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# A PSYCHIATRIST'S VIEW OF INSANITY AS A DEFENSE IN CRIMINAL CASES

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“Wasn't Hamlet wrong'd Laertes? Never Hamlet;  
“If Hamlet from himself be ta'en away,  
“And when he's not himself does wrong Laertes,  
“Then Hamlet does it not, Hamlet denies it.  
“Who does it, then? His madness; . . . .”

HAMLET, Act V, scene 2

The psychiatrist asked to give evidence or expert opinion in a criminal court proceeding may feel or arouse frustration or irritation as he, the lawyers and the judge struggle to understand one another. In many instances the situation is sufficiently clear to admit of no difficulty, but in some it is necessary to attempt to translate the medical term “mental disorder” into the legal term “insanity.” Translation from one language to another is tedious and, more important, requires a loss of part of the information which is to be transmitted. It is the purpose of this paper to show what psychiatrists usually mean by “mental disorder” and what meaning this term may have for lawyers.

## I. SYMPTOMS OF MENTAL DISORDER

Mental disorder is a condition marked by impairment of consciousness or judgment or both. Neither consciousness nor judgment can be defined precisely, but these are terms which carry to most educated persons at least an illusion of understanding. If consciousness is impaired, the patient is not entirely aware of what he is doing. If judgment is impaired, the patient may understand his act but he may not be able to realize to the normal degree its nature or its consequences. Judgment commonly is impaired by the persistence of delusions or hallucinations or of abnormal emotions such as depression, elation or jealousy. The persistence of delusions, hallucinations or mood disturbance is a sufficient condition for the existence of mental disorder, but is not a necessary condition for the diagnosis.

Hallucinations ordinarily cause no problem in diagnosis for the physician or the lawyer. If the patient believes he is receiving some visual, auditory, olfactory, gustatory or tactile signal or impression which seems to other persons to have no reasonable origin in the external world, the patient is hallucinating. Fleeting hallucinations are common in the experience of normal persons, but they are always fleet-

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ing and they always disappear after a brief reassurance by another person. The anxious housewife who thinks she smells escaping gas, the motorist who thinks a tire is flat and the sleeper who awakes suddenly and demands that the moving window curtains speak to him are common examples of the normally hallucinating person. These phenomena are different from the experience of the person who says he feels in his body the effect of a lethal ray sent out by the Kremlin, or who hears the voice of George Washington accusing him of treason.

Some poorly educated persons may describe bodily sensations in a manner suggesting hallucinations. For example, a tingling sensation in the feet, due to impaired blood circulation or anemia, may be attributed by the patient to worms or insects crawling beneath the skin. Careful questioning and study of the patient will reveal the true nature of the situation, and removal of the cause of the tingling will ordinarily banish the bizarre interpretation. Another patient will think he experiences abnormal bodily sensations for which the physician can find no reasonable cause, and which seem to permit no explanation consistent with anatomy. While this situation is most distressing to the patient, the only violence to be expected is suicide.

Delusions, like hallucinations, may be fleeting and normal or persistent and abnormal. The husband who mistakenly believes his wife told him not to stop for the groceries is quite different from the patient who decides to kill the Jews to prevent their using the blood of his infant son in a religious rite. Hitler's expressed opinions of the Jews, if they were said sincerely and not merely for political effect, were delusional ideas to most Americans but apparently were not so regarded by most Germans of the time. The politician who says he sees a Communist beneath every bed and behind every bush in Washington is considered a patriot by some, a liar by some and deluded by others.

Unusual ideas of a religious or political nature may present special difficulties in the diagnosis. It is necessary only to recall the trial, conviction, execution and subsequent canonization of Joan of Arc to realize the problems involved. The same complication may sometimes exist if the accused or the patient is a scientist, for then some of his scientific theories may appear bizarre or delusional even to his most competent contemporaries while to a later generation they may seem obvious truisms.

The apparent unorthodoxy of the belief may, in some unusual cases of religion, science or politics, be unreliable evidence of delusional thinking. However, in most cases, the delusional ideas are obviously so contrary to elementary notions of scientists or they are associated with conduct which is so clearly abnormal that there is no doubt as to the diagnosis.

Frequently, delusions are associated with hallucinations and/or with disturbances of the mood. Such an association increases the likelihood of mental disorder.

