

MENTAL ILLNESS AND THE LEGAL RIGHTS
OF THE INDIVIDUAL

by

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PREFACE

Choice of an appropriate topic for a project paper is never an easy task, so it was with some deliberation that the writer embarked upon the present topic, which after all is not a popular one. The unpopularity of the subject of mental illness is very obvious, whether on the medical side or the legal. The writer finds difficulty in doing this project paper as there are limited references, texts and cases available.

It is the writer's greatest wish to explode the myth which surrounds the mentally ill person and to show that they need as much attention as any other class of patients.

This project paper is concerned with the laws relating to mental illness and the ways in which they may affect us. To understand the law it is necessary to know something about mental illness, its treatment and the mental health services, and these subjects will be covered in the early chapters. The greater part of the project paper, however, will deal with mental health legislation, including the law on fitness to be tried and to plead, diminished responsibility, the Mental Health Act of 1959 and the Mental Health Act 1983.

The writer would like to apologise for any error, omissions or lacuna that may be found in this project paper, and the writer takes sole responsibility for such flaws.

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CHAPTER 1

INTRODUCTION

A. Purpose Of The Study

Much of the ancient-day myth concerning mental illness still remains a present day phenomena and it is not surprising to find that in Malaysia, the mentally abnormal/mentally illness patients are very commonly treated as outcast.

This project paper is about the Law and its relationship to mental illness; and important subject, since any of us might suffer from a mental illness and as a result become involved with the law in some way. Not only does one in ten of the population suffer from an actual mental illness at some time in life, many more are affected by emotional disturbances.

It is the writer's hope that the writing of this paper will arouse greater public interest in the subject and in so doing to further remove the public prejudice heaped upon the unfortunate victims of mental illness. This is important as public cooperation is very necessary for the rapid rehabilitation of these patients. So it is useful for everyone to know something about psychiatry and the law in general, and about their interaction in particular.

Solicitors, advocates, magistrates, judges, social workers, probation officers, the police and doctors need not only to know about mental illness and the law, but also to be aware of what is available to the mentally ill in the form of treatment, care, support and accomodation.

B. Definition of Mental Illness

Introduction

Everyone seems to know something about Mental Illness People call each other 'mad', 'neurotic', 'stupid', and use many other terms that imply mental illness or abnormality.¹

However, when it comes to specifying what is meant by these terms, difficulties immediately arise. Like madness and its synonyms, normality and abnormality are words in common use and the people who use them generally have a clear idea of what they mean.

What is Meant By "Mental Illness"

Actually there is no legal or medical definition of the term, and psychiatrists do not completely agree upon its meaning.

¹ See Ward-Reaton, W.A (1967) On "Mental Illness, Mental Sub-normality..." Bristol, John Wright.