Insanity as a Defense Mechanism in Criminology

Literature Review

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**Introduction**

The insanity defense is a very controversial topic that is used in criminology in conjunction with psychology. However, it is a two-sided argumentative area since professionals have always provided in defense or against the insanity defense. This paper will analyze various sources that support the topic of the insanity defense as used in criminology. It determines each argument by the various authors to know their positions on this matter. It will also determine if they are much consistent with their ideological views about other issues in society. This paper will be important in analyzing the authors’ positions on the insanity defenses and a perfect study on criminology and review of secondary sources to comprehend perceptions on insanity as a defense mechanism in court of law.

**Annotated Bibliography**

**Morse, S. J. (2011). Mental disorder and criminal law. *J. Crim. L. & Criminology*, *101*, 885.**

This journal by Stephen Morse explains the connection amid psychological disorder or insanity and criminal law. It describes how cerebral disorder among unlawful defendants results in every phase of the court procedure. It will impact on every investigational issue to competencies in the execution process. Morse goes further to clarify that many people with severe disorders are treated specially by the criminal law. The fundamental core of this article is that it reveals why individuals with mental disorders should be treated just the same as everyone else with consistency in the law.

The credibility of this article is seen in the thesis where it somehow defends people who are insane by rather saying that it is justifiable to have special rules to deal with at least some people with mental disorders. The best reason for having differential justice is that insane people lack rational capacity. However, he further argues that treating people with mental disorder specially is a two-edged sword in that; it can either be good or destructive.

A criminal justice system failing to do so when it is appropriate will be very unjust. In the same way, the opposite is treated as very demeaning and stigmatizing in the long run. This source is essential for my thesis because it addresses how insanity is used as a defense mechanism in criminology. The article has also addressed why mental disorder authorizes special legal treatment as well as most trial and pretrial issues that identify legal insanity. It has also discussed how the role of insanity is context-dependent and how it can be viewed legally.

**Harper, C., Davidson, G., & McClelland, R. (2017). No longer’ anomalous, confusing and unjust': the Mental Capacity Act (Northern Ireland) 2016. *International Journal of Mental Health and Capacity Law*, *2016*(22), 57-70**.

This article by McClelland and other authors is very informative on matters of insanity that is used in the court of law. It is a justification in a court situation, in opposition that the perpetrator is not guilty due to a sporadic or obstinate psychological illness during criminal deed. However, what if an offender is not guilty because of a mental disorder and sent involuntarily to be restrained in a state psychiatric facility. This article explains that the court always believes that an individual committing an act he/she is accused of, a precondition for the municipal to consent an irrationality plea, beyond a reasonable doubt. However, the plea is not bound by the duration of an individual’s stay. The law that oversees the exercise of obligating publics who are innocent because of psychological disorder command that they are taken for medication until they are thought to be harmless to release to the community, no matter how extended the period takes. Several states have disallowed the “not guilty because of insanity” in favor of a less-forgiving “guilty but insane” verdict.

In most circumstances, a ruling of not guilt-ridden because of insanity helps a magistrate obligate offenders to cure centers until determined by mental health administrators they do not pose a hazard to anyone; that could mean a life prison term for some. This article is very critical in my thesis since it reveals the confusion between insanity and unjust and how it applies in the mental capacity act of Northern Ireland and how it can apply worldwide in the criminal justice system. It is a quality article that defines how insanity has been used as a great mechanism for defendants in either positive or negative ways and how it can be legally justified.

**Perlin, M. L. (2016). The insanity defense: Nine myths that will not go away. *The Insanity Defense: Multidisciplinary Views on Its History, Trends, and Controversies (Mark D. White, Editor*.**

This article by Perlin is very important since it reveals the nine myths about the insanity defense that will not go away. It reveals the controversial views on the history of insanity defense, the trends, and various controversies in criminology. The author reveals that the criminal justice system cannot have the chance to move forward unless the empirical and social myths about it are unpacked. The author prerogatives that the insanity resistance jurisprudence is illogical and that the society has remained fixated on this controversial issue as a symbol of wrongdoing. The writer also explains how social and political anger originates from how people view insanity in court. Most of the people in society, despite the seasonal changes and upgrades have still fixed their minds on these myths of insanity being the defense for committing crime.

The article is a quality document that explains the bridge in myth and reality since it decodes why people cannot always apprehend the irrationality attack unless it is looked at over the cognitive consciousness constructs of heuristics. The author further explains that people cannot always recognize senselessness defense unless they grasp the plausible attraction of a fabricated normal corporate sense. This secondary source will be helpful in my thesis since it considers all the political and social myths than have ever since dominated the insanity defense conversation. It is critical in presenting all the experiential realism that disproves every fable and therefore reveals why people should not stick to them in the present-day world.

