

# Personality Record and Its Role in Procedure (Case Study: Article 203 of Criminal Procedure Law)

Parastoo Fereydooni<sup>1</sup> & Ahmad Ramezani<sup>2</sup>

<sup>1</sup> Faculty of Law, Central Tehran Branch, Islamic Azad University, Tehran, Iran

<sup>2</sup> University of Science and Culture, Tehran, Iran

Correspondence: Parastoo Fereydooni, Faculty of Law, Central Tehran Branch, Islamic Azad University, Tehran, Iran. E-mail: pajuhesh.ab105@gmail.com

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## Abstract

Stability of delinquency phenomenon refers to the continuance of an anti-social behavior. The recognition criteria of this phenomenon can be analyzed based on the dominant social frameworks. Analyzing the personality of delinquents and adapting it to specific techniques of delinquency prevention also promoting the compatibility of delinquents with the environment is a process that requires biopsychosocial studies. Personality record consists of the results of psychological, medical, and social studies and experiments regarding the personality of defendants and delinquents. Personality record plays an important role in criminal justice management. The criminal procedure law has been presented in Articles 203 and 286 of the criminal law of Iran. Personality record is one of the achievements of clinical criminology. Criminal criminology analyzes the corrigibility of delinquents using other related sciences. It also identifies the deviation rate and possible dangers of dangerous individuals. Then it becomes possible to take measures to treat the particular disorders of delinquents. Considering these matters, the recent research aims at answering the question regarding the effect of young individuals' personality on the stability of delinquency. The main objective of this research is analyzing the role of personality record and techniques of preventing stability of delinquency among young individuals. The results of the recent research indicate that criminal procedure law has emphasized on the role of personality record in identifying penalties. However, according to the criminal procedure law, the process of analyzing the personality of delinquents has been limited to preliminary investigations.

**Keywords:** corrigibility, criminal law, delinquent, personality record, treatment

## 1. Introduction

Personality record is one of the achievements of clinical criminology. One of the most important tasks of clinical criminology is identifying treatment methods for delinquents based on their physical, mental, and spiritual features also estimating the degree of social abnormalities for each delinquent. Clinical criminology prevents reoccurrence of a crime. In other words, clinical criminology identifies the corrigibility of delinquents using other related sciences, determines the deviation rate and possible dangers of dangerous individuals. As a result, it becomes possible to take measures to treat the particular disorders of delinquents. The main focus of personality record is not on analyzing crimes but on analyzing the general personality of delinquents. These analyses help judges to determine penalties consistent with crimes to reform and treat criminals. Personality record is the first step toward the process of individualizing penalties and administering justice in criminal procedure law known as restorative justice policy (Ashouri and Azimzadeh, 2013). However note that in Iranian legal system, investigations and analyses of judges and in case of need law enforcement officials regarding different dimensions of defendants' personality rely on criminal proceedings but in crime detection, preliminary investigations, criminal prosecution, and trial (refers to the process of sentencing defendants or passing a verdict) processes, personality record is not separate from criminal proceedings. Therefore, the lawmaker can't neglect it. In other words, all the Articles of criminal provisions are related to the personality record. As a result, development of delinquency prevention techniques requires an efficient analysis of personality disorders based on psychological and social theories. Therefore, analyzing the personality of delinquents and adapting it to specific techniques of delinquency prevention also promoting the compatibility of delinquents with the environment is a process that requires biopsychosocial studies. This research aims at finding the best answer to

the question about the effect of young individuals' personality on the stability of delinquency. This research analyzes the role of personality record and delinquency prevention process among young individuals.

## 2. Method

This research has formed based on a descriptive-analytical method. It is a descriptive study because it has analyzed the different parameters, approaches, internal and external references regarding personality record. This research is also considered as an analytical method because it analyzes the social relations to identify the research variables.

