



Insanity & Automatism.

Are the defences in need of
reform?

Introduction.

Welcome to the law surrounding Insanity. (Dhyani, 2021), Automatism and how the defence should be reformed and scrutinised to ensure that everyone deserves a fair trial and to prove otherwise the fitness or unfitness to plea due to mental incapacity. This argument shall keep up with modern developments in medicine, psychiatry and psychology.

According to Cambridge University Press (2022), "Criminal intent and psychiatric evidence" helps to determine whether the defendant is guilty or innocent establishing men's *rea* and *actus reus* and an array of valuable resources to boost this reform and research moving forward (Hallett *et al.*, 2024).

- (Graham *et al.*, 2023).

Law Commission 2013.

- Created by the Law Commission Act 1965, section 1.
- Has a vital influence on both the law and the citizens in the UK.
- Main purpose, promoting the reform of law. (Insanity & Automatism). Being one example.
- The law commission is a great example for the success in the UK including England & Wales, creating the Welsh advisory committee.



(UK Government, 2012-13).

What is Unfitness to plead with 19th century legal concepts.

- (Brown, 2019).
- Government legislation utilises this method (*Insanity and unfitness to plead act 1991*).
- The trial would require a fair verdict on the defendant involving the defence regarding the mental consciousness of the defendant and the criminal offence committed determining how the case should then be judged.
- The accused must be able to defend themselves in the court of law, otherwise the accused may then have an intervention by a lawyer to defend the verdict and promote the plead of insanity or automatism.
- The plead needs modernising, regarding a confusion within the frameworks ensuing criticism for the current law's development.
- There wasn't a framework until the twenty-first century.
- This has caused inconsistency regarding the full psychiatric assessment between those that are fit to plead and of course those that are unfit to plead.
- Evidence is required by experts including registered psychologists.

What is Insanity & How is the defence proven?

- Government legislation enforces the (*Trial of Lunatics Act 1883*).
- (Ryan, 1998, p. 176).

- Insanity is a disease of the mind, a defect of reason. Not knowing the right or wrong of the offence committed and not knowing the quality or the nature of the act.
- The court case may be diverted and result in a non-conviction from public interest by the Crown prosecution.
- Accused to be deemed unfit to stand trial.
- Defendant can then on the grounds of insanity plead not guilty due to insanity relating to the M'Naghten's case of 1843.
- Special verdict may be the accused entitlement resulting in the verdict that he/she is "not guilty by reason of insanity".

M'Naghten Rules. Test of mind and of consciousness & criminal responsibility.

Should there be an argument for a review?

EVERY MAN OR WOMAN
STANDING TRIAL IS TO BE
ASSUMED SANE UNLESS
PROVEN OTHERWISE.

M'NAGHTEN RULES HAVE
BEEN AROUND SINCE 1843.

THE VERDICT IS THAT THE
DEFENDANT HAS A DISEASE
OF THE MIND. IS THIS A FAIR
TRIAL OR SHOULD THE LAW
REFORM AND DEVELOP A
BETTER MORE MODERNISED
EVALUATION TO THE PLEA?

(Loveless, Allen and Derry,
2022, p. 281).

What is Automatism and how is the defence proven.

- According to the Crown Prosecution Service [hereafter CPS], (2019), automatism is the loss of control of body and mind resulting in a non-recollection of a criminal offence committed.
- (CPS, 2022).
- Automatism is when the defendant/persons is not in conscious control of his/her actions involving total loss of control.
- There is insane automatism and non-insane automatism, resulting in total loss of control of one's actions acting wholly involuntarily.
- The defence can be raised at trial. The defence must have evidence to prove the fact the accused was not in control of his/her movements leaving the issue to be determined by the jury. Creating a special verdict of not guilty by claim of insanity or automatism.
- The prosecution must then oppose to the fact that the defendant was involuntarily actioned to commit the offence before the jury or magistrates.

Key case law.
Here are 3 key cases
that involve insanity
& automatism the
plead and the defence
proven.



- R v. Quick. [1973].
- R v. Bailey [1983].
- R v. Hardie [1984].



*Key case law.
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- 'R v Quick' (1984).
- Government legislation now reinforces this approach (Criminal damage act 1971).

R v. Quick [1973].

- Defendant accused of assault.
- Actual bodily harm.
- Pleaded to the judge and the jury the defence of automatism.
- Claimed hypoglycaemia after receiving an insulin jab. (Diabetic).
- Insanity was claimed to be the only accepted plea by the first instance court.
- Defendant pleaded guilty.
- The appeal was based on the fact the defendant had received the insulin jab from his doctor.
- This allowed a consideration for automatism by the judge and the jury.
- Appellant pleaded guilty.

