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Research Article

PERSONS SUFFERING FROM MENTAL DISORDERS THAT DO NOT EXCLUDE SANITY, AS AN OBJECT OF FORENSIC RESEARCH

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ABSTRACT

Until recently, the study of socially dangerous actions of the mentally ill and persons with mental abnormalities, in domestic studies, was the prerogative of forensic psychiatry. The common interest of lawyers and forensic psychiatrists arose mainly on the basis of the appointment and conduct of forensic psychiatric examination, establishing a kind of border between the spheres of competence. Now, interest in this problem is observed in several branches of science (in criminal law, criminology, forensic psychiatry, psychology, etc.), and at the same time, the point of view of each of them has an independent meaning for determining the normative parameters of limited sanity. At the same time, given the growing prevalence of mental pathology among criminals, there remains an urgent need to create a general theoretical concept of the influence of mental pathology on crime in general and certain types of criminal behavior. This is especially true of many important issues related to the prevention and investigation of serious crimes, mechanisms and motivation of criminal behavior, etc.

KEYWORDS

Mental disorder, sanity, criminal code, law, psychogenia, classification.

INTRODUCTION

The current level of development of scientific knowledge in the field of forensic science and forensic psychiatry allows us to state that mental disorders and certain mental states that affect the intellectual and volitional sphere of a person's activity do not always

automatically deprive him of the opportunity at the time of committing a crime to realize the actual nature and social danger of his actions. (inaction) or manage them. Undoubtedly, persons with mental disorders are

characterized by a peculiar orientation in external and internal reality, sense-creation and sense-formation.

The manifestation of mental disorders depends on deep processes in consciousness, the unconscious and biological and physiological structures. The norm or pathology is determined by the degree of similarity or difference in comparison with the recognized "reference". Mental disorders that do not exclude sanity are also referred to as mental anomalies in the specialized literature.

But, despite the fact that in the inner world of persons suffering from mental anomalies, certain events often do not seem to coincide with generally accepted ideas, nevertheless, they retain the so-called contextual framework regarding acceptable and unacceptable behavior in society.

Therefore, when regulating the rules for establishing criminal liability, the legislator specifically stipulated that, in accordance with Art. 181 of the Criminal Code of the Republic of Uzbekistan, a sane person who, at the time of the commission of a crime due to a mental disorder, could not fully realize the actual nature and social danger of his actions (inaction) or manage them, is still subject to criminal liability. This normative provision is referred to in the special legal literature as "limited (reduced) sanity" [1]. The adoption of this norm was a long-term result of the discussion about the concept and content of the category of "limited sanity" [2], but by no means neutralized all the problematic issues that arise in practice.

The characteristic features of limited sanity are that:

- a) a fundamentally sane subject is subject to research;
- b) the assessed mental disorder limits, but does not definitively deprive the person of the ability to voluntarily regulate their behavior [3].

Like insanity, limited sanity manifests itself in the combination of two criteria, namely medical and legal.

The medical criterion of limited sanity is determined in case of revealing one of the following types of mental disorders:

- a) chronic mental disorder;
- b) temporary mental disorder;
- c) dementia;
- d) another morbid state of mind;
- e) various psychopathy (accentuations of character, disorder of drives and habits, etc.).

The legal criterion of limited sanity, like the similar criterion of insanity, is differentiated into intellectual and volitional signs. It is this criterion that reflects the ability of a person to become a subject of criminal liability [4, p. 82-90].

At the same time, an intellectual sign implies that a person at the time of committing a crime is not able to fully realize the actual nature and social danger of his actions (inaction). A volitional sign is manifested in the fact that a person is not able to fully control his behavior. To state the legal criterion of limited sanity, it is enough to define only one of these elements.

Although limited sanity does not exclude criminal liability, it is taken into account by the court when sentencing and may be the basis for imposing compulsory medical measures. These measures are applied to a person recognized as partially sane, along with punishment in the presence of the conditions provided for in Art. 92 of the Criminal Code of the Republic of Uzbekistan. At the same time, in accordance with Art. 92 of the Criminal Code of the Republic of Uzbekistan, the use of coercive medical

measures is due to the fact that the mental disorders identified in persons brought to criminal responsibility make it possible for them to cause other significant harm or pose a danger to them or other persons.

In addition, since the list of circumstances mitigating punishment is not exhaustive, judicial practice allows for the possibility of recognizing the fact of limited sanity as a circumstance mitigating punishment.