### 2.1 *The Conceptual Explanation of Personality Record and Its Requirements*

Positivism school is one of the main historical schools that has affected the ideologies and lives of people in different societies in both direct and indirect manners. One of the most important achievements of positivist scholars is "personality identification method". The main focus of positivists was always on analyzing the personality of delinquents. Traditionally, they have analyzed the family and social statuses also the drivers of delinquency in different individuals in order to promote the abilities of criminal justice system in the process of individualizing social reactions using social, medical, and psychological records (Ashouri, 2013). The conceptual explanation of personality record requires an efficient analysis of possible dangers resulted from personality disorders. This condition is called "dangerous status". The results of analyzing different personalities of delinquents indicate that the resistance threshold of delinquents is less than other individuals so they can be easily perverted. When delinquents become anti-social, they can't make stable relationships with others. On the other, they may act in an impulsive manner. For example, escape from school or home, tell lies, or use drugs (Ibid). "Schizophrenia" or "Schizotypal Personality" is considered as one of the most important personality disorders in delinquents. Other disorders including restlessness, obsession, isolationism, illusionism, negativism, dissociative/multiple personality disorder, hysteria, aggression, and "antisocial personality disorder" which is also known as social neurosis or hatred of society lead to constant struggles of young individuals with others (Salimi and Davari, 2001). Analyzing dangerous status, its features, and quality requires the formation of personality record or analysis of criminal personality of individuals (Ebrahimi, 2010). Dangerous status is a mental and spiritual concept which refers to an impending stable process in the delinquents' lives (Salami, 1983). This status is the result of social and individual dangerous factors that affect an individual and motivate him/her to commit a crime. Dangerous status is the interaction of criminal capacity with social compatibility. Persistent delinquency requires high criminal capacity and low social compatibility.

Dangerous status has two different forms:

- A) Impending dangerous status
- B) Persistent dangerous status

Impending dangerous status is a critical phase that most delinquents suffer from it before resorting to violence but in chronic dangerous status, the delinquents' behaviors are so persistent that leads to an inevitable social incompatibility. The chronic dangerous status is recognized when individuals become experienced and professional delinquents. As a result, persistent social incompatibility and tendency toward persistent delinquency increases in a gradual manner. Dangerous status is recognized before the formation of behavioral disorders and it leads to behavioral disorders only in individuals who have been exposed to dangerous factors (Harrington 2003).

### 2.2 *Personality Record in Court Procedures in Connection with Child and Juvenile Delinquency*

Traditionally, personality record first used in court procedures in connection with child delinquency and later became an efficient tool in criminal procedure in relation to juvenile delinquency. The formation of personality record in the positive law of different states has led to fundamental changes in criminal law. In general, these changes include a series of legal procedures which start before someone commits a crime and end with the execution of judgment. In the current Iranian criminal justice system, only judges can make decisions about the formation of personality record in court procedures in connection with child and juvenile delinquency. According to the Article 222 of Iranian criminal procedure law, "If it becomes necessary to gather information about the mental and psychological conditions of a child, his/her legal guardian, and home surrounding of the child, the court can issue an order or attract experts' attention to this matter". In the current criminal procedure law, the formation of personality record is not an obligatory act but those who identify the principles of criminal procedure have obliged the court to use personality record in court procedures in relation to child and juvenile delinquency. However, in other cases, there is no need to use this record. Article 286 (chapter nine, second section) of the bill regarding the preliminary investigations of child and juvenile delinquency has emphasized on

the fact that juvenile court can issue an order in connection with the formation of personality record for defendants (Lahooni, 2015). In addition to the current principles and the new bill, the regulations of the juvenile justice system (10/10/1968) have focused on the formation of personality record for delinquent children and teenagers. According to this bill, the physical, mental, and psychological conditions also the professional talents and skills of delinquent children are examined by juvenile justice system's experts during temporary detention. Then the total records are analyzed in a council with the attendance of the head of juvenile justice system and experts who have examined the delinquent children. The final report will be drawn up in two copies regarding the real personality of these children and the strategies that can help delinquent children to avoid delinquency. One of these copies will be issued to juvenile court and the other one will be preserved in the personality record of delinquent children. All the related reports and the results of examinations done by social workers and experts are kept on this record. Personality record has two parts: judicial and social (Ibid).

### *2.3 Personality Record in Court Procedures in Connection with Adult Delinquency*

Although in Iranian Judicial system, formation of personality record in court procedures in connection with adult delinquency is not predictable, the Article 203 of criminal procedure law (23/2/2014) has referred to the requirements of this record. Some legal experts believe that judicial authorities should form personality record in order to follow some regulations of criminal law (Moazzenzadegan, 2010). For instance, a judge can issue an order regarding the formation of personality record in order to identify the discretionary punishment and attenuating factors consistent with the records or crimes of defendants (Lahooni, 2015). Also another regulation regarding prison organizations and security and educative measures in criminal law of Iran (11/12/2005) or legal terms of 2009 has emphasized on the formation of personality record. According to Articles 47 and 63 of this regulation, each prison has a unit which has been allocated to analyzing and identifying different personalities of defendants and classifying them using experts' services. Article 64 of this regulation has explained the process of personality record formation. Despite of Articles 47, 63, and 64 of the mentioned regulation regarding the formation of personality record for defendants, modern criminal courts don't give consideration to these rules. Therefore, forensic medicine believes that according to Article 51 of Islamic penal code, every level of insanity exclude criminal responsibility so it is necessary to see whether the defendant is insane or not. However, civil law has identified penalties consistent with Article 205 of Islamic penal code and based on the criminal act of delinquents (Danesh, 2007). This form of punishment is called retaliation. Note that in Article 203 of criminal procedure law, the lawmaker has emphasized on the formation of personality record regardless of age limitation:

