

I19 An Overview of the Cultural Defense

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Learning Overview: The objective of this presentation is to review the “cultural defense” and discuss the role that forensic evaluators may play in assisting the courts in understanding such a defense. This presentation will discuss the intersection of mental health law, the criminal justice system, and psychological theory as they relate to cultural defenses.

Impact on the Forensic Science Community: This presentation will impact the forensic science community by demonstrating that mental health professionals can be pivotal in the evaluation of defendants bringing forth the cultural defense to explain their violent crimes.

The cultural defense has historically been raised by immigrants and used to negate *mens rea* and/or reduce culpability in cases involving violent crime. For example, the cultural defense has been used to reduce culpability in the context of honor killings. The cultural defense could potentially be used to understand the actions of defendants whose behaviors were influenced by the cultural norms from the community with which they identify even though viewed as criminal in the United States.

There are three paramount cases in which the cultural defense has been raised: *People v. Poddar*, *People v. Kimura*, and *People v. Chen*.¹⁻³ This presentation will focus on how the cultural defense has historically been used and implications for future use.

In *People v. Poddar*, the defendant, Prosenjit Poddar, was rejected by a classmate who he believed he had a relationship with.¹ Upon her rejecting him, he murdered her and subsequently argued that his cultural background impacted his perception of their relationship. He raised a cultural defense through the diminished capacity defense. He argued that at the time he committed the homicide, he was experiencing cultural disorientation and extreme emotional distress as a diagnosed paranoid schizophrenic, which rendered him incapable of fully understanding the nature of the crime that he committed.^{4,5}

In the *People v. Kimura*, the defendant, Fumiko Kimura, drowned her children and attempted suicide upon learning of the infidelity of her husband.² Kimura raised the Japanese concept of *Oya-ko shinju* (parent-child suicide) whereby it was a more intense crime for a parent to commit suicide and abandon her children than to murder the children.^{5,6}

In the *People v. Chen*, the defendant, Dong Lu Chen, bludgeoned his wife to death due to her alleged infidelity³. Chen was a Chinese immigrant and argued that cultural factors made him unable to formulate *mens rea* for the premeditated murder because in Chinese society he would have been stopped by the community from murdering his wife due to her infidelity. Chinese society would have recognized the blemish on his reputation and his now tarnished legacy due to the actions of his wife, but the society at large would have prevented him from committing murder. The judge in this case readily acknowledged that Chen, while a murderer, was also a victim of American society which failed to properly assimilate him and therefore failed to stop him from murdering his wife.

The aforementioned three cases describe how the cultural defense has been invoked in the forensic community by immigrants seeking to attribute violent behaviors and criminal acts to the cultural norms and traditions used in their respective ethnic groups. Although generally unsuccessful in avoiding punishment in United States courts, the cultural defenses have implications for how we understand the way criminal culpability is viewed through the mono-cultural lens of the American criminal justice system.

Reference(s):

1. *People v. Poddar*, 10 Cal.3d 750.
2. *People v. Kimura*, G.R. NO. 130805
3. *People v. Chen*, 2009 NY Slip Op 29280.
4. Renteln, A. (1993). Justification of the cultural defense as partial excuse. *Southern California Review of Law and Women's Studies*, 2(2), 437-526.
5. Wang, J. (2016, November 10). *Cultural Defense as a Shield for Violence*. Retrieved from <http://www.jgspl.org/cultural-defense-shield-violence/>.
6. Volpp, L. (2000). Blaming culture for bad behavior. *Yale Journal of Law and the Humanities*, 12, 89-116.

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