

MENS REA AND ITS PRESENCE AND RELATION IN PEOPLE SUFFERING FROM MULTIPLE PERSONALITY DISORDER

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Abstract: *Multiple Personality Disorder is one of the most severe identity disorders known to mankind. When an accused suffers from Multiple Personality Disorder then it becomes very difficult to establish his intention or mens rea of committing the crime. This paper tries to understand the various personalities in a person with the said disorder and how they function. This is done through criminal cases where the accused took up the defense of Multiple Personality Disorder and also various theories given regarding the consciousness and awareness of a person when his or her body and mind are controlled by an alternate personality.*

Key Words: *Mens rea, crime, awareness, intention.*

1. INTRODUCTION:

Multiple Personality Disorder, also known as dissociative disorder presents before the courts a very complex problem. The whole concept law and justice is based on the latin phrase- actus reus non facit reum nisi mens sit rea. This translates to “the act is not culpable unless the mind is guilty.” Intention is one of the basic elements of the test of criminal liability. Mental disorders like multiple personality disorder make it difficult to ascertain the intention of the accused and therefore makes it a very complicated situation for the courts to hold a person liable for a crime that he has committed.

Before delving into the complexities of the situations posed by this disorder it is important that we understand what it really is.

2. WHAT IS MPD?

According to the Diagnostic and Statistical Manual, Fourth Edition, (DSM-IV), MPD is characterized by the presence of: two or more distinct identities or personality states, at least two of which recurrently take control of the person’s behavior; an inability to recall important personal information that is too extensive to be explained by ordinary forgetfulness; and the lack of any direct connection between the disturbance and the physiological effects of a substance like blackouts or a general medical condition like complex partial seizures.¹

Owing to this definition of the disorder, which talks of having at least 2 or more personalities, the courts have put MPD in the ambit of the defense of insanity as it is believed that the accused has no control over his various personalities, their actions and most importantly their intentions which takes away the basic element of mens rea from the crime.

In simple terms, MPD is a mental disorder in which a body, known as the host body, houses more than one personalities. These personalities are usually different fragments of the main personality created by the brain to cope with an extremely traumatic situation which the host might have suffered (eg. Child abuse, sexual abuse). These fragments later manifest themselves into various different personalities, each with a voice of their own. The least number of personalities needed to be diagnosed with this disorder is 2 while there is no upper limit for the same. These personalities are not restricted or bound by age, gender, ethnicity or any such divisions. These different personalities may or may not be aware of each other’s existence. It is also possible that since a personality is unaware of the existence of the other, the time when the body is controlled by any personality other than the host personality, the person may suffer from blackouts for that period of time. This makes it very difficult for the courts to hold a person accountable for a crime that he has been accused of as his intentions or even awareness for the same is unclear and difficult to determine.

3. THE LAW:

Insanity is a defense in the court of law. This is so because it is nearly impossible to establish mens rea in cases where the accused is suffering from a mental illness. This defense can be taken only when it can be proved that owing to the mental illness of the accused, he or she was not capable of forming the mens rea behind the crime committed or at the time of the committal of the crime, the accused had no control over himself or herself and the crime committed was a result of the mental state brought about by the mental unsoundness or insanity of a person rather than his conscious

¹ AM. PSYCHIATRIC ASS’N, DIAGNOSTIC AND STATISTICAL MANUAL OF MENTAL DISORDERS (American Psychiatric Press, 4th ed.,1994).

efforts and intentions to commit the crime. It can also be established that the accused in such a mental state that he or she was unaware of the consequences of the act committed by him or her.

Multiple Personality Disorder qualifies for this defense, beyond doubt. There may be two ways of interpreting this. The first interpretation, as presented by Dr.Saks,a well known commentator on the issue, says that people with multiple personality disorder cannot be held responsible for their actions. She has furnished 2 reasons for the same.

First being that in cases of multiple personality disorder the host body houses more than one personality. These alter personalities can be very different from each other. So much so that based on the right psychological and physiological research, they can also said to be different persons. Thus, Dr.Saks bases her argument on the tenant that ten accused may go free but an innocent must not be punished. Punishing a person with multiple personality disorder for a crime committed by one personality inevitably punishes all the other personalities for the same crime, which defeats the whole purpose of the above stated philosophy. According to Dr.Saks, the innocence of one innocent alter outweighs the guilt of several others.²

The second argument given by Dr. Saks was the theory of general non responsibility. She argued that the main essence of multiple personality disorder is a division of personalities or a fragmentation of personalities. A person who commits a crime under one alter cannot be punished because he or she might as well have been performing the crime under a hypnotic spell. The doctor compares the alter personality the actions done by it to the state of sleep walking. The person is completely unaware of what he or she is doing and the consequences thereof. Thus, the basic and essential element of the crime i.e. mens rea becomes impossible to establish.