In cases that criminal punishment includes deprivation of life, amputation of limbs and extremities, life imprisonment, or discretionary punishment also in intentional crimes against corporal integrity that blood money is one-third of the complete blood money of victim or more than that, the inspector will issue an order to social work unit regarding the formation of personality record (Salimi and Bakhshizadeh, 2015).

### *2.4 The Role of Personality Record Formation in Criminal Justice System*

Criminal record is one of the tools and strategies efficient in the process of detecting psychological factors of delinquency. It helps judicial officials to make decisions about treatment methods. The relationship among psychological disorders and criminal behaviors has been reviewed by different researchers. The results of these investigations are interesting. In a research in Canada, the personality records of 248 young male delinquents were analyzed based on the relationship among psychological disorders and criminal behaviors. The results indicated that those criminal behaviors that continued for about 8 years were allocated to 18 to 33-year-old delinquents. Most of these individuals suffered from mental and behavioral disorders. According to this research, psychological disorders are predictors of criminal behaviors (Bevc, 2003). Previous studies indicate that behavioral disorders follow spiritual disorders like depression, anxiety, and stress. According to these studies, high level of depression was recognized in children and teenagers who suffer from behavioral disorders (Harrington, 2003).

The following six parameters have an important role in analyzing behavioral disorders:

- 1) Continuous violation of law: It refers to the condition that a delinquent violates the law in a successive manner.
- 2) Telling lies in a successive manner: One of the other parameters of identifying personality disorders is considered as telling lies in a successive manner.
- 3) Involuntariness or inability of individuals in planning: One of the drivers of delinquency that is considered as one of the parameters of personality disorder is inability of individuals in planning.
- 4) Continuous physical violence, beating, and foul: One of the most important and efficient drivers of personality

disorder is physical violence or disputes that end in beating and foul.

5) Continuous inability of individuals in enduring different behaviors or fulfilling financial obligations: Those who suffer from personality disorders often can't endure inappropriate behaviors. Therefore, their reactions to these behaviors can be dangerous and different.

6) Lack of repentance: The personality of delinquents inhibit them from being regretful. However, the policies of criminal justice law are efficient regarding individualizing, reforming, and preventing the young from committing crimes using formal criminal justice process (Steiner et al., 1999).

Some of these plans that are against juvenile and adult delinquency have been organized based on the personality records of delinquents. One of these plans is called "social skills training program" for chronic and aggressive delinquents that couldn't find an appropriate strategy to solve their interpersonal disputes. Another plan which is known as "psychodynamic therapy" refers to both individual and group therapies. These treatment methods can be classified based on delinquents' psychological disorders and lack of emotional connection including "behavioral therapy" which is a combination of behavioral training and modeling. However, among all these therapies, "early intervention services" that aim to treat personality disorders and reform anti-social personality of delinquents are considered as the most important forms of treatment. This form of therapy requires an efficient analysis of abnormal lifestyles of individuals which usually goes beyond medical treatments and is somehow related to psychological disorders. It leads to the formation of effective behavioral strategies for delinquents and alteration of wrong beliefs regarding this matter (Noorbaha, 2003).