**Collins, E. (2018). Insane: James Holmes, Clark V. Arizona, and America's Insanity Defense. *JL & Health*, *31*, 33.**

This article by Collins vividly describes America’s absurdity defense, where it provides brief antiquity of the topic and some of the criminal act requirements, analysis, and proposing changes that could be effected in the court of law. The article also discloses the reasons why potential criticisms of the proposed legislation are always misguided as well as the proposed statutes. The article explains some of the historical cases that were used to sentence many Americans in the court of law.

Some of the crimes that are outlined such as James Holmes, the shooter from the 2012 Aurora, Colorado, the strictness and strength of his insanity was so severe as to render him unable to differentiate the bad from the good. The article also describes the criminal act requirements such as finding causation which must be known by the attorney. This article is very important since it discloses the new standards for lawful accountability that creates a volitional defense for not comportment an unlawful obligation.

I would utilize this article in my thesis since it gives me a fundamental knowledge on the various examples of criminal acts that were committed on the grounds of insanity. It also identifies the various tests that are involved, such as model penal code test and the Durham product test, that are very useful in delivering legal practicalities to comprehend the complexities in the human brains. It also gives a glimpse of the insanity defense reforms that have been used to revolutionize the criminal justice system as well as the proposed statutes such as affirmative defense, the burden of proof, and duty.

**Math, S. B., Kumar, C. N., & Moirangthem, S. (2015). Insanity defense: Past, present, and future. *Indian journal of psychological medicine*, *37*(4), 381.**

The article by Kumar exclusively talks about past, current, and future of insanity defense in which it manifests how it is principally used in illegitimate prosecutions in India. The authors argue that insanity defense is used in criminology is grounded on the hypothesis that at that particular period of the misconduct, the suspect suffered from severe mental disorder. It reveals how mental illness incapacitates someone from escalating the nature of misconduct as well as distinguishing the correct from incorrect behavior; this makes them safe from their criminal conduct. The article further describes how this topic is a legal notion and not a therapeutic one since someone suffering from a mental disorder is not adequate proof of insanity.

This source thoroughly explains how it is very rigid to regulate legal irrationality and sometimes even tough to effectively guard it in a court of law. The article is a very quality source that emphases on the latest Supreme Court decision on the topic and the ethics that are executed in the Indian court. I would readily include this article in my thesis since it presents a very good model for evaluating the defendants’ mental status examination. It also discusses the legal standards and the procedures that are used to assess insanity defense evaluations. The author further argues that there is a need to initiate formal graduation courses in the college levels that deal with forensic psychiatric training and clinical courses. This gives better insights to the students and increases the workforce to provide fair and faster trials in court systems.

**Helm, R. K., Ceci, S. J., & Burd, K. A. (2016). Unpacking insanity defense standards: An experimental study of rationality and control tests in criminal law. *The European Journal of Psychology Applied to Legal Context*, *8*(2), 63-68.**

This article by Helm talks about unpacking the insanity defense standards in which it is a very good investigational study of judiciousness and control examinations in criminology. The article investigates the effects of dissimilar lawful standards in fake adjudicator decisions that concerned whether a perpetrator was guilt-ridden or not guilty because of mental disorder. In this article, about 47 students read a case summary that involved a murder circumstance and was all requested to give their irrationality fortitude of the case. There will be a witnessed difference due to the condition of the defendant as well as the legal standards that the jurors have to make the determination.

After the effects of variabilities in determination of the case were identified through the use of questionnaires, results indicated that many jurors did not differentiate between defendants that had rationality deficits and those that could regulate shortfalls irrespective of whether the law obligates them. This article is very important and qualified to make this report because it shows that even defendants that lacked control of their consciousness were found guilty, ruling out insanity as a complete defense mechanism for evading convictions. I would readily include this source in my thesis since it added a governed test as an incomplete defense that was to be determined after a judiciousness resolve. The article is also equally important since it reveals the implications for the insanity defense in criminology b giving various real-life examples from contemporary scenarios in criminology.

**Morris, N. (2017). The Abolition of the Special Defense of Insanity. In *The Structure and Limits of Criminal Law* (pp. 479-502). Routledge.**

This article by Morris does not support the use of insanity as a defense mechanism in criminology. It campaigns for the abolition of the special defense of insanity by giving the structure and limits of criminal law. This article explains why the elimination of the defense of insanity has received a strong back up in the field of criminology. This article explains the need why most students and elites in the court need to be notified of these new changes so that they may try to evade the harsher frustrations of redundancy. The thesis of this paper is to fully separate the mental law and the criminal- law by totally avoiding the special defense of insanity. It exposes how many states in the developed countries have since compelled the underlying justifications of this defense in which this special defense often leads to one capital punishment.

This article also discloses the various reasons why insanity defense should be eliminated. The author says that there should be no distinct defense of insanity to a criminal charge. It makes psychological illness to be an evidentiary problem that is pertinent to the question of guilt and punishment. The main reason I would put this secondary source in my thesis is that it discusses in depth the argument of insanity in defense, and it does not give only theoretical speculation, but accurate facts that support the views. He also quotes the large amount of psychopathology amongst convicted criminals and that there is no defense of insanity as seen in many cases in different states.

