

This essay will show what changes were made in the Coroners and Justice Act (2009) and what these changes made to the partial defence of diminished responsibility. Before the changes that were made in the Coroner and Justice Act (2009), the courts relied on the Homicide Act 1957. This essay will also discuss if the changes in the law were for the better and the advantages and disadvantages of these changes. Diminished responsibility is a defence for murder and blaming the 'abnormality of mind' of the accused was in while committing murder and then would receive the lesser charge of manslaughter due to diminished responsibility. Murder is when someone intends to kill another person, and manslaughter is when a person does not want to kill another person but wants to cause serious harm. The accused or criminal can use this in his or her murder defence (CPS, 2019). The accused will claim that, at the time of the murder, their state of mind had been impaired, meaning they were not thinking clearly, and this had made them act out of character for them and out of touch with reality. They were not in control of their actions (Cambridge Dictionary, 2021). The potential sentence for murder is life in prison. This would mean that they would spend the rest of their life in prison. The potential sentence for manslaughter is 24 years (GOV.U.K, 2023).

Diminished responsibility had been introduced into England and Wales by the Homicide Act 1957. The Homicide Act 1957 used the term 'abnormality of mind', and if the courts or the jury thought that the accused had 'abnormality of mind' then they would be charged with the lesser charge of manslaughter (U.K Parliament, 2023). However, England and Wales introduced the Coroners and Justice Act (2009) section 52 the term 'abnormality of mind' had been changed. This change in the legislation meant that to claim diminished responsibility the accused must have been suffering from an 'abnormality of mental functioning'. Changing the wording in the Coroners and Justice Act (2009) meant that the accused had to prove that they had a mental health condition (Ministry of Defence, 2015). The term 'abnormality of mind' caused some confusion for the courts, as it does not define what is meant by abnormality of mind. An expert will be or can be used in the court to explain the 'abnormal in mind' to the jury but it would be down to the jury to accept the expert's explanation (Hallett, 2018). This would mean that it needed to change to clarify the wording for the jury. If there were any signs of premeditation then the accused cannot claim diminished responsibility because it would have been a thought-out plan by the accused, and diminished responsibility will only be accepted if the murder was a spur-of-the-moment

act where the accused lost touch with reality or if the accused had any mental health diagnosis from a medical professional (Ashman, 2022).

If diminished responsibility can be proven, then the accused could receive the lesser conviction of manslaughter. The accused must prove that they were not thinking clearly at the time of the murder or prove that they have a mental health condition. Diminished responsibility only reduces the charge from murder to the lesser charge of manslaughter it will not acquit them from any criminal charges (Sentencing council, 2023). In January 2021, Ben Oliver killed his grandfather, David Oliver. David had been bedbound at the time of his death. Ben Oliver had stabbed his grandfather 21 times through the chest. He admitted manslaughter but not murder due to diminished responsibility. The court heard that Ben Oliver was an angry and troubled young person and had been diagnosed previously with Autistic Spectrum Disorder. After learning of the Autistic Spectrum Disorder the jury cleared him of murder and accepted the plea of manslaughter due to diminished responsibility (My London, 2022). Our understanding of mental health is getting better and when someone had been diagnosed with a mental health condition then the jury should accept the diminished responsibility claim. However, not all cases of manslaughter by diminished responsibility are accepted by the jury. In 2021, Moses Christensen killed a walker, Richard Hall. Christensen had denied murder but admitted manslaughter due to diminished responsibility. He stated that he lost touch with reality when he met Richard Hall, while out walking. Christensen stated that he had been suffering from depression for many years dating back to his childhood, however, in his police interviews he stated that he went out that morning to 'either kill or be killed' (BBC, 2022). In this case, the jury had dismissed the claim of diminished responsibility as he admitted in the police interviews what his intent was, and they found him guilty of murder. This shows that although Section 52 of the Coroners and Justice Act (2009) is used as a partial defence, it will be down to the jury if it is accepted or not. For any person that has committed murder, the main advantage of the diminished responsibility would be to gain the lesser charge of manslaughter, and in cases where the accused genuinely was not in touch with reality and does suffer from mental health problems, it should be used. Unfortunately, one of the disadvantages of diminished responsibility is that the family of the victims will feel that justice has not been done.

It is fair to say that if a person has been accused of murder and they do suffer from a mental health problem and has been diagnosed by a professional health care provider, then they should be tried on the lesser charge of

manslaughter (Mind, 2023). However, there will be some people that will take advantage of this and state that they were 'not in touch with reality' just so they can receive the lesser charge of manslaughter, for example, if a husband kills his wife, he could argue that he lost touch with reality at that moment in time, he will serve the lesser sentence and eventually be released. In the case of David Lilburn, who killed his wife told the jury that a 'black shadow' told him to kill her, the jury dismissed his claim of manslaughter due to diminished responsibility and he was found guilty of murder. This case shows that the jury understood what diminished responsibility meant, as he was not diagnosed with any mental health problems (BBC, 2015). It will always be down to the jury to decide if diminished responsibility will be accepted or dismissed. The case of, Moses Christensen, who killed Richard Hall in 2021 shows that the jury must accept or dismiss claims of diminished responsibility. It will always come down to the jury's understanding of diminished responsibility. In Moses' case, they chose to dismiss the manslaughter charge and found him guilty of murder.

To conclude, the Coroners and Justice Act (2009) changed the definition of diminished responsibility. In the Homicide Act 1957, the term used was 'abnormality of mind' which caused confusion, but the change in Coroner and Justice Act (2009) changed the term to 'abnormality of mental function' so that it can be clarified in court. The changes did make the law better and clearer especially for the jury. Although experts can be used to explain the terms used it will be up to the jury to accept or dismiss them. There are advantages and disadvantages to the changes. Having a lesser conviction of manslaughter due to diminished responsibility doesn't give real justice to the victim or their family if the accused receives a lesser conviction of manslaughter. This could potentially see the accused serve a lesser sentence and will be allowed to continue with their lives once they have been released from prison. However, considering that mental health problems can affect a person's rational thinking it would be unfair that the accused should spend the rest of their lives in prison over something that was either out of their control or they lacked the capacity to understand what they were doing. Either way, it would be a tragic outcome for all parties involved.

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