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## Theoretical And Practical Issues Of Criminal Liability Of Persons With Mental Disorders In A Way That Does Not Exclude Sanity

**Kushbakov Dilshod Musurmonkulovich**

Senior Lecturer Of The Department Of Administrative Law Of Academy Of The Ministry Of Internal Affairs Of The Republic Of Uzbekistan

### ABSTRACT

This article analyzes the theoretical and practical issues of responsibility of a person with a mental disorder, his understanding, medical and legal criteria in a way that does not exclude insanity. It proposes that the crime committed by a person with a mental illness be considered a mitigating circumstance.

### KEYWORDS

Law, Criminal, Psychiatric Care, Medical Criterion, Mental Disorder, Legislature Associates, Mental Illness, Limited Mental Illness.

### INTRODUCTION

The Law of the Republic of Uzbekistan "On amendments and additions to some legislative acts of the Republic of Uzbekistan in connection with the improvement of the system of psychiatric care" of September 12, 2019 supplemented the current Criminal Code of Uzbekistan with Article 18

At the same time, it should be noted that this norm is new for national criminal law.

However, in turn, Professor M.Kh.Rustambaev noted that in this regard that a sane person can be found not only as a mentally healthy person, but also as a person with a mental disorder, who is able to consciously and accurately assess his actions in a given situation or situation at the time of the crime."

Today, the issue of liability of a person whose mental state has been violated in a way that does not exclude sanity at the time of the crime

is relevant and one of the areas of criminal law that has not been sufficiently studied. This is because the issue of the liability of a person whose mental state has been violated in a way that does not exclude sanity raises a number of difficulties and problems in law enforcement practice. The reason is that at present there is no clear understanding of what state of mental retardation can lead to criminal liability, its level and duration, and what criteria should be distinguished from mental retardation.

Although, in the literature, the medical criterion for limited mental retardation is described as a mental disorder. However, at the same time, the legislation does not define the term “mental disorder”. This leads to different application of this norm of criminal law in law enforcement practice. For example, some researchers claim that the medical criteria for limited mental health are similar to the medical criteria for mental illness. However, we do not support such an approach to the medical criteria of limited intelligence. Because if we pay attention to the expressions used in the legislation and its structure in classifying the medical criteria of mental illness and limited mental illness, we can see that there are no grounds to determine their similarity.

In addition, in the second part of Article 18 of the Criminal Code, the legislature associates mental retardation with a “mental disorder” and classifies the causes that lead to a mental disorder. However, the first part of Article 18 of the Criminal Code, although it deals with the violation of the state of mind at the time of the commission of the crime, but does not specify the signs or causes of the violation of the state of mind. This means that the medical criteria of mental retardation include various mental illnesses that lead to mental disorders, as well

as disorders of the mental state that are pathological in nature. The medical criteria for mental retardation, on the other hand, do not have the pathological features of a mental disorder.

Furthermore, the medical criteria of limited intelligence are interpreted differently in the literature. For example, in this case, N.I. Khojaeva and A.U. Shoyusupova argues that “in psychiatric practice, because of the multifaceted and diverse range of mental disorders that exclude dementia, its symptoms on medical criteria have not yet been clearly classified, so any research to make such a diagnosis is based on medical analysis.”

However, in forensic psychiatry, it has been concluded that mental disorders that exclude insanity can be regulated despite the fact that they are different districts. In particular, it has developed criteria and signs that reflect the characteristics of mental retardation, including limited mental retardation in terms of various nosological forms of pathology.

In particular, signs of limited mental intelligence include functional and organic disturbances of mental state. Functional disorders of the mental state include neuroses and psychopathies, while organic disorders include mild oligophrenia caused by organic diseases of the central nervous system under the influence of brain injury, chronic mental changes during epilepsy, alcoholism and drug addiction.

