



MULTIPLE PERSONALITY DISORDER AS A LEGAL DEFENCE

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INTRODUCTION:

“I did not do this, I don’t even remember committing this act.” This is heard often in cases of a illness named Multiple Personality Disorder, clinically termed as Dissociative Identity Disorder. It is a complex psychological condition, a mental process which produces lack of connection or relativity in a person’s thoughts, feelings or sense of identity. It is caused by many factors, including trauma in childhood, which could be physical, sexual or emotional abuse.

Criteria for DID include the presence of ≥ 2 distinctive identities or personality states that recurrently take control of an individual’s behavior. This is accompanied by an inability to recall important personal information to an extent that cannot be explained by ordinary forgetfulness.¹

What decision can a court taken when a person says that it was not him who committed the act, rather an alternate personality? Can such a person be believed? And if he is believed, can he be acquitted for the act he committed due to this personality?

¹Mdedge.com. (2018). Dissociative identity disorder: No excuse for criminal activity. Available at: <https://www.mdedge.com/psychiatry/article/64330/personality-disorders/dissociative-identity-disorder-no-excuse-criminal> [Accessed 13 Jun. 2018]

People suffering from this illness today are struggling through their litigations to prove that they were innocent.

This illness, which is believed to have no cure, also understood to be unidentifiable and having its reality and diagnosis in question, has raised an important question over the years as to whether it should be accepted as a legal defense in any country.

WHAT IS A MULTIPLE PERSONALITY:

A multiple personality is defined as the existence of an alternate personality in a person, which switches from time to time. The acts committed by this personality are not known to the original personality of the person. The people of various countries refuse to believe that a disease like dissociative personality disorder exists, since the understanding of such a disease is difficult even for trained experts.

Often, it is also confused with other diseases like Amnesia, Schizophrenia etc. Since such an illness cannot be diagnosed 100% even by the best psychiatrists, it is believed that this defense is used by criminals to easily escape liability, saying that the mental intent was not theirs, rather of that personality who committed the crime. Although diagnosis of such diseases may not completely be possible, but patients of such illness do respond to hypnosis, which makes it possible for the Psychologists to speak and examine with the inner personalities.

SYMPTOMS AND CHANGES:

It is seen that when the other personality takes over the body of the person, there are



distinct changes visible. Each personality has a different age, sex, or even race. They have distinct gestures, postures or even ways of talking. Clear changes in the facial expressions are observed in the split. For example, if one personality is reclusive and shy, another may be boisterous and rowdy. Although the vast majority of multiples are female, the personalities need not be the same gender: they may not even be the same age or race, nor will they necessarily wear the same eyeglasses prescription or have the same handwriting. The average number of personalities is eight. The split personality may speak languages which the origin personality has not even learnt.

Personality traits that may predispose patients to develop a dissociative disorder include mental absorption, suggestibility, ability to be easily hypnotized, and tendency to fantasize.² Another important way to diagnose the existence of such a disease may be through prolonged symptoms which have been existing for a minimum of six months, including depression, headache, mood swings, suicidal tendencies, anxiety and sleep disorders. They are also a victim of amnesia, since they often are incapable of retrieving information of whatever happened when the other personality was in control.

ORIGIN

Historically, courts have applied several different forms of the insanity test. In the

eighteenth century, the standard for insanity was whether the defendant could distinguish between good and evil and whether he knew the difference between right and wrong.³ In 1843, Daniel M'Naghten was found not guilty because of insanity after shooting and killing the private secretary of the Prime Minister of England.

The most expected cause of this illness is a sudden break in trust from a person immensely relied on in life, hence leading the victim to form a shell around him/herself, forcing the child to shun itself away from this awareness. Because this process happens repeatedly, the patient develops multiple personalities; each has different memories and performs different functions, which may be helpful or destructive.

The purpose of bringing an alternate personality in existence is generally to escape from situations which the victim's personality is incapable of handling, which ultimately leads the victim to create another alter within himself to deal with those situations. The distinct personalities may serve diverse roles in helping the individual cope with life's dilemmas.

