

# Criminal Responsibility of Offenders with Personality Disorders with an Emphasis on Crime Psychological Factors

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## Abstract

A variety of psychiatric disorders but dementia are among the issues discussed in criminology and can have a significant influence on the criminal responsibility of the perpetrators and the patients with such disorders and consequently on their criminal law. Mental disorders which encompass a wide range of mild, moderate, and severe neuropsychiatric illnesses are usually resulting from biological-psychological-social factors which make up a person's personal and social environment. Susceptibility to these disorders can be studied from different perspectives, including the law and criminal law perspective. Legislator with the knowledge and understanding of this issue has always made an attempt to lay down rules which fir this unfortunate phenomenon and has also taken measures in this regard. However, the achievements of medical sciences, especially psychology and psychiatry, suggest that some mental disorders, due to the expropriation of belonging, understanding, and determination, nullify the criminal responsibility and a number of disorders, due to having influence and pressure on reasoning, understanding, and decision-making, reduce the criminal liability. Due to lack of having influence on individuals' reasoning, understanding, and decision-making, some others do not have effect on criminal responsibility; however, they put mental health at risk.

**Keywords:** criminal responsibility, offender, personality disorder, crime psychology

## 1. Introduction

The transformation of criminal views on important achievements in the field of mental disorders encompasses a wide range of diseases from full consciousness and complete madness and sanity, any one of which could somehow affect the criminal responsibility of the offender and reduces or nullifies this liability through disrupting one's discernment and diagnosis abilities. Due to lack of such disruption, they keep full criminal responsibility intact. In addition, contrary to the prevailing view which solely considers offenders' mental disorders, mental disorders of the offended can also have an impact on establishing criminal responsibility.

### 1.1 The Concept of Criminal Liability

Regarding the civil matters, an individual is obliged to fulfill the obligation and compensate for losses and damages caused for others. Moreover, in criminal case, he is liable for bearing the consequences of criminal activity or leaving his responsibilities (Tavajohi, 2005, p. 86)

Liability literally means "accepting the consequences and results" and a liable person is someone who "is asked" (Anvari, 2002, p. 7015). Therefore, responsibility is always along with commitment. In the field of criminal law, the content of this obligation is to undertake the consequences and the punishment for violent acts". That is, "bearing a punishment which is regarded in return of the violent acts of the offender; however, with regard to committing a criminal offense, the offender is suddenly not to blame and he should be considered as deserved to bear this heavy burden"(Ardebili, 2002, p. 51). In fact, the criminal responsibility in the abstract sense can be verified before committing a crime. In this sense, criminal liability means an individuals' ability or capacity of that person to bear the consequences his own criminal behavior. Hence, "criminal liability is obliging a person to admit the consequences and results of the crime" (Mirsaeidi, 2004, p. 21).

### 1.2 Principles of Criminal Liability

Principles of criminal liability include criminal capacity and fault. Criminal capacity is composed of components perception and authority. In criminal law, perception is used in the sense of power and ability to understand and

distinguish the nature of the actions, effects, and their moral and social consequences (Ibid, p. 448). However, if the offender is not autonomous and conscious, he will not be responsible for his own action. Therefore, defining the limits of criminal liability in criminal law is important. Criminal liability is of several conditions: (a) The person has reached a certain age; (b) he is not affected by dementia and similar conditions; (c) His decision making power is not influenced by coercion or other factors (Sanei, 2003, p. 483).

### 1.3 The Concept of Mental Disorder

Mental disorder is a widespread disease of our era and mostly is the result of the industrial revolution and mechanization of human life. It has a broad concept and it is difficult to provide a common and acceptable definition for it.

