LEGAL CONSEQUENCES OF INSANITY

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Law regulates the professions

A principal function of law is to create order in society. In the performance of that role, law must necessarily affect every profession. Law, for instance, regulates the practice of the different professions, including the legal profession. One mode of doing this is by imposing licensure requirements. This means passing the medical board or Bar examinations, among others. The purpose of this requisite is to assure the public that those who are certified, possess the minimum standards of competence and moral fitness to practice their chosen profession.

Parenthetically, of the three original learned and noble professions, namely, the clergy, law and medicine, only the clergy has remained free from such licensure requirements. This is a clear tribute to the effectiveness of its efforts in regulating entry to the profession and in disciplining its own ranks. The negative implication, of course, is that Law and Medicine have been found wanting in these efforts. The implication is substantiated by the increasing number of malpractice suits filed against both lawyers and doctors. With the present political activism of some members of the clergy, however, it is possible that licensure requirements may likewise be extended in the future to cover that hold-out profession.

Of course, the relationship between law and the different professions, is not a one-way street. Modern science, for instance, is now capable of affirmatively pinpointing paternity. In one dramatic case, it went so far as proving that the twins involved have actually different fathers! In the Philippines, a husband faced with such a situation, could not introduce such scientific evidence in court. The law[1] raises an almost conclusive presumption of legitimacy in favor of children born during marriage. Only evidence of the "physical impossibility of the husband having access to his wife within the first 100 days of the 300 which preceded the birth of the child" can be admitted to rebut this legal presumption. In the face of such scientific accuracy, an amendment of this statutory provision is certainly called for.

Notwithstanding the foregoing interaction, however, the fact remains that law provides the framework for societal ordering. As the basic frame of reference, law must therefore dominate the various professions that it regulates. It is but proper then that symposia themes must invariably be Law and Medicine, Law and the Clergy, even Law and the Legal Profession, in that order.

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[1] CIV. CODE, Art. 255.

Expansion from Original topic of "Insanity as a Defense"

This paper will focus not only on the narrow topic of 'insanity as a defense' but will discuss the broader subject of 'legal consequences of insanity.'

The legal meaning of "defense" is taken from its popular signification of warding off an attack. To defend, in legal connotation, therefore, is to resist the claims of the plaintiff. While it is true that defense may be interposed in civil, criminal or administrative proceedings, nevertheless, the topic "Insanity as a Defense" is almost exclusively associated with the attempt to avoid criminal liability.

Exemption from legal responsibility,[2] however, is not the only consequence of insanity. The law is not all passive in the face of severe mental disorder. A more positive legal intervention such as compulsory hospitalization[3] and guardianship[4] may be called for.

An expanded topic, therefore, it would seem to me, makes a more significant contribution, to the agenda for Law and Medicine.

I will accordingly discuss the legal concept of insanity and its consequences in various proceedings. Having in mind the objectives that law seeks to attain, I will suggest the appropriate role of psychiatrists in assisting judges in making an accurate determination of the existence of that mental condition.

Legal Assumptions about the Nature of Man

An eminent legal philosopher defines law as "the enterprise of subjecting human conduct to the governance of rules." In its attempt to guide behavior and thereby "reorder man's faulty nature through the use of reason," he sees Law as "partaking the nature of the divine."[5]

Law performs an educative function by teaching social responsibility. This it does by prescribing the minimum conditions of man's responsibilities to his fellow human beings. Very simply, the law enjoins man to avoid the free use of violence, to comply with promises made and to deal justly and honestly with others. Violation of these "primary rules of obligation" are met with criminal penalties or civil sanctions. By this process, the law makes man aware of his social responsibilities and the consequence of his failure to discharge those duties.

Such a concept of law must of necessity assume a view of man as a free and responsible being, capable of choosing between right and wrong or between good and evil. By this, it is meant that man engages in conduct of his own free and intelligent choice. If he chooses to act in contravention of those moral standards set by society, he will be held legally responsible for his free choice.

Exemptions from criminal responsibility

It is upon this assumption about the nature of man as essentially self-deter-

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[2] REV. PEN. CODE, Art. 12 (1).