People who have suffered from unforgettable painful childhood experiences often build up such alters to give themselves an internal security, or make themselves feel fine even if their surroundings do not portray so. The moment they feel they are unsafe, or any act takes place which tries to scratch this wall of

²Pdfs.semanticscholar.org. (2018). [online] Available at: <https://pdfs.semanticscholar.org/4a33/d28fa1e2417e4080cc71e21bdf0293feb9a3.pdf> [Accessed 13 Jun. 2018].

³Pbs.org. (2018). A Crime Of Insanity - Insanity On Trial | FRONTLINE | PBS. [online] Available at: <https://www.pbs.org/wgbh/pages/frontline/shows/crime/trial/history.html> [Accessed 13 Jun. 2018].



security, it does not even take 10 seconds for the other personality to take over, and the person, in a way loses consciousness of whatever is happening around him. However this in no way means that the victim has any intention of purposely building up such a personality

It is believed that on immediate diagnosis, about 5 to 6 personalities may be found, but on further diagnosis, about 20 personalities may exist in the person. Cases of 100 personalities have also been reported in some patients.

LEGAL DEFENCE

Accepting the fact that since such diseases have no clear ways of being identified and diagnosed, question remains unanswered, as to whether it should be accepted a legal defense.

When dealing with victims who have MPD, the interest in protecting the victim must be balanced with the interest in providing the defendant with a fair trial. The interest of a victim with MPD in protection and privacy, however, is essentially the same as any other victim's interest. Although the ramifications for others may be different from those involving multiples, any victim may suffer emotional and physical stress during a trial, compounded by its accompanying publicity. In essence, the law treats the victim with multiple personalities no differently than it does the victim who does not have multiple personalities, in spite of the many potential problems with such an approach. The concept of acquittal by reason of insanity lies in the fundamental belief that a civilized society does not punish those who are incapable of controlling their behavior

There would be cases of people faking their identities to escape legislation, but statistics reveal that the people suffering for such an illness range from 0.1 to 1% of the population, hence raising an important need to protect the real victims of such an illness from the strict legislation and punishments which they do not deserve.

It is used as a temporary insanity defense, saying that the body of the person committed the crime but the mind that committed the crime is not the mind on trial, hence mens rea being absent. However, if we define insanity as a stage where a human is incapable of controlling his or her actions, so a question arises of whether anyone suffering from Multiple Personality Disorder is capable of even slightly controlling the actions of the alters within. Answering this question on the basis of statistics shows that the person is incapable of controlling the actions of its alters, but the alters can control the actions of the original personality.

As mentioned above, there may be as many as 100 personalities in the same person. Each personality would have its own distinct characteristics. One personality may be allergic to a substance, and the other may not have any reaction to that substance. The IQ levels of these alters may be different, their gender, orientation, species may also vary. The person may not have any enmity against someone, but an alter can hate someone enough to commit an unlawful act. There are cases in which a personality is an animal, or an insect too. The original personality may be 25 years old, but the alter may be just 9 years old.



It is believed that these different personalities have different physical strengths and mental capacities. Some may be strong physically, capable of not even doing what the original personality could do. Some could be weak mentally, not capable of tolerating even the slightest harm to the body.

All these alters are said to have suffered through different experiences. The experiences of one alter are not known to the other, but the identities are known. Every alter knows the existence of other alters generally, but the original personality would have no idea about them till diagnosis.

There are cases in which the original personality has not shown till months, and alters have constantly been ruling over the body of the individual. In a way they all have a specific time to take over the person, and pass on to the next alter after the given time. In any situation where there is believed to be any danger to the original personality or any weak alter, the dominant one would take over to protect the rest. For any person who has believed to suffered from sexual abuse in childhood tends to develop an alter within to deal with that situation if help isn't provided, and ultimately, whenever in life the person comes across any incident where she/he feels that they are in danger, either emotionally or physically, this alter would take over to protect the person. This alter would generally be much stronger, capable of doing everything which the original person could not do.

BALANCING THE GOODS AND EVILS:

Speaking about the positive impact, there is at least 1% of the population today suffering from such an illness, and imposing the blame of any crime on any such individual, who at the moment of the crime scene was incapable of controlling the actions of the body and mind would not do justice.