### *2.5 The Effect of Personality Record Formation on Crime Reduction*

The Islamic penal code (ratified law in 2013) and second and third clauses of Article 38 of the new Islamic penal code in the field of discretionary punishment has referred to the drivers of delinquency including behaviors or words that stimulate individuals to commit a crime also defendants' repentance, criminal records, and their particular condition regarding psychological disorders. The degree of punishment has been identified in Articles 265 (wine-drinking), 276 (stealing), 301, 381, 382, and 423 (retaliation). Reiteration is the main cause of intensifying penalties because it indicates the formation of dangerous status in delinquents. The supposition is that when penalties are not effective, delinquents may repeat crimes. In other words, the intimidation-rehabilitation based objectives have not been determined. Therefore, it is necessary to sentence the defendants and use serious punishment methods to prevent reiteration of crimes. On the other hand, judges analyze the individual features of these delinquents and determine their penalties consistent with their crimes. In Islamic penal code, the lawmaker has emphasized the importance of Articles 131-139 in the fifth chapter. According to these articles, the main focus of lawmaker was on the personality of delinquents. However, the formation of personality record is only necessary for the final phase or in other words in the execution phase. In Iran, personality record is formed after conviction and not in incrimination phase (Noorbaha, 2004). The influence of personality record formation is not limited to penalty reduction and it sometimes leads to suspension of punishment. In fact, there is a significant relationship between suspension of punishment and personality record formation. There is no doubt that issuing an order regarding the suspension or cancellation of punishments requires the formation of personality record. In other words, judges basically will encounter with serious problems if they make decisions about punishments without analyzing the personality records of delinquents. According to the clause B of Article 52 of the Islamic penal code, the drivers of suspension of punishment are social condition and records of defendants also factors that stimulate delinquents to commit a crime. Considering the Article 25 of this penal code, judges can suspend punishments under specific conditions for 2 to 5 years. In this process, both delinquency factors and delinquents are considered. In other words, the punishments are always consistent with both legal and psychological personalities of delinquents. Clause B of Article 25 of Islamic penal code has stated that Criminal courts make decisions about punishment methods based on the social condition and historical records of defendants also factors that stimulate them to commit a crime (Shamloo and Guzali, 2011). Considering different matters about personality and personality disorders including schizotypal, cyclothymic, histrionic, paranoid, obsessive, borderline, and antisocial disorders, they can't affect the removal of liability. In other words, those who suffer from personality disorders can figure out their affairs before suffering from a mental disorder characterized by abnormal social behavior and failure to understand reality (Schizophrenia). They can even make decisions about different things in a natural manner and distinguish social norms from anomalies. Therefore, they are responsible for their acts and behaviors. However, in some cases, the ability to make decisions can go beyond the normal status and stimulate individuals to behave in an abnormal manner. Considering these cases, judges will reduce the degree of punishment or choose another form of punishment which is compatible with defendants' acts (third and fifth clauses of Article 37 of the new Islamic penal code) (Ebrahimi, 2010). It is possible that judges consider these individuals innocent especial when they

are insane and their behaviors are out of their control. These issues have been explained in an explicit manner in Article 149 of the new Islamic penal code and Articles 88 and 954 of criminal procedure law (ratified law in 1999) (Zeraat, 2013).

According to the Article 37 of Islamic penal code (ratified law in 2013):

Criminal courts can reduce the degree of discretionary and preventive punishments or change the form of punishments and choose ones that are compatible with defendants' acts. Considering Article 38 of this law, mitigations of punishment have been mentioned in the following section:

- 1) The forgiveness of complainants or private claimants
- 2) The defendants' declarations and guides that can be helpful in the process of detecting accomplices and lethal weapons.
- 3) Committing crimes under specific conditions or as a result of being exposed to stimulating behaviors and words or having an honorable incentive.
- 4) The specific condition of defendants or their records
- 5) Defendants' attempts to convince judges to reduce their punishments or compensate their faults

First note:

The criminal court is obliged to mention the mitigations of punishment in the judgment in an explicit manner.

Second note:

If the mitigations of punishment of this Article are predicted in other particular Articles, the criminal court can't reduce the punishments for the second time.

According to the third clause of this Article, particular conditions that stimulate defendants to commit a crime including stimulating behaviors and words or having an honorable incentive play an important role in reducing punishments. The lawmaker always emphasizes on analyzing the drivers of delinquency and the personality of delinquents and asks the court's judge to reduce the punishments and choose punishments that are compatible with the personality of delinquents (Shambayati, 2001). One of the drivers of mitigations of punishment is conditional discharge. The formation of personality record can affect this factor. Conditional discharge is one of the main criminal orders that have positive effects on supervision of prisons and reduction of the prison population. It also prevents side effects of imprisonment, adjusts punishments that inhibit defendants' from being free, reforms delinquents in a cautious manner, guarantees supervision of delinquents from the day that they are released from prison, and prevents reiteration of crimes. However, Iranian and French lawmakers didn't give consideration to this order (Shamloo and Guzali, 2011).