Brief periods of mild depression, elation, fear and jealousy also may be normal. However, if they persist for more than a few hours or if they are severe and unjustified by ordinary standards of behavior they become symptoms of mental disorder.

Delusions, hallucinations and mood disorders can readily influence decisions, plans and predictions. Mood disorders, especially fear and jealousy, may arise as logical consequences of delusions and hallucinations. It is not unreasonable for a patient to be frightened if he thinks he sees vicious insects advancing on him or for him to be jealous if he thinks he hears his wife's infidelity discussed on a radio news broadcast. His burning of the house or his killing of the wife would then be logical reactions to the information he thought he had received. Had he been in better health, his judgment would have rejected the erroneous information and would have protected him from the impulse to violence. Mood disorders, may, in turn, lead logically to delusions. A severely depressed patient, believing himself to blame for some misfortune, may easily conclude that he is guilty of crimes or unpardonable sins, that the guilt has deprived him of strength or of various organs (usually parts of the digestive tract) or of all his financial resources. Violent reaction to depression is usually suicide, but occasionally members of the family may also be killed.

## II. CAUSES OF MENTAL DISORDER

Impaired consciousness or judgment can be produced by many known causes but also, unfortunately, by many causes which are entirely unknown. The principal known causes are:

A. Anatomical changes in the brain, especially those due to injury, senility, tumor or disease of the arteries.

B. Serious infections

C. Industrial poisons

D. A large number of medicines

E. Endocrine disorders

F. Deficiency diseases (anemias, vitamin or oxygen deficiencies)

G. Allergy

H. Epilepsy

Although this list is long, it is probable that most cases of mental disorder are caused by factors which at present are unknown and are discussed only in psychological terms.

### III. ADDICTION

It might seem at first that no one could be criticized for succumbing to any of the known causes of mental disorder as listed above. A little reflection on the problem raises some doubt, however, especially if the impairment of consciousness or of judgment is produced by some medicinal or other product which the patient has consumed more or less voluntarily. Suppose he has impaired his consciousness or judgment by consuming alcohol, benzedrine, narcotics, barbiturates or some similar product which may have a legitimate medical use. Is he then different from a person whose mental disorder is due to exposure to lead or mercury in some industrial process? Is he different from a person whose disorder is due to a narcotic given him as a part of necessary care after a surgical operation?

In the case of addiction to alcohol and other drugs, two conflicting points of view are held by psychiatrists. One group considers the addict as indulging himself voluntarily, knowing better but preferring pleasure to righteousness and evil to good. The other group thinks of the addict as helpless in the grip of some other illness, the addiction being a symptom of some other mental disorder and the temporary relief to be found in intoxication being the only remedy known to the patient. Possibly both views of addiction are partly correct. Certainly some addicts cease their practices when the basic cause of their difficulty can be found and relieved. The fact that this happy result is not often attained may mean that most addicts are evil or it may mean that psychiatrists are not yet equipped with the requisite knowledge and skill.

Regardless of the cause of addiction, there is a further difficulty in the alcohol problem. Not all who use alcohol are alcohol addicts. On the contrary, most drinkers are social drinkers, and only some social drinkers get drunk even occasionally. Social drinkers correctly deny that their drinking is evidence of illness. Many of them see no harm in drinking themselves into unconsciousness now and then or in waking up without memory of the previous evening.

During the period of intoxication, the addict or the social drinker suffers from impairment of consciousness or judgment or both. Is he then to be held responsible for his actions? It does not seem reasonable that intoxication with alcohol should be a defense against the charge of driving a motor vehicle while drunk. Whether intoxication with alcohol or other drugs should be a defense against the charge of murder is possibly a more delicate question, happily not included in the problems of the psychiatrist.