[3] REV. RULES OF COURT. Rule 101.

[4] REV. RULES OF COURT. Rules 92 - 97.

[5] *See* FULLER, THE MORALITY OF LAW (1964).

mining that he is not held personally liable for acts that he did not intend. Punishment is thus not meted out for accidental injury.[6] As once noted by Holmes, even a dog can distinguish between being stumbled over and being kicked. In the former situation, the dog merely yelps in pain but in the latter, it growls and attempts to bite.

Upon the same principle, penal law exempts from punishment, a person who commits a crime "under the compulsion of an irresistible force.[7] Being reduced to a mere automaton, punishment would be undeserved and, therefore, unjust.

For liability to attach, however, it is not enough that an act was done freely. It is further required that such act was performed intelligently. Penal law fixes nine years of age in a man's life[8] as the absolute cut-off point. Below that age, a child, no matter how mentally precocious, is held without capacity to form an evil intent and therefore completely exempt from criminal liability. Above nine and below 15[9] the youth is still exempt unless the prosecution can prove that he committed the criminal act knowing it to be wrong. This capacity to distinguish between right and wrong as the basis for criminal liability is termed by law as "discernment." Mental retardates, imbeciles and morons are similarly exempt from penal responsibility for lack of the requisite intellectual capacity.

Basis of Exemption by Reason of Insanity

While the basis for exemption in the foregoing situations is clearly either lack of free will or absence of intelligence, the basis for exemption by reason of insanity is not as well-defined. As will be discussed, it can be either one of these conditions or both of them together.

Not much of a problem is posed by the easy case of a person who commits a crime while he is "stark raving mad." Everyone can recognize that kind of insanity.

In connection with appeals for legal assistance made by persons who claim to have been erroneously committed or claim to have been cured of their mental disorder, I and some of my legal aid students have visited a few mental wards and institutions. There, we were able to observe patients with various manifestations of their ailments. Some talk with unseen beings; others obey the commands of unheard voices; and still others, with glazed eyes, are like the living dead. Truly, they are "out of their minds." Bereft of reason and without control over their conduct, they cannot be held legally responsible for the result of their behavior.

The difficult problem is presented in a case where a man, otherwise seemingly normal, commits a crime and claims exemption from punishment by reason of alleged insanity. Such a problem arose in the durable and famous case of *M'Naghten.*[10] Although decided a century and a half ago, in distant England, the principles laid down in that case continue to hold dominant sway to guide present day decisions in criminal cases where insanity as a defense is involved. This illustrates not

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[6] REV. PEN. CODE, Art. 12 (4).

[7] REV. PEN. CODE, Art. 12 (5).

[8] REV. PEN. CODE, Art. 12 (2).

[9] REV. PEN. CODE, Art. 12 (3).

[10] Clark & F. 200; 8 Eng. Reprint 718 (1843). *See* 70 A.L.R. 659.

just the well-known conservatism of law but, more importantly, pays tribute to sound reasoning that can transcend both time and national boundaries.

Legal Standards to Determine Insanity

1. The right-wrong test

M'Naghten was charged of murder for shooting to death Edward Drummond, Secretary to the Prime Minister of England. He had originally intended to kill the prime minister whom he believed, under a morbid delusion, was persecuting and hounding him. By mistake, he had shot to death Drummond instead. Other than this delusion, it seems that M'Naghten was functioning in a normal way. Upon a plea of insanity, the jury acquitted him.

Under the jury system, the jury gives no reason for its verdict. Only a terse announcement is made — "We have reached a verdict. We find the defendant guilty (or not guilty) of the crime charged." If the verdict finds the accused guilty, an appeal may be taken from the conviction. The decision on the appeal will elaborate on the reasons for affirming or reversing the judgment of conviction. This will provide guidance in deciding future cases of a similar nature. On the other hand, an appeal by the prosecution from judgment of acquittal, or a verdict of 'Not Guilty,' is not allowed. Such an appeal is held to be violative of the constitutional provision that no man shall be twice put in jeopardy of punishment for the same offense.