Dr. Saks further talked about the theory of crystallization. This theory refers to situations which are often encountered by people suffering from multiple personality disorder. They often perform actions through various fractions of their brains and not all parts of their person or personality is reflected in those situations. Thus, it is wrong to punish a person on what he or she does when not all parts of their personality are being reflected.

4. POSSIBILITY OF MISUSE:

Though this disorder is a very serious disorder and can also be very deadly but still gives rise to the inevitable question of whether this disorder can be misused as a defense. This disorder entails quite a few symptoms which may be unique to it but there are no hard and fast tests or rules to determine if the diagnosis of a person is true or not. It may be extremely difficult to fake this disorder but it is not impossible and thus it is crucial to establish that the person is actually a patient of multiple personality disorder before he or she is provided with this defense.

Here have been cases in the past where the courts believed that the accused was faking insanity to get away with the crime or to get a lighter punishment and the court has awarded them full punishment rather than having them committed to a psychiatric institution.

The misuse of the defense of insanity is something that the courts are always on a look out for due to its fragile nature and the possibility of its misuse. This also the reason why the court of law is often found very hesitant and careful while giving someone the defense of insanity.

5. MPD PATIENTS AS VICTIMS:

A person with multiple personality disorder may also be a victim to a crime. In such cases, the legal aspect becomes a problem.

This problem has two aspects. One where the victim will have a major problem in the court in establishing his or her case if the victim's personality at the time of the crime was not the same as that when he or she is in court. This change in personality may lead to lapse in memory for the period when the victim had an alter personality and thus while in court, it may make it extremely difficult for the victim to establish his or her case.

Another aspect to this can also be that if the victim, who has multiple personality disorder, commits a crime in order to protect himself or herself or as act of self- defense under an alter personality, the absence of mens rea in such a case becomes extremely hard to establish and therefore so does a case for self -defense. Also in cases where the victim loses memory of the time of the crime, the violent act committed by the victim in self -defense becomes difficult to be established as that.

Case example:

The well known case of US vs Denny Shaffer illustrates the concept of criminal responsibility very well.

The defendant, under the guise of being a medical student in an university, kidnapped a new born from the nursery and travelled across the country before returning to New Mexico. All this while she presented the kidnapped infant as her own to her family and her ex boyfriend. The defendant wanted to reunite with her ex boyfriend and thus told him that it was his baby. She took the extra step to steal blood and placenta to quash any doubts which might arise about the baby.

² J AM Acad Psychiatry Law, Vol 25,,No. 3,1997

While returning to New Mexico, the defendant called up her boss to let him know that she had given birth while she was away. The boss, who was aware of the infant kidnapping, alerted the police and the defendant was arrested and the baby returned, even though the defendant tried to hide the baby.

After careful analysis, it was concluded by the psychiatrist that the defendant had multiple personalities named Bridget, Rina, Mother Superior, Paul and the host personality, Gidget. While the crime was being committed Rina and Bridget were controlling the defendant while the other alternative personalities were oblivious to the crime and thus had no mens rea.

The role or the extent of knowledge of Gidget, the host personality was inconclusive.

Different psychologists might have different views on the conclusion of this case. Some might argue that seeing that except Reena and Bridget no other alter personality had any idea of the crime being committed and thus no mens rea, the accused should be let free as the alters are free of any offense.

Others may argue that it does not matter what the alters were doing or were of at that moment but what should be taken into consideration is that at the time when the crime was being committed, what was the mental state of the alters that were in control, namely Rina and Bridget and can that mental state be declared as insanity. This implies that if the state of the alter personalities cannot be declared as instable then they mens rea can be established and thus they should not be provided defense.

The way that accused with multiple personality disorders should be treated is a very hard debate and difficult to untangle.³

6. CASES WHERE MULTIPLE PERSONALITY DISORDER WAS USED AS A DEFENSE:

In various cases in the United States many criminal with various counts on them used the defense of insanity due multiple personality disorder as their defense.

Some of the highlight cases are listed below:

1) Billy Milligan

The case of Billy Milligan became a hugely popular case in the United States after his lawyer used the defense of insanity due to multiple personality. This was highly unusual in the year 1978. Milligan was accused of various crimes such as rape, kidnapping and robbery.

Milligan's lawyer contested that it was not Milligan who had committed the crime but his 2 alter personalities. This defense worked and Milligan was committed to a psychiatric institution rather than being imprisoned or being a harsher sentence. It is said that Milligan had as many as 24 personalities including that of a Yugoslavian munitions expert.

2) Juanita Maxwell

In 1979 Juanita Maxwell was accused of killing an old lady by beating her to death in the hotel where Maxwell worked as a maid and the old lady resided. Maxwell denied any such accusations stating that her alter personality, Wanda Weston had committed the crime.

