

FACT SHEET: THE INSANITY DEFENSE

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What is the Insanity Defense?

The legal defense by reason of insanity is primarily used in criminal prosecutions and is based on the assumption that at the time of the crime, the defendant was not sound of mind, and therefore, was incapable of appreciating the nature of the crime and differentiating right from wrong behavior. Allowing such typology of defense is based on the principle that civilized societies do not punish people who do not know what they are doing or are incapable of controlling their conduct.

Fitness to Stand Trial

The legal system distinguishes between two essential components used to evaluate an individual's fitness to stand trial: competency and insanity. Competency refers to the capacity of a defendant to assist the case attorney and comprehend the contents of the allegations, while insanity refers exclusively to the mental state of the defendant at the time of the crime. The legal standards for defining insanity vary from state to state and from country to country. For example, in the US, a criminal act is not only regarded illegal, but it must also be accompanied by *mens rea* (a guilty mind). The defense of insanity derives from the M'Naghten rules in 1843, asserting, "It must be clearly proved that, at the time of committing the act, the party accused was labouring under such a defect of reason, from disease of the mind, as not to know the nature and quality of the act he was doing, or, if he did know it, that he did not know he was doing what was wrong." (Post, 1963). Although the M'Naghten rule is still used, there are limitations.

Conceptualizations of Insanity

There is a twofold conception of the insanity defense. One type of insanity may be defined as "cognitive insanity", where a defendant was suffering from a mental disease or defect at the time of the crime, which impaired his/her psychological ability to appreciate the wrongfulness of the act. A second type of insanity is based on the concept of "irresistible impulse", where a defendant is psychologically able to appreciate and distinguish between right and wrong behaviors, but who has suffered from a mental disease leading to an inability to control his/her actions. Is also possible to define insanity as being:

1. *Legally determined*: the defendant is not considered criminally responsible if, as a result of a mental disorder or defect, he/she lacked the capacity to appreciate his/her misconduct as a violation of the law.
2. *Morally determined*: the defendant lacks criminal responsibility if, as a result of a mental disorder or defect, he/she lacked the capacity to appreciate his/her misconduct as a violation of what a society deems unethical.
3. *Subjectively determined*: the defendant is not considered criminally responsible if, as a result of mental disease or defect, he/she believed to be morally justified in committing his/her behavior despite an awareness of his/her actions as being illegal and/or a violation of social-moral standards.

Insanity in Court

During the trial a defendant claiming insanity could receive a verdict of "not

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