviction disorder because of which his mental health was compromised and was not stable. As the time of execution came the bench consisting of Chief Justice then Justice N.V.Ramana and two others did not execute him as because according to the Tihar jail rule the person should be well aware of the procedure taking place and should be in a right state of mind otherwise, the court will violate **article 14 and 21**.

CONCLUSION

As to conclude this particular research paper I would like to put forward the point that the person will only be punished if he was aware or his intention was to hurt the person then he will be called as the accused who will further get a punishment for his crimes, it was in a practice to execute a person even if he was going through any kind of mental stress or trauma. As already seen in Mr. Bhullar's case. Even after a writ, the supreme court didn't find him not guilty and they killed him legally through the modes prescribed.

But nowadays it has become very difficult to even prosecute any mentally challenged person, as the NHRC and the constitution of India are trying to protect even the essence and that from how much hardships they are going through. Therefore, the police cannot even put any mentally challenged person in a jail instead the police and the court should come to a mutual decision to treat the person who is ill. As being in a normal prison will put an impact on his/hr mental health.