M'Naghten's acquittal on his defense of insanity attracted considerable interest and caused consternation by its lack of reasons. This prompted the House of Lords to invite the English Judiciary to answer questions propounded to them on the issue of insanity. It was from this session that the famous *M'Naghten Rule* was formulated.

The first test for determining the issue of insanity is whether or not the defendant knew the nature and quality of the act that he was doing at that time. If, for example, the accused thought that he was squeezing juice out of a lemon but was in fact strangling a person by the neck, he is completely out of his mind and would, therefore, not be held responsible for the resulting death or physical injuries. A negative answer to this question, thus, exempts from punishment.

Assuming an affirmative answer, however, the next issue to be faced is whether the defendant knew that what he was doing was wrong. In the case of a partial delusion, as that of M'Naghten's, the issue must be confronted as though defendant's belief under his insane delusion was real. Thus, if under his delusion, the defendant believed that someone approaching him was going to take away his life and, in supposed self-defense kills that man, he is exempt from punishment. Had the facts been as he believed them to be, it would not have been wrong, but right for him to take away the life of another to preserve his own.

2. The irresistible impulse test

In 1929, a supplementary test was added to the *M'Naghten* standard, which psychiatrists had criticized as inadequate.

It was reasoned out that "the science of psychiatry recognizes that a man is an integrated personality and that reason, which is only one element in that personality, is not the sole determinant of his conduct. The right-wrong test which

considers knowledge or reason alone, is therefore an inadequate guide to mental responsibility for criminal behavior." [10a]

This supplemental standard formulated in *Smith v. US*[11] is called the "irresistible impulse" test. The issue to be confronted here is whether the diseased mental condition of the defendant had deprived him of the will power to resist the insane impulse that led him to commit the crime charged. This test is a recognition that emotions and feelings influence human behavior. A legal postulate being what it is, reason and will must always attempt to subjugate the emotions in determining conduct. It is only when mental disease so affects the emotions as to overpower reason that exemption from punishment is made.

The *irresistible impulse test* was in turn subjected to criticism since the term "carries the misleading implication that diseased mental condition produce only sudden, momentary or spontaneous inclinations to commit unlawful acts."[11a] In many cases, however, as in the case of melancholia, this is not true at all. As noted by the British Royal Commission on Capital Punishment:

> The sufferer from this disease (melancholia) may believe, for instance, that a future of such degradation and misery awaits both him and his family that death for all is a less dreadful alternative. Even the thought that the acts he contemplates are murder and suicide pales into significance in contrast to what he otherwise expects. The criminal act in such circumstances may be the reverse of impulsive. It may be coolly and carefully prepared; yet it is still the act of a madman.[12a]

The Report containing the foregoing hypothetical example was made in 1953. In 1970, an actual case [12] was decided in California that seemed to fit the example. Albert McQuiston was a former soldier who married a Japanese girl, Kay Sadako, while he was stationed in Okinawa. After his discharge, the couple together with their 2 daughters made their home in Sacramento. McQuiston had a very close relationship with his two daughters but the marital relationship broke down over mutual infidelity. The wife finally decided on divorce. For the sake of their two daughters, then aged 10 and 11 years, McQuiston earnestly sought a reconciliation with his wife. He was convinced that, because of their mixed parentage, their lives would "go to hell" and they would just be "pushed around" unless he was there to protect and guide them. If divorce would be granted, his wife would get custody of their children.

When his wife refused to reconsider her decision to get a divorce, he got his rifle and threatened to shoot her and then kill himself. His wife said, "go ahead." With that, defendant felt that he "had to" do as he threatened. He then shot his wife three times — in the face, the abdomen and the pelvis. Thereupon he proceeded to the bedroom and despite the cries of his daughters, shot them repeatedly and fatally. He then rigged a coat hanger to the trigger of his rifle and attempted to shoot himself but only inflicted a minor injury.

[10a] Durham v. U.S. 214 F. 2d 862, 871 (1954).

[11] 36 F. 2d 548 (1929)

[11a] Durham v. U.S. 214 F. 2d at 873.

[12a] See Royal Commission a Capital Punishment, 1949 - 1953 Report 110 - 111 (1953).