**Adjorlolo, S., Abdul-Nasiru, I., Chan, H. C., & Bentum Jr, F. (2017). Attitudes toward the insanity defense: examination of the factor structure of Insanity Defense Attitude-Revised (IDA-R) scale in Ghana. *International Journal of Forensic Mental Health*, *16*(1), 33-45.**

This article by Adjorlolo and other authors writes on the attitudes towards the topic as it scrutinizes the factor arrangement of the irrationality defense attitude in Ghana. This article discloses that people that are highly religious are more likely to be sympathetic. The authors say that the opinions concerning the grounds and treatability of psychological disorders do not always forecast insanity defense insolences. It also reflects on how religious beliefs are likely to affect the decision of jurors to make verdict decisions for insane individuals. The legal insanity trials also have the likelihood to be exposed to the religious stimuli and how dimensions in religiosity always relate to the attitudes and decisions concerning mental health defenses.

This source is credible because the authors have thoroughly examined whether intrinsic religiosity also affects the decisions of jurors concerning mental health defenses and verdicts. The article can be used in my thesis since it reveals the various scenarios on insanity defense and the contradictions that accompany it. It is possible for jurors to be manipulated in their decisions due to their religious beliefs and also on priming fundamentalists’ beliefs that increase punitively of the jurors.

This article shows the adjudication of mentally disordered offenders in Ghana, and it gives more insight into the legislations that are laid in place to protect the citizens to prevent any further crimes in the name of insanity. The author is also vibrant in assessing the demographic factors that affect nations through retrospective study. It is also important to be conversant with criminal responsibility and also the inspection of lawful criteria and valuation matters.

**Vitacco, M. J. (2016). Insanity Acquittees in the Community: Legal Foundations and Clinical Conundrums. *Fordham Urb. LJ*, *43*, 847.**

This article by Vitacco involves the insanity acquitted people in the community, and it proves in-depth some of the legal cases that have since shaped the policies of America by people that were not found guilty by being insane. When it is ruled out that these people who commit crimes due to insanity are safe to return to the community, it can sometimes pose great danger to local citizens. This article describes several aspects of conditional release that are conversant with the legal community. This article is very critical in assessing the risks and its effectiveness in determination of the people who are deemed right to be taken back to the community after committing crimes and claiming insanity.

However, research shows that there is a low recidivism risk by people who are taken back to the community under insanity defense. This secondary resource will effectively be used in m thesis since it discusses in depth the insanity defense attitudes, conditional release, and how it confines with the law as well as the violence risk assessment with insanity acquittees.

**Conclusion**

In conclusion, the law that oversees the preparation of obligating persons innocent due to mental illness command that they are hospitalized until they are considered harmless to release to the public, no matter the period. A mental health facility may not be good for them and could cause more damage than good. There are two choices most mental health officials must consider: What is good for the defendant or what is best for the safety of the public. It is difficult for people to balance those two interests. However, there is always a way to figure out the hard questions in life. We must look out for every single person’s rights, building each other up, and seeking ethical assistance for everyone involved.

References

Adjorlolo, S., Abdul-Nasiru, I., Chan, H. C., & Bentum Jr, F. (2017). Attitudes toward the insanity defense: examination of the factor structure of Insanity Defense Attitude-Revised (IDA-R) scale in Ghana. *International Journal of Forensic Mental Health*, *16*(1), 33-45.

Collins, E. (2018). Insane: James Holmes, Clark V. Arizona, and America's Insanity Defense. *JL & Health*, *31*, 33.

Harper, C., Davidson, G., & McClelland, R. (2017). No longer’ anomalous, confusing and unjust': the Mental Capacity Act (Northern Ireland) 2016. *International Journal of Mental Health and Capacity Law*, *2016*(22), 57-70.

Helm, R. K., Ceci, S. J., & Burd, K. A. (2016). Unpacking insanity defense standards: An experimental study of rationality and control tests in criminal law. *The European Journal of Psychology Applied to Legal Context*, *8*(2), 63-68.

Math, S. B., Kumar, C. N., & Moirangthem, S. (2015). Insanity defense: Past, present, and future. *Indian journal of psychological medicine*, *37*(4), 381.

Morris, N. (2017). The Abolition of the Special Defense of Insanity. In *The Structure and Limits of Criminal Law* (pp. 479-502). Routledge.

Morse, S. J. (2011). Mental disorder and criminal law. *J. Crim. L. & Criminology*, *101*, 885.

Perlin, M. L. (2016). The insanity defense: Nine myths that will not go away. *The Insanity Defense: Multidisciplinary Views on Its History, Trends, and Controversies (Mark D. White, Editor*.

Vitacco, M. J. (2016). Insanity Acquittees in the Community: Legal Foundations and Clinical Conundrums. *Fordham Urb. LJ*, *43*, 847.