### *2.6 The Results of Personality Record Formation in the Process of Iranian Criminal Procedure*

The Article 203 of criminal law has been allocated to the formation of personality record. In fact, it is necessary to form personality records because criminal records are only used in the process of judging about criminal acts. On the other hand, the main purpose is not judging about criminal acts but sentencing criminals. The process of analyzing different personalities is difficult and requires the formation of personality records. Using experts such as physicians, psychologists, educational experts, sociologists, and criminologists is necessary and inevitable. All these acts play an important role in the process of forming personality records regarding important criminal punishments including deprivation of life, amputation of limbs and extremities, life imprisonment, or discretionary punishment. Considering these matters, the inspector submits the report to social work unit and personality record is formed in a separate manner. This record consists of the following information:

A. The social work unit's report regarding the financial, familial, and social conditions of defendants

B. Medical and psychological reports

According to the abovementioned issues, lawmakers can oblige inspectors to use social workers' ideas in particular cases regarding the formation of personality records. All the information that should be gathered and analyzed in form of a personality record has been divided into two parts. Each part requires specific data (Zamani, 2014). Social workers can help clients. One of the most important functions of social workers is establishing communication with judicial officials and institutes. These communications play an important role in the process of reducing delinquents' population. In this phase, social workers and counselors use penal mediation methods. These methods can be used in criminal cases regarding child and juvenile delinquency. One of the most important factors of judgment council is arbitration committee which is considered very important in penal code regarding child and juvenile delinquency. Social workers focus on the age of criminal responsibility,

crimes, and formation of judicial record. They should be assured that delinquent children receive different forms of support including psychological, legal, and parental supports. Sometimes they are asked to help the criminal court in these processes. All the principles of the convention on the rights of the child and other national and international standards have an important role in these processes. Some cases require the presence of the police, counselors, and social workers (Landman, 2003). In general, judicial, police, and personality records have an important role in criminal cases. Formation of personality record of delinquents refers to the process of going beyond legal aspects of delinquency and considering other aspects of crimes by analyzing the familial, educational, occupational, psychological, and physical records of delinquents also the incentives of criminals, the relationship between delinquents, victims, and accomplices, the acts of defendants after committing a crime, and the general condition of delinquents after committing a crime. Considering these processes, the personality of delinquents can be analyzed using different techniques and methods like electrical brain imaging (Electroencephalography), projective tests, familial, educational, cultural, and social measurements, and case features in form of consultative comments of clinical experts on 1- the judgments of court judges regarding the process of individualizing judicial penalties or security measures. 2- Jailors record measures that inhibit prisoners from being released from prison or acts that aim to individualize these punishments in the personality records of defendants. In summary, the process of individualizing punishments refers to analyzing the personality of defendants and identifying punishments consistent with criminal acts to punish and reform delinquents and administer justice (Najafi, 2005).

### 3. Conclusion

Considering the previous issues regarding the new Islamic penal code, the lawmaker has emphasized the importance of Articles 131-139 in the fifth chapter. The main focus is on identifying punishments based on the personality of delinquents. However, the formation of personality record is necessary only in the final phase or in other words in the execution phase. In other words, In Iran, personality record is formed after conviction and not in incrimination phase (Noorbaha, 2004). Judges make decisions about punishments or mitigations of punishment based on the specific condition or records of defendants or factors that stimulate them to commit a crime. Personality record formation plays an important role in the process of eliminating and preventing anomalies. The effect of personality record is not limited to mitigations of punishment. In some cases, it can lead to suspension of punishments. In fact, there is a significant relationship between suspension of punishment and personality record formation. There is no doubt that mitigation or cancellation of punishments requires the formation of this record. In other words, judges will face certain problems if they determine about these punishments without analyzing the personality of delinquents. Despite all the advantages of personality record formation, it has led to the formation of different challenges. For example, the formation of personality record can extend the trial procedure. Also, it requires getting involved with personal lives and privacy of individuals to affect the process of execution. However, judges use these data in order to administer justice, issue an appropriate order, and identify punishments consistent with crimes to reform and treat delinquents.

### 4. Future Prospect

- 1) According to the importance of forming personality record in the processes of the penal code, the lawmaker has the responsibility to eliminate all legal barriers mentioned in this paper.
- 2) All the legal barriers are removed by judges to determine about punishments consistent with crimes.
- 3) Elimination of legal barriers indicates the importance of criminal process.
- 4) Social workers play an important role in the process of personality record formation. However, studies indicated that in some cases social workers have neglected these matters. Therefore it is necessary to establish a new committee in order to train teachers regarding these cases.

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