[12] People v. McQuiston 90 Cal. Rptr. 687; 12 Cal. App. 3d 584 (1970).

A psychiatrist testified that McQuiston was rated an "extremely unstable individual" while he was in the army. He suffered from a "moderately severe emotional difficulty." Despite this, he was held to be legally sane, applying the *M'Naghten* right-wrong test, and convicted of killing his entire family.

3. The substantial capacity test

In 1972, a reformulation of the standards for evaluating the validity of insanity as a defense in criminal prosecutions was made in *U.S. v. Brawner.*[13] This integrated *M'Naghten's* right-wrong test and *Smith's* irresistible impulse test. The *Brawner* rule is known as the 'substantial capacity test.' Under this standard, a "person is not responsible for criminal conduct if, at the time of such conduct, as a result of mental disease or defect, he lacks substantial capacity to appreciate the wrongfulness of his conduct or to conform his conduct to the requirements of the law." [13a] The new test then goes on to define the terms "mental disease or defect" as including "any abnormal condition of the mind which substantially affects mental or emotional processes and substantially impairs behavior controls."

Burden of Proof

In general, the Philippines follows the standards set in the United States for determining insanity to exculpate from criminal responsibility. We diverge, however, on the issue of who has the burden of proving that mental condition.

The constitution[14] establishes the presumption that every person is innocent of wrongdoing. Accordingly, the burden of proving that the defendant has committed the crime charged rests upon the prosecution.[15] This requires proving, not only the acts done by the defendant but also the criminal intent that accompanied their performance. Following this theory, the prosecution must prove that defendant was sane and capable of harboring a criminal intent. This is the rule followed in Federal prosecutions and in many states of the United States.

In the case of *People v. Bonoan*[16] our Supreme Court laid down a different rule. The assumption of our legal order is that man is a free and responsible agent. This presumes that every man is sane and that he intends the ordinary consequences of his acts.[17] Further, the law also presumes that an unlawful act is done with an unlawful intent.[18] The function of legal presumptions is to dispense with proof of the fact presumed. Since the prosecution is favored by these presumptions, the burden of proving the defense of insanity is shifted to the defendant who asserts it.

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[13] 471 F. 2d 969 (1972)

[13a] 471 F. 2d at 969.

[14] CONST., Art. IV, Sec. 19.

[15] REV. RULES OF COURT, Rule 131.

[16] 64 Phil. 87 (1937).

[17] REV. RULES OF COURT, Rule 131, Sec. 5 (c).

[18] REV. RULES OF COURT, Rule 131, Sec. 5 (b).

Evidence of Insanity

How does a defendant who claims insanity as a defense to a criminal charge prove that fact? And at what point in time must he show the existence of that mental condition?

To exculpate from criminal responsibility, insanity must be shown at the very moment that defendant was committing the crime. But since what goes on in a person's mind cannot be seen how can the defense prove that the accused did not know exactly what he was doing or that what he was doing was wrong? Total absence of motive in killing the deceased was considered by the court in *People v. Bascos*[19] as inferring insanity. In *People v. Bonoan*,[20] The evidence acquitting the defendant for killing the victim who had repeatedly broken his promise to pay his debt consisted of proof showing that defendant was admitted and confined for several days in a mental hospital nine years before; that 4 days prior to the crime, he was treated for insomia which usually precedes the onset of his illness; and that several days after the crime, defendant was confined for *dementia praecox* wherein homicidal attacks are common.

It must be pointed out that a strong dissenting opinion was registered in this case. It was observed that no evidence was adduced to show the claimed insanity at the time the accused committed the crime. Presumption of continuity of the mental disorder could not be premised on a confinement so long ago as 9 years before. Insomnia is not evidence of insanity. The subsequent insanity could be attributed to the trauma and shock of committing murder. On the contrary, the dissent argues that the fact that defendant armed himself two days before and sought out the victim until he found him and thereupon killed him, shows deliberation, and planning that should qualify the crime to murder.