### IV. PSYCHOPATHY

Another common problem of great difficulty for the psychiatrist

and the criminal law is the constitutional psychopath. A psychopath is a person, who, although able to talk reasonably about ethical values, is unable or unwilling to act on his professed beliefs. His deeds are very different from what he says his judgment tells him to do. He "knows" the difference between right and wrong in the sense that he can discuss the difference intelligently, but he cannot or will not act on this "knowledge." There might be raised the philosophical question whether knowledge exists if it cannot be used, but such a conundrum, even if relevant, is scarcely helpful. Apparently many, but not all, alcohol addicts, drug addicts and criminals are psychopaths. The cause of their psychopathy is unknown at present. The disorder is so common that there is not room for all the known psychopaths in the hospitals or the penal institutions, and the chance of effecting an occasional cure is so small that few psychiatrists are interested in the problem. Some psychopaths perform brilliantly in military service during the brief periods of actual combat or in other acute emergencies; at other times they are often such disciplinary problems that their heroic deeds cannot compensate for their misdemeanors. If psychopathy is to be accepted as a defense in criminal actions, this would seem to imply that any violation of the law should be evidence of mental disorder; such a concept could scarcely be tolerated.

#### V. TRANSIENT MENTAL DISORDERS

The question of transient mental disorder, ending shortly after the commission of the illegal act, may sometimes arise. Such mental disorders may exist, and will usually be due to one of the causes listed, *supra*. In this case, the history of the patient should reveal the situation. In the crime of passion, the facts will usually require a legal rather than a medical interpretation.

A less well-known type of transient but recurring disorder should be mentioned. This is periodic catatonia, a disease in which times of psychosis and times of relative normality alternate in a regular cycle. The cycle is complete in most cases in 20 to 40 days, 9 to 18 psychotic episodes being experienced per year. The symptoms of mental disorder usually are very striking, but the correct diagnosis is not made until the patient has relapsed several times. In the lucid interval, the patient may not remember his symptoms or conduct of the psychotic interval. While the treatment of periodic catatonia is simple and very satisfactory, many patients are handled improperly because the nature of the illness is not recognized.

A transient, non-recurring type of disorder is sometimes produced by the psychiatrist's treatment. Electric shock therapy may produce confusion or memory impairment such that the patient will be unable to recall his behavior later, after he has recovered. The post-treatment

confusion nearly always disappears after a few days and is rarely a serious problem for hospitalized patients. Melancholia, with greatly impaired judgment and sometimes with suicidal preoccupations or attempts, may result from certain medications now widely used by psychiatrists, and this undesirable and unpredictable reaction may persist for several days or weeks after the medication has been discontinued. These hazards are trivial in comparison with the benefits to be derived from proper psychiatric care, but they are ever present dangers for which the psychiatrist should be ready. It should be remembered that all potent remedies at the disposal of the medical profession involve risks which must be weighed against the seriousness of the illness being treated.

#### VI. A WORD OF CAUTION

The fact that a person is being treated by a psychiatrist should not necessarily imply that either his consciousness or his judgment is significantly impaired. Many who are treated regularly in the psychiatrist's office (but usually not in the hospital) have relatively minor difficulties, such as mild feelings of insecurity, physical complaints for which no satisfactory explanation has been found, or some physical disorder which the physician believes may be helped partially by psychotherapy. Without doubt, some of these patients are only bored, discontented with their vocational or marital adjustment or unsure of their talents. Some probably take psychiatric treatment in the office believing that a secret formula for happiness or success will be revealed, not by the psychiatrist but by the release of some suppressed or inhibited mechanism within themselves. Such a belief, usually unfounded, cannot be called a delusion in view of the many misleading statements about psychiatry and mental hygiene which appear in the popular press.

On the other hand, some patients who are very seriously ill receive treatment only in the psychiatrist's office. For one reason or another, they cannot or will not be treated in a hospital and so must rely on the remedies available elsewhere. The value of such treatment will depend, of course, on the nature of the illness and the ability of the physician.

#### VII. SUMMARY

Mental disorder, characterized by impairment of consciousness and/or judgment, may be caused by a variety of factors, many of which are still unknown. The symptoms may be very striking, as are delusions and hallucinations, or very subtle, as in the constitutional psychopath's unwillingness or inability to use the good judgment he can vividly describe. The production of mental disorder in himself by a person who uses alcohol or other drugs unwisely may create special legal problems which are mentioned. Constitutional psycho-

pathy is classified as a mental disorder, but this does not necessarily imply that the psychopath is insane. Some transient types of mental disorder are discussed briefly. Many persons who are treated regularly by psychiatrists have no significant impairment of consciousness or of judgment.

The question of what type of mental disorder, if any, existed at the critical time may be answered by the psychiatrist. Whether or not this mental disorder constitutes insanity can be determined only by the lawyers, the jury and the judge.