

# In criminal cases, if the perpetrator suffers from an intellectual disability, how can the court appropriately determine their criminal liability.

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## Abstract

In recent years, the number of **crimes involving intellectually disabled people** has increased. As a result, the validity of judgments regarding the criminal responsibility of the intellectually disabled is ambiguous. If the perpetrator's crime is caused by the symptoms of their intellectual disability, is it really right to punish them the same as , neuro-typical people? Based on a survey of past precedents, I **reviewed solutions** that would allow intellectually disabled people convicted of crimes to receive appropriate punishment.

## Intellectually Disabled

Compared to children of the same age, intellectual disability generally **lags behind in the development** of 'intellectual functions related to **cognition and language,**' and '**adaptive ability to exchange ideas with others,** daily life, social life, safety, work, and leisure use.' It is also said that this condition can change depending on environmental and social conditions. (Ministry of Education, Culture, Sports, Science and Technology)

From Reference [3]

IQ	Ability of Life	×		
I (IQ ~ 20)	最重度知的障害			<b>Most severe</b>
II (IQ 21 ~ 35)	重度知的障害			<b>Severe</b>
III (IQ 36 ~ 50)	中度知的障害			<b>Moderate</b>
IV (IQ 51 ~ 70)	軽度知的障害			<b>Mild</b>

## Problems with Trials

**There is no balance between the intellectually disabled perpetrator and the victim.**

[Case 1] In February 2018, a man A violently killed a colleague B. The accused was sentenced to light punishment at the trial for A's intellectual disability. On the other hand, B's family objected a lot and the trial was repeatedly re-tried.[4]

**Few judges and lawyers fully understand the characteristics of the intellectually disabled and have expertise.**

[Case 2] In December 2021, a mentally disabled woman C, dropped her child out of a window and killed the child.C was unable to answer questions from judges and lawyers and remained silent. As a result, judges and lawyers thought C admitted the charges. However, the psychiatric examiner's advice revealed that C's silence was a symptom of the intellectually disabled, and the crime was reduced.[5]

## Problems with Laws

**The criminal law is no in line with the current era.**

It was created in **1907**. There was **no concept** of intellectual disability. It is difficult for modern people to read and understand, and it is a way of writing that **makes a difference in the way they perceive it.**

## Conclusion & Future Prospect

We should make **new laws** that serve as the basis for trials for each level of intellectual disability. Clarify the criminal responsibility of the intellectually disabled and change the text to make it easier for modern people to understand.

**Create a draft of a new law, contact a mock trial or lawyer in law school, compile the completed law into a report, and submit it to politicians.**

## References

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