The concept of Mens Rea which is well established today, with the literal meaning, "mental intent" cannot be said to be present in any such circumstance, since the body doing the crime and the mind doing the crime do not belong to the same personality. As long as the original personality was incapable of stopping the alter from committing any crime, the mental intent cannot be said to belong to the person.

However, the negative aspects of Dissociative Identity Disorder as a legal defense are many. For starters, there is no 100% accurate method of finding out whether DID patients actually are suffering from that illness or are faking it. A person with a strong mind may trick the psychiatrist during diagnosis. Hence such an illness could be counted as an excellent excuse for uncontrolled rage, planned murders, or even sudden provocative action.

Any person, whether a criminal or not, is considered as a legal entity. So far as we can determine that one of the identities has committed a crime, the guilt of other personalities cannot prevent the law from taking action against the person holding the notion that the guilt of the other personalities cannot be taken into consideration. Multiple personality disorder, as mentioned above does not have any reliable method of diagnosis hence making it



more difficult for the law to help the victims of this illness.

Also, if there does exist an alter which has committed the crime, the person cannot be released by the courts, since the alter may commit the same crime again. If sent to medical help, even after years of diagnosis and treatment, there is no guarantee that the alters would let go of the personality.

Actual diagnosis as to which alter committed the crime is very tough. Getting the alter to surface during diagnosis is itself an impossible task sometimes since such alters only take over the mind of the person in circumstances which require the person to be protected.

Most courts around the world have one belief- One reason for incarcerating or detaining the perpetrator is to protect society. Although the innocent personalities would also be burdened, one could argue that the duty to protect society - and hence free it from the burden of potential danger to an innocent victim - from the dangerous personality is greater than the duty to keep the innocent personalities from being burdened by incarceration or detention. When comparing the rights of the many in society who are at risk from the dangerous aspect with the injustice of imprisoning an innocent aspect, the danger to the group at large is apparently greater than the unfairness to the few personalities. This is however not true. Giving mental treatment at the right time can save the the person and help him/her to let go of these personalities. There is no reason for the protection of the society to come at the cost of sending an innocent person to jail in this case.

CASE OF THOMAS HUSKEY:

One of the most famous cases of Multiple Personality Disorder was that of Thomas Huskey. He swore another man killed four women - another man with a different personality who lured them with the same voice and strangled them with the same hands. The case began in February 1992, months before a single prostitute died, when a woman came to Knoxville police with a lie that led them to a rapist in the act. He never denied the crimes but blamed them on "Kyle," an alternate personality, in an insanity defense unprecedented in East Tennessee's legal annals.⁴ Criminal Court Judge Richard Baumgartner finally dismissed the murder charges in October 2005 after prosecutors gave up that case.

CONCLUSION:

A new development needs to be made. All over the countries we have laws for no imprisonment or punishment to the people committing acts in a state of Insanity. Multiple Personality Disorder is more than just insanity. It is the complete control of another personality over the body of a person, and in no way can this person be in his own state of mind to make a decision. The illness, although not 100% detectable in humans, is not a myth. It does exist and has destroyed the lives of all these people who have been prosecuted by their states for the acts that they did not intend to commit.

⁴Archive.knoxnews.com. (2018). 'Zoo Man' Huskey admitted killings but was never convicted. [online] Available at: <http://archive.knoxnews.com/news/local/zoo-man-huskey-admitted-killings-but-was-never-convicted-ep-359829556-356511001.html/> [Accessed 13 Jun. 2018].



Almost every country follows the principle of No Guilty act without a Guilty Mind. In this case, there exists no guilty mind. It is acceptable that these people cannot be acquitted since they would harm others again. But even if there a long drawn one, there exists a cure. They can be sent to trained experts and psychologists for their mental treatment. Even if it would take time, the result would be much better than an imprisonment and death sentence awarded out to them. US made its development is Thomas Huskey's case, and a lot of cases after that as well. A lot of novels like "Tell Me Your Dreams" by Sidney Sheldon and movies like "Split" have portrayed this illness as well. Every nation needs to take a step forward and include this in the ambit of insanity in their countries

