

本期企劃

偽裝精神障礙無法逃死

Disguising a Mental Disorder
Cannot Escape Death

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摘要

113年憲判字第8號判決對死刑適用於精神障礙或心智缺陷被告的影響，強調了罪責原則與精神狀態之間的關聯。該判決指出，若被告在犯罪時因精神障礙或心智缺陷無法完全辨識或控制行為，不得科處死刑。因此類被告不具完整的罪責能力，判斷罪責能力應依行為時的精神狀況。針對社會大眾的疑慮，假裝精神障礙並不容易成功，醫師專業能夠有效鑑別。行為人不能因為日後發生了精神障礙或其他心智缺陷，而否定行為當時具有正常的罪責能力，這並不符合罪責原則的真諦。

The 113rd Constitutional Court Judgment No. 8 emphasizes the relationship between the principle of culpability and the mental state of defendants, particularly in cases involving the application of the death penalty to individuals with

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mental disorders or intellectual disabilities. The judgment states that if a defendant, at the time of the offense, was unable to fully recognize or control their actions due to a mental disorder or intellectual disability, the death penalty should not be imposed. Such defendants are considered to lack full culpability, and their culpability must be assessed based on their mental condition at the time of the offense. Addressing public concerns, the court highlighted that feigning mental disorders is unlikely to succeed, as professional medical expertise can effectively discern genuine conditions. Additionally, the judgment clarified that a defendant cannot negate their culpability at the time of the offense by claiming the onset of a mental disorder or intellectual disability later. This would contradict the essence of the “principle of culpability.”

壹、前言

2024年9月20日，113年憲判字第8號判決有關刑法修法部分指出，「被告於行為時有刑法第19條第2項之情形，不得科處死刑，始符合憲法罪責原則。……法院對於審判時有精神障礙或其他心智缺陷，致訴訟上自我辯護能力明顯不足之被告，不得科處死刑，始符合憲法保障人民生命權、訴訟上防禦權及正當法律程序原則之意旨。」

判決理由謂：「行為人於行為時既因精神障礙或其他心智缺陷，致其違法辨識能力已經明顯減低，則其法律上之可非難性自低於具完整之違法辨識能力者。因死刑既僅得適用於個案