While on the stand Maxwell continued to deny the charges but her alter Wanda had no qualms in accepting that she had committed the murder. The 2 personalities seemed quite opposite to each other on the stand itself. While Maxwell was a shy and quiet person, Wanda was anything but.

The court admitted her to a psychiatric institution.

3) Billy Joe Harris

In 2011, Billy Joe Harris aka The Twilight Rapist was arrested on accounts of multiple rapes and burglaries. While in court his defense presented the defense of insanity due to multiple personality stating that the crimes were committed by the alters. The psychiatrist which took the stand was hesitant on this conclusion. The defense was further weakened when Harris was heard boating on the phone about what a good show he had put on.

The court did not accept the defense and Harris was sentenced to life imprisonment.

4) Thomas Huskey

Huskey was accused of raping and murdering prostitutes and keeping their jewelry as souvenirs. He even confessed to doing the same in front of the police. However, his lawyer contested that it was not Huskey but his alter who had committed the crime and also confessed to the same.

Huskey was sentenced to 64 years in prison for the rapes.

5) Dwayne Wilson

³ United States vs Denny-Shaffer, 2 F.3d 999 (10th Cir. 1993)

On 20 September, 2005, the nephew of the accused, Paris, called the police that stating that his uncle, Dwayne Wilson had stabbed his brother, sister, mother and him and he was the only survivor.

The case took 4 years to start. When the case did go to the court, the lawyer of the accused pleaded that it was not Wilson but his alter personality Kiko who had committed the crime and thus Wilson should be given the defense of insanity. This defense was rejected by the court and Wilson was sentenced to 40 years in prison.

These were some of the most highlighted and land mark cases with regard to multiple personality disorder in the United States and also shaped how the legal system deals with such cases in the present scenario. It is clear from these cases that the judiciary has been unable to take a clear stand on the defense mental insanity via multiple personality disorder and the judicial pronouncements vary from case to case and also the different circumstances in each case.

The different approaches of the psychiatrists and the courts on alter personalities and their relation to the mens rea of the crime, if any, is highly debatable and hard to establish in the court of law.

6) I G Panda

The case of IG D.K. Panda had dominated the Indian news cycles for quite a while. The cop who was entrusted with the responsibility of maintaining law and order in the state of Uttar Pradesh came out to the public as “Doosri Radha” in 1991. Since then he dons vermilion on his forehead, wears female jewelry and sings holy songs which were supposed to have been sung by Radha for Krishna. He claims to have another personality of Radha and lives his life in that personality. Even the nameplate of his house in Lucknow reads- IG DK Panda Doosri Radha.

The wife of the cop, Vineeta Panda has approached the court and asked for maintenance, which has been granted to her.

7. CONCLUSION:

There has always been a tussle within the legal fraternity as to how to deal with the defense of insanity and multiple personality disorder in particular. Multiple Personality Disorder, which is now known as Dissociative Identity Disorder, essentially creates the minds of various different people in the host body. It is extremely difficult to establish mens rea in such cases as more often than not, the person suffering with this disorder is not even aware of what he or she did while an alter personality was controlling his or her mind.

To punish or not to punish these people- both sides present compelling arguments which are hard to refute.

What makes these cases even more unstable is the fact that there is no universal or scientific hard and fast rule to diagnose this disorder. The defense of insanity may be misused by faking the disorder. Furthermore, there is a good chance of misdiagnosis in the cases of multiple personality disorder as the symptoms of this disorder are very similar to some others.

While it is almost impossible to establish mens rea once it has been proved that the accused suffers from Dissociative Identity Disorder, it is also very difficult to use DID as a defense.

The cases become extremely hard to prove and the defense is quite often rickety and feeble.

While we have come a long way in the knowledge of DID and how to deal with the cases associated to it, the judiciary is still not very sure about its relation to mens rea or how to deal with cases where the host personality was not aware of the crimes committed by the alter personality.

The misuse of Multiple Personality Disorder to save oneself from any harsh punishment of the law also cannot be completely ruled out. While it is not easy to fake this disorder, it is also not impossible to do so.

Thus, the judiciary has to be very aware while giving someone the defense of insanity, Multiple Personality Disorder on particular, and see that while the actual victims of this disorder do not suffer unnecessarily or come up with a more comprehensive manner of dealing with such cases, the misuse of this defense must also be stopped. The association of mens rea with a criminal activity is something that is extremely difficult for a person suffering from Multiple Personality Disorder but not impossible. It is difficult to determine the truth of whether the intention and awareness to commit the crime was present or not and therefore the cases where such questions arise must be dealt with utmost care and the behavior pattern of the accused must be observed, from the past and also outside the court, to determine which possibility has a higher probability- was there an awareness or mens rea or not?

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