The rule has further been made that evidence of past criminal conduct or antisocial actions are not admissible to show mental disease unless they are cited by expert witnesses whose professional opinion is that such conduct or actions are characteristic manifestations of a mental disease. Were the rule otherwise, recidivism and habitual delinquency instead of being aggravating, would become a means of escaping punishment.

Consequence of Acquittal for Insanity

Contrary to what is expected as the usual outcome of an acquittal, which is release from confinement, freedom and jubilation, an acquittal of a defendant by reason of insanity is followed by loss of freedom and confinement in a mental institution.[21] From the wordings of the law, it appears that the court acquitting the accused has no alternative but to order such confinement. Despite normalcy during the entire period of a protracted trial, which may last for years, and notwithstanding that he appeared sane during the promulgation of the judgment of acquittal, the accused must be confined.

In order to secure his discharge from the hospital , the acquitted accused must file a petition for that purpose with the court that ordered his confinement.

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[19] 44 Phil. 204 (1922).

[20] 64 Phil. 87 (1937).

[21] REV. PEN. CODE, Arts. 12, 101 (2).

Although this statutory provision has been with us for more than 50 years and despite the revision of the Rules of Court in 1964, there is still no procedural rule governing the discharge of persons committed upon their acquittal on the ground of insanity. Thus, it is not known when a petition for discharge may be filed. Conceivably, it could be filed a day after confinement. Neither is it clear as to what ground may be alleged for such discharge. In one case,[22] it was held that the committing court has no power to order the release of the acquitted accused without first obtaining the opinion of the Director of Health that he may be released "*without danger.*" This ground seems to have been borrowed from the civil commitment process,[23] which will be discussed shortly.

A significant problem in this connection arises from the fact that the criminally insane are generally sent for confinement in the National Mental Hospital at Mandaluyong. The law, however, requires that the petition for discharge must be heard and decided by the court that committed the accused. Very often, that court is located at a place far removed from the place of confinement. Transportation and security arrangements for the accused, waste of medical time for doctors to attend hearings in a distant court, transfer of medical records and financial expenditures for these activities, are some of the practical problems that are encountered.

Clearly a reform is indicated in this area. A new procedural rule must be formulated to govern how and on what grounds a committed defendant may be discharged. Further, a statutory amendment is necessary to provide authority for a change of venue from the committing court to any court of similar jurisdiction sitting in the place where the accused had been ordered confined.

Other Consequences of Insanity in Criminal Proceedings

1. Suspension of trial proceeding

I have so far discussed the consequences of insanity occuring at the time the crime is committed. These are exempting from criminal responsibility but with commitment to a mental institution.

If the mental disorder occurs on or persists up to the trial, further proceedings are suspended until the accused has recovered his reason. Here, however, the standard for determining insanity is different from those utilized for criminal exemption.

This is known as the 'competency to stand trial' test. Like the discharge from commitment, this is another area that is not well-developed in our jurisdiction. Aside from providing that present insanity is a ground for a motion to quash, our Rules of Court do not provide for standards to determine that competency. Again, we have to draw from the American experience.

The Rules of Court provide that an accused shall have the right "to be present and defend in person and by attorney at every stage of the proceedings"[24] of the criminal prosecution. In *Ashley v. Pescor*,[25] it was held that this includes

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[22] *Chin Ah Foo v. Concepcion*, 54 Phil. 775 (1930).

[23] REV. RULES OF COURT, Rule 101, Sec. 4.

[24] REV. RULES OF COURT, Rule 115, Sec. 1 (b).

[25] 147 F. 2d 318 (1945).

not only his right to be *physically present* and to assist in his own defense but also embraces his right to be *present mentally* as well.

There are two tests to determine competency to stand trial. The *first* requires a factual and rational understanding of the charges and proceedings against him. The *second* requires the capacity to recall events of his life so that he can furnish to his counsel relevant facts for his defense during the trial of the charge against him.

Aside from the omission to provide for standards, the Rules of Court also fail to provide for a procedure for determining competency. It is thus not clear whether evidentiary hearing or psychiatric testimony is required to make that determination. As a result, each judge who is confronted with this issue feels free to suspend trial on a mere medical certificate issued by a doctor who may know very little about mental disorders.