The establishment of the mental state of the suspect, the accused, when there is doubt about his sanity, is the basis for the mandatory appointment of a forensic examination, in accordance with paragraph 4 of part 1 of Art. 173 Code of Criminal Procedure of the Republic of Uzbekistan. The means for ascertaining the fact of limited sanity is the conclusion of a comprehensive forensic psychological and psychiatric examination.

However, an analysis of the law enforcement practice of appointing forensic psychological and psychiatric examinations indicates a somewhat uncertain possession of information by investigators about the possibilities of this type of expert research.

This is most clearly evidenced by the wording of the questions proposed by investigators to forensic experts for resolution in decisions on the appointment of these forensic examinations.

On the one hand, investigators often asked forensic experts questions that went beyond their professional competence. This problem is accompanied by situations when forensic experts are asked questions of a legal nature, the resolution of which is the prerogative of the investigator. Obviously, the main reason for this shortcoming was the lack of a clear understanding of the distinction between legal and special knowledge, as well as special knowledge in the field of forensic psychiatry and forensic psychology [5].

The other extreme was, on the contrary, the absence of those questions, without answers to which it is difficult to make a lawful and justified decision in a criminal case. Moreover, these shortcomings were manifested against the background of the use of inaccurate, from the point of view of forensic psychiatry or legal psychology, formulations. The objective reason for this situation is, it seems, a wide range of issues potentially resolved by forensic experts in the field of psychiatric and complex psychological and psychiatric knowledge.

Thus, the diagnosis of mental disorders and their impact on behavior are within the competence of an expert psychiatrist. But the assessment of the impact on the behavior of the accused mental disorder, which does not exclude sanity, already belongs to the joint competence of the experts of the psychiatrist and psychologist. But the lag in mental development and physiological affect are not mental disorders, therefore, their identification and establishment of their influence on the ability to consciously guide behavior are the competence of a forensic psychologist.

Accordingly, it is most expedient to appoint, in case of doubts about the sanity of the suspect or the accused, a complex forensic psychological and psychiatric examination, and not a forensic psychological or forensic psychiatric examination.

In other words, the purpose of the appointment of an examination is to establish circumstances that may disrupt a person's ability to consciously guide behavior (mental disorder), and the severity of the influence of these circumstances on the behavior of a person in a criminal situation (preservation, complete or partial loss of the ability to consciously guide behavior) [6].

It is advisable for the subject of the investigation to put before the experts, forensic psychologists and psychiatrists, an exhaustive list of questions that will clarify what kind of characteristic can be given to the mental state of the accused. Namely: sanity (full or limited, insanity); mental retardation not associated with a mental disorder (only for juvenile suspects, accused, defendants); a state of strong emotional excitement (only when committing violent crimes against life and health).

Accounting for this condition allows us to present a standard list of issues resolved by the subjects of a comprehensive forensic psychological and psychiatric examination:

1. Did the suspect or the accused (defendant) have any mental disorder at the time of the crime? Способен ли был подозреваемый или обвиняемый (подсудимый) в момент совершения преступления вследствие наличия у него психического расстройства осознавать фактический характер и общественную опасность своих действий (бездействия) и руководить ими?

2. Was the suspect, accused (defendant) at the time of the commission of the crime, due to the presence of a mental disorder that does not exclude sanity, fully aware of the actual nature and social danger of his actions (inaction) and manage them?

3. Does the suspect, the accused (defendant) need to be prescribed a compulsory measure of a medical nature and what kind?

4. Did the suspect, accused (defendant) at the time of committing the crime have a mental retardation that was not associated with a mental disorder?

Recall that this issue is relevant only in relation to juvenile suspects or accused (defendants), although

practice shows that investigators mistakenly suggest this question to forensic experts when examining the personality of an adult.

5. Is the suspect or the accused (defendant) at the time of committing a crime due to his inherent mental retardation, not associated with a mental disorder, able to fully realize the actual nature and social danger of his actions (inaction), as well as manage them? Like the previous question, it can only be formulated in relation to minors, which, unfortunately, is also not always taken into account in practice.

6. Was the suspect, accused (defendant) at the time of the commission of the crime in a state of strong mental agitation caused by the behavior of the victim?

We stipulate that a necessary condition for posing this question is to bring a person to criminal responsibility for committing a murder or causing grievous bodily harm. However, once again, we note with regret that this question is often addressed to forensic experts, not always in connection with the investigation of the above crimes.

This is an updated list of issues resolved within the framework of a comprehensive forensic psychological and psychiatric examination in order to study the mental state of the personality of subjects of crimes against life and health with limited sanity.

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