## LITERATURE REVIEW

In addition, some researchers have focused on this issue. For example, A.N. Shamgunov divides the medical criteria of mental retardation into the following groups: mild

chronic mental illness (epilepsy, organic brain injury, schizophrenic defects, cerebral syphilis, chronic alcoholism); transient mood disorders (reactive and intoxication psychoses, post-traumatic stress disorders), mental anomalies (mental retardation, psychopathy, behavioral accentuation), neuroses, abnormal processes (pregnancy), and other similar illnesses. These listed cases of mental disorders result in limited mental retardation at the same time.

However, in this regard, S.V. Dolgova writes, "The medical criteria of limited mentality can reflect any disorder of the mental state that does not reach a psychotic level in a way that does not exclude mentality. These are: endogenous (eg, schizophrenia, persistent remission or debilitating epilepsy), exogenous mental disorders caused by external factors (organic diseases of the brain), circulatory disorders caused by infectious diseases (brain dysfunction due to encephalitis), psychoactive substance addiction (alcoholism, drug addiction, toxicomania) and mental disorders caused by pathological development (oligophrenia, psychopathy). But we cannot fully support this idea. This is because limited mental health does not imply cases of mental disorder that acquire a pathological character. Under the law, when a person does not have a severe mental disorder, he or she is exempted from liability because a severe mental disorder distracts the person from moving his or her body in relation to the environment, directs it in the wrong direction, and misrepresents the mind.

The next sign to be considered of a limited mental state is its legal criterion. It is important to note that today the practice of law enforcement and the understanding of the legal criteria of limited sanity in the legal

literature is a complex and controversial situation. This is because most authors rightly point out that the legislator's limited reasoning to express the legal criterion of rationality in a way that "did not fully understand or control the significance of their actions (inactions)" is ambiguous and allows for different interpretations. Science and practice have not yet developed clear criteria for which level of understanding should be considered 'complete' or 'incomplete'. Such an edit is "extremely unreliable" and therefore "makes it difficult to find a subject with a limited mental disability".

This, in order to understand the meaning of this expression expressed in the legislation, requires the definition of the essence of the legal criterion of limited reason, first of all, the "incomplete level" of mind and will. Of course, it is not possible to fully disclose the exact meaning of this evaluative phrase, but it is possible to define it to the maximum, to set certain limits and levels for its understanding.

## CONCLUSION

However, given the emphatic structure of the rule of law, it makes it possible to find such a situation to be limited rationality. Because according to the law, a person must not fully understand the importance of his actions (inaction) or be able to control them due to the violation of his mental state at the time of the crime. This means that a person with a limited mental state may not be able to fully comprehend his actions due to a mental state disorder, or he may not be able to fully control his actions, even though he fully understands them.

The current criminal law of Uzbekistan does not stipulate that the actions of a person who has committed a crime in a state of limited sanity should be considered as a mitigating circumstance. Therefore, in our opinion, it should be noted that limited mental retardation as a mitigating factor in sentencing is due to the specific features of the pathological manifestation of mental disorders (affective, psychogenic, not intentionally provoked by the subject, etc.). Such a condition cannot be considered as a mitigating circumstance if the state of mental retardation was intentionally caused or the person consciously allowed his / her illness to have a pathological origin (alcoholism, drug addiction).

From the above it can be concluded that:

first, the legal representation of the institution of limited sanity serves to ensure a full legal assessment of socially dangerous acts committed by persons with mental disorders, without exception, to differentiate between mentally retarded and persons with mental disorders from a psychiatric point of view, and to bring to justice such persons;

secondly, because of the mental state disturbed at the time of the crime, the person must not fully understand the importance of his actions or be able to control them, that is, a state of limited sanity means that a person, or a state of mind, is unable to fully comprehend his actions due to a disorder, or that he is unable to fully control his actions, even though he fully understands them. In determining the voluntary sign of a limited mental state, it is always taken into account that there must always be a volitional sign, even if there is no mental sign. The will sign reflects the basic

structural aspect of the legal criterion, and it is always required to be defined and exist in order to confirm the fact of limited reason;

third, the issue of the liability of persons whose mental state has been compromised in a way that does not exclude insanity at the time of the crime requires further in-depth study and special research because of the lack of clear definitions of what constitutes criminal liability today, how long this restriction lasts, on what criteria it should be distinguished from mental retardation, and its degree.

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