

A COMPARATIVE ANALYSIS OF THE CRIMINAL LAW FRAMEWORK FOR MENTALLY ILL MURDERERS: A CASE STUDY OF ASEAN COUNTRIES

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Abstract

This research analyses the criminal legal framework applied to mentally ill homicide offenders in several ASEAN countries. The aim is to understand how each country deals with these cases, and evaluate the differences and similarities in legal approaches and implementation of psychiatric evaluations. This research reveals that there is significant variation in the way ASEAN countries draft and implement criminal laws relating to mentally ill offenders. While the general principle that mentally ill offenders require special treatment is recognised, the study results indicate major differences in rehabilitation policies, use of psychiatric evaluations, and sentencing practices. These findings point to the importance of integrating more holistic and rehabilitation-focused policies to support the recovery and reintegration of mentally ill offenders into society.

Keywords: Comparative Analysis, Criminal Legal Framework, Murder Offenders, Mental Illness, Asean Countries

Introduction

Murder is one of the most serious forms of crime and has significant legal consequences in almost all jurisdictions in the world. However, the complexity of murder cases increases when the offender is found to be mentally ill. This is because of the conflict between justice for the victim and society and the protection of the mentally challenged offender.

A mental disorder, or mental illness, is a health condition that affects a person's thoughts, feelings, behaviour or mood, resulting in significant difficulties in functioning in daily life, work or social relationships. (Allen, 2020). These disorders can range from common conditions such as depression and anxiety, to more serious disorders such as schizophrenia and bipolar disorder. A diagnosis of a mental disorder usually requires an evaluation by a mental health professional based on observed symptoms as well as the individual's medical history. Mental disorders generally require treatment involving medical approaches, psychological therapies, or a combination of both to help individuals manage symptoms and improve their quality of life (Loveless et al., 2022)..

In ASEAN countries, the regulation and approach to mentally ill homicide offenders shows significant variation. Some countries adopt a more rehabilitative legal approach and focus on medical treatment, while others continue to apply criminal penalties albeit with some leniency. These differences reflect the diverse cultural backgrounds, legal systems and policies of countries in the ASEAN region. For example, Indonesia has Article 44 of the Criminal Code which stipulates that a person who commits a criminal offence due to mental illness cannot be convicted. (Monaghan, 2022). On the other hand, Singapore has the Mental Health (Care and Treatment) Act