It may be years before a defendant who has been committed by reason of incapacity to stand trial, is returned to the court for trial. By that time, evidence relating to the issue of insanity as an exempting circumstance may have been lost. In the United States, a preliminary proceedings to determine the issue of insanity as a defense is allowed notwithstanding determination of present incompetency for trial. Upon a finding of insanity at the time of the crime, the charge is dismissed. On the other hand, if the defendant is found sane at that time, trial is suspended until such time as defendant is returned as competent to stand trial.

A similar problem is also encountered in the Philippines, probably in an even more aggravated form, where not only evidence but even court records and stenographic notes get lost. A procedural reform along these lines is indicated.

2. Suspension of penalty execution

Insanity may further occur after final judgment convicting the accused of the crime charged or during the service of his sentence. It is not unusual that the trauma of conviction and the grim prospect of prison life or the harshness and degradation of prison existence, may break a person's mind. In such a situation, the law provides that the execution of the sentence or the service thereof shall be suspended.[26] The insane convict or inmate shall then be committed to a mental institution for treatment of his ailment.

While there are clear standards for determining insanity for purposes of exculpation or trial suspension, there are no tests that have been formulated by appellate courts to determine insanity for suspending service of penalty. This is understandable. The decision to suspend the execution or service or penalties is an administrative action of prison administration. So far, lawyers and legal scholars have not focused their attention on this particular field in the administration of criminal justice. Arbitrary decisions of prisons officials have thus far escaped legal challenge by lawyers. It is hoped that this inattention will not be for long in the interest of promoting the rule of law that we all aspire for.

Be this as it may, the standard to be formulated should be related to capability to understand the purposes of punishment. The reason for suspending penalty by reason of insanity is that it is futile to impose punishment upon one who does not understand the penologic objective sought to be realized. Ergo, if

[26] REV. PEN. CODE, Art. 79.

a convict understands the reason for his punishment notwithstanding his mental disorder, service or penalty would not be suspended.

Consequences of Insanity in Civil Proceedings

So far, I have been discussing the consequences of insanity during the various stages of the criminal process, namely, at the commission of the crime, before or during the trial and, finally, after conviction or during the service of sentence. Let us now turn our attention to the civil process.

1. Absolves from civil liability

The civil code defines "capacity to act" as "the power to do acts with legal effect."[27] In general, this means the power to enter into binding contracts that are enforceable by law. As with criminal law, civil law also assumes that man is a free and responsible agent. It therefore recognizes that responsibility cannot be imposed for acts done by a person who is insane. By express provision, the law states that capacity to act is limited, restricted or modified by insanity and imbecility, among others.[28] This means that contracts entered into with an insane person are not legally enforceable.

In one case,[29] the defendant had accumulated a large amount of indebtedness by his compulsive gambling. He also borrowed large sums of money from the plaintiff bank which he deposited to his current account from which he withdrew by checks. Eventually, he incurred an overdraft amounting to P158,000.00.This was in 1903 so that at present rates, this would now be worth millions. Subsequently, a guardian was appointed over the person and estate of defendant on the ground that he was a spendthrift, a prodigal and incapable, mentally and physically, to manage his estate and take care of himself. On the defense of mental incapacity, the trial court held him irresponsible for his debts. The Supreme Court, however, reversed the lower court's decision. A man who loses P20,000.00 in gambling, settles it for P1,000.00 in promissory notes which he redeems at 10% of its value, cannot be said to wanting in mental capacity. Defendant was accordingly held liable on his promissory notes.

Like insanity that suspends penalties, no clear standard has been formulated to determine insanity that absolves from civil liability. May not compulsive gambling be attributed to a mental disease or abnormality analogous to kleptomania? May the *irresistible impulse test* or *substantial capacity test* of criminal law be applied to absolve from civil liability? These are issues that must be authoritatively determined either by adjudication or rules promulgation if equal justice is to be attained.

2. Ground for compulsory civil commitment

Another legal consequence of insanity in civil proceedings is that it may lead to compulsory confinement for treatment. Not all demented persons are

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[27] CIV. CODE, Art. 37.