*Key case law.
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R v. Bailey [1983].

- Self-induced automatism.
- Diabetic Sufferer. (Received treatment, insulin).
- Girlfriend left him for another man.
- Defendant visited the man momentarily.
- Claimed to be unwell.
- Drank a mixture of water and sugar.
- Violently attacked victim hitting him over the head with an iron bar.
- Wounded victim, charged by s18a causing GBH.
- Appealed the offence claiming incapacity through automatism caused by hypoglycaemia, lack of food.
- Automatism defence overruled by the judge due to his incapacity being self-induced.
- Defence rejected; victim convicted.

*Key case law.
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- 'R v Hardie' (1984).
- Government legislation now reinforces this approach (Criminal damage act 1971).

R v. Hardie [1984].

- Defendant was housed by a woman.
- Their relationship was under pressure and on the decline.
- The appellant consumed Valium, several tablets.
- The prescription was not of his own. (Sedative drug).
- Defendant consumed with no thought. Not knowing the consequence or the effect of the drug.
- The appellant then started a fire at the property a few hours later.
- Criminal damage act 1971 raised as a conviction.
- The woman and her daughter were both at home in the other room.
- The defendant with intent has been charged for damaging the property.
- Intent to endanger lives through reckless behaviour.
- Defended his offence with the basis of not knowing the effect the sedative would have on his capacity ruling out mens rea.
- Defendant convicted by the judge overruling a further appeal.

The issues of insanity & automatism.



- According to Ormerod (2015), are we looking at a fair and equitable verdict for offenders with mental health systems in place to help trial the mentally incapacitated.
- The rules date back to 1843.
- The rules that govern have been criticised.
- Insanity & Automatism defences are confusing and outdated.
- The law does not keep pace with Psychiatric developments.
- Professionals do not always apply a legal test to determine the condition. Meaning it is a very rare defence.

Should there be a reform of law. Insanity & automatism.



- There are many reasons to reform the rules surrounding insanity & automatism.
- The protection of the public is the main concern.
- There are 'The M'Naghten rules. However, they are outdated.
- The mentally ill can also receive the fair trial deserved.
- Some will oppose the reform due to the credibility of the past and how the framework has been a spine for the argument.
- Subjected mens rea is a factor regarding the more serious cases.
- Scrutinising capacity with the assistance of two experts should always be a consideration.
- Intoxication is also a factor.
- The actus reus and mens rea being the main evaluation to determine the reform as it is a complex analysis.
- Parliament will hold the responsibility of reform.

- (Smith *et al.*, 2021, pp. 574-592).
- (UK, Government. 2016).

Research Timeline.

Researched
insanity &
automatism.



Looked into
the law
commission.



Various types
of research
completed to
analyse both
defences.



Researched
the
M'Naghten
rules.



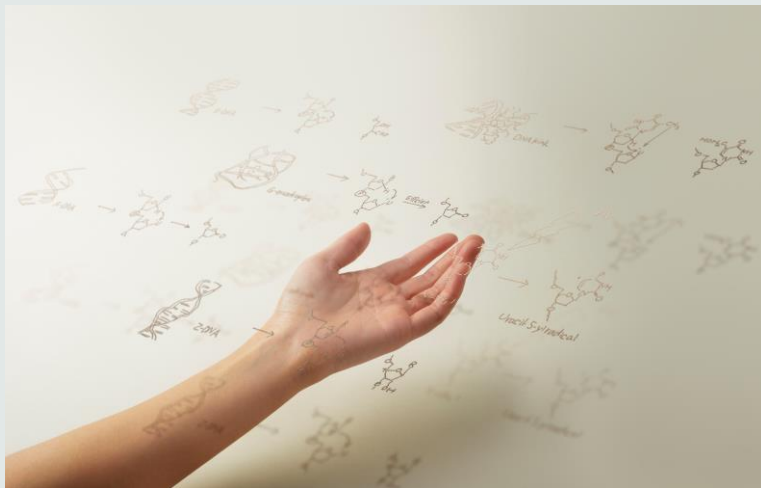
Read
textbooks,
websites of
academic
credibility
including
government
material and
YouTube.



Used key
case analysis
and
reference.
Researched
acts of
parliament.



Evaluated the
reform
through
thorough
research.



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