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New research warns of the lack of specialization when judging individuals with mental disorders

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Research carried out by the [Department of Criminal Law](#) of the [University of Granada](#) has analysed for the first time all the criminal sentences passed in Spain since 1870 in which the defendant was acquitted of the charge or the sentence was reduced on account of mental disorder.

This research, in which more than 3000 sentences were studied, has reported the need for greater cooperation between Criminal Law and Psychiatry at determining the effect of each disorder on the individual's responsibility, and also warns of the lack of specialisation of forensic scientists in charge of determining the mental condition of the accused. As these forensic scientists have no specific training in Psychiatry, sometimes medical reports do not provide the full guarantee needed.

The research, carried out by Doctor Gema Mar?Fonseca Morales and directed by professor Mar?José Jiménez D?, has revealed that under previous Penal Code and Spanish justice has maintained a hesitan, fluctuating and sometimes contradictory line in cases regarding some alterations such as personality or neurotic disorders. However, since the implementation of the current punitive text, sentences are proving more rigorous from the perspective of medical-psychiatric science and closer to current international classifications of mental diseases.

This [UGR](#) research has revealed that the main axis of jurisprudence in this field is the poor application by the Spanish Courts of the complete exemption of criminal responsibility. This can be attributed to the fact that for a very long period of time a complete and absolute alteration of reasoning and willing capacity (in practice nearly a coma) was necessary to declare incapacity for responsibility. This is an untenable requirement as in this situation it would be barely impossible to offend.

Better regulation

This research has showed that article 20.1 of the current Penal Code (which includes abnormality and mental disorder as grounds for exemption) is much better than its predecessor, as it is a very extensive formulation covering any kind of mental disorder if there is a certain psychological effect that causes the incapacity to understand the illegality of the action or to act according to that understanding.

Finally, the research also reports that, because of their high cost, judges make limited application of security measures when there is an exemption on the account of abnormality or mental disorders.

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