[28] CIV. CODE, Art. 39.

[29] International Banking Corporation v. Martines, 10 Phil. 242 (1908).

compelled to be hospitalized. There are a number of obviously insane persons who are wandering around. I know of one woman probably in her mid-forties, who regularly goes to church with a cape around her shoulders and a gold foil tiara atop her head with its bleached blond hair. I suppose that in her delusion, she fancies herself to be a beauty queen. Regular churchmembers have come to tolerate her presence since she does not otherwise engage in offensive behavior. In fact, she gives the impression of being kindhearted. She creates no fear or apprehension even to those who sit in the same pew with her. No one, therefore, has ever sought the assistance of the authorities to compel her hospitalization.

This is as it should be. For it is only when the demented person pose a danger to himself or to others that compulsory commitment should be resorted to. Such a situation was presented recently by a man walking along Quezon Avenue towards oncoming vehicular traffic, shouting and gesticulating wildly. Screeching brakes and careening cars trying to avoid hitting him clearly showed the danger that he posed to himself and to the public.

Procedure for Compulsory Confinement

Under our Rules of Court, a petition for commitment must be filed by the Minister of Health or his representative when in his opinion the person sought to be committed is insane and that such confinement is required for the public welfare or his own welfare.

In one case that our office of legal aid handled, the husband of our client filed a petition for the commitment of his wife as a lunatic. The wife had earlier filed a charge of concubinage against her husband who sought dismissal on the ground that the complaint was filed by a mental incompetent. Our argument that the issue of insanity is irrelevant to and would not absolve him from the charge, was upheld. Hence, the petition to commit. The court dismissed the petition on our motion that a private person has no standing to file an action for commitment. Unfazed by these reverses, the husband resorted to force. On her way to testify on the concubinage charge, the wife was waylaid and forcibly confined in a mental institution. We secured her release by a petition for habaes corpus filed with the Supreme Court. Inferentially, this upheld our theory that this could not be considered as a voluntary confinement by family since the husband was living separate and apart from the wife.

Role of Psychiatrists and Expert Witnesses

We come now to the appropriate role of psychiatrists and other behavioral experts who testify in legal proceedings on the issue of insanity.

My first suggestion to the expert witness is for him to know and bear in mind the particular purpose of the legal proceedings in determining insanity. Is it for the purpose of exculpation from criminal or civil responsibility? Or for suspension of trial or suspension of penalty? Or is it for commitment to a mental hospital? As I have discussed it, each of these purposes have developed their own separate standards or criteria to determine insanity. My second suggestion, therefore, is for the expert witness to know what these tests are.

In order to effectively assist the judge in determining whether the subject is insane for the particular purpose of the legal proceeding being participated in, my third suggestion is for the expert witness to try to avoid as much as possible the use of psychiatric labels and professional jargon. If their use is unavoidable, full explanation must be made of their meaning, not in abstract terms but in relation to the character, personality and conduct of the particular defendant concerned.

In the case of exculpation from criminal responsibility, expert testimony must be directed to showing the causal relationship, if any, between the mental illness or abnormality and the criminal act. This means showing that the crime was the "result" or the "product" of the disease. In other words, that the crime would not have been committed were it not for the insanity suffered by the defendant.

The psychiatrist must bear in mind that the clinical, diagnostic meaning of the term 'insanity' may be different from its legal meaning. From the medical point of view, the diagnosis of a mental disease is made with a view to treatment and cure of the disorder. The legal meaning relates to a particular objective such as exculpation, commitment or the like. His testimony must be directed towards its legal meaning.

Conclusion/Recommendations

We now realize how complex the subject of insanity is. It is true that I have only scratched the surface. But I have discovered that essential standards have not been formulated and procedural rules have not been laid out to guide judicial discretion in absolving from civil responsibility or in suspending trial by reason of insanity; or to guide administrative discretion in suspending service of penalty on account of mental illness. In addition to other suggestions, I recommend the formulation of such standards and the adoption of those rules. I urge that they be given serious thought and consideration to the end that our objective of attaining the ever elusive ideal of speedy justice and the rule of law may be approximated.