In Persian dictionary, disorder refers to "being damaged, getting confused, and deterioration, disturbance and chaos, disorganization, and lack of settlement." (Amid Dictionary)

Psychologists and experts have presented different definition for mental disorder in the field of health. Some believe that since disorder means failure, mental disorder means mental failure. (Tahmors Bashiriyeh, ibid, p. 97) However, some others believe that damages to components of human mental faculties such as willpower, intelligence, memory and so on leads to mental disorder and behavioral disorder (ibid)

Mental disorders refers to specific mental or physical conditions which are along with personality, mental, and emotional disorganization and greatly damages an individual's usual mental functions." ([Http://www.merriam-webster.com/egi-bin-mwmednlm](http://www.merriam-webster.com/egi-bin-mwmednlm))

Mental disorder refers to a mental illness that manifests itself as behavioral or mental representations and causes considerable distress and discomfort or disrupts one's performance due to biological, social, psychological, cognitive, genetic, chemical, physical, or medical disorders. Psychiatrists regard lesions on the brain as the cause of these mental disorders and they believe that the smallest defect or injury in the brain leads to mental distress and eccentricity and demolishes individuals' understanding capacity to distinguish good and bad deeds. Therefore, they provide the grounds for various crimes and the emergence of dangerous situations. On the other hand, psychoanalysts consider mental disorders resulting from injuries to one's feelings and emotions, especially in the childhood. These are accumulated in his unconscious nature and cause dangerous conditions or committing a variety of crimes when appropriate and under influence of other factors (Taj Zamn Danesh, 2005, pp. 143-144)

## 2. First Topic: Typology of Mental Disorders and Their Relationship with Crimes

### 2.1 First Section: Schizophrenia and Crime

#### 2.1.1 Nature of Schizophrenia

Schizophrenia encompasses those disorders revealed no gauge of reality by an individual and his suffering from delusions and hallucinations, confusion and impaired memory. This disorder leads to inaccurate assessment of one's perception and thinking (Kiyani Niya, 1995, pp. 398-400).

This disease is a disorder generally known as dementia and though common people do not distinguish different types of dementia, it is divided into following categories:

A. Schizophrenia: Schizophrenia, in fact, encompasses a large group of mental disorders whose main characteristics and commonality is lack of ability and power to measure reality, confusion, and chaos in thinking, behavior, perception, and emotion (Saber and Mohammadi). This disorder is often associated with (Sanaei Zadeh, Aghakhani, and Imam Hadi, 2007, pp. 1-400) illusions (Illusion is a false sensory perception in the absence of any external stimulus and may not be of vision, hearing, smell, tasting, or touching type. For example, a person may hear some voices or see images which have no external realization.)

and delusions (Delusion is a false belief based on incorrect inference from the facts and does not change despite the clear evidence and reasons. Delusions may be bizarre, such as believing in the existence of a frog in his stomach. They may not also be strange such as personal belief in one's wife betrays.). In fact, they are called advanced dementia and the patient is not conscious of his speech and behavior. (Taj Zaman Danesh, ibid., p. 141). Schizophrenia has symptoms such as waning power of reasoning, understanding, determination and distinguishing in individuals. It also leads to individuals' decreased level of performance, anomalies in his thought (such as delusions, illusions, and so on) irrational thinking (such as loose associations (Loose association in the Amid Dictionary is defined as "understanding one meaning from another meaning" and is inferred as "realizing one issue form another one" and loose association also refers to one's inability in making relationship between affairs and finding out one matter with the help of another one), speech confusion (irrelevant speech),

obstruction of thought(According to Amid Dictionary, "obstruction" means closing and blocking. Thinking obstruction also means one's inability in correct and logical thinking), and so on), perceptual distortions(tilting, complexity) (such as illusion of sight, smell, touch and hearing), impaired self-understanding (such as sexual confusion, inability to deter the inner reality form external one, etc.), disorder at willing and interpersonal relationships(such as isolation, social isolation, aggression, inappropriate sexual behavior, etc.) and the like (Kaplan and Sadouk, 2002, p.121). Previously, this disorder was known as youth dementia in our country (Ghazaei, 2000); however, the disease is not exclusive to youth and it is likely to develop among all ages (Key Niya, *ibid.* p. 402).

Schizophrenia is of different types.

**Paranoid Type:** The main feature of paranoid type of schizophrenia is the infection of person by delusions of grandiosity and damages or harm delusions.

**Catatonic Type:** It refers to appearance of solid mood in individuals so that the patient may perplex many hours without moving or talking (*ibid.* P. 306).

**Undifferentiate Type:** When the patients' symptoms cannot be place in other categories.

**Disorganized Type:** This type is specified by irrelevant speech, strange behaviors against social norms

**Residual Type:** This includes patients who have a passed of being affected by Schizophrenia and important and significant symptoms of this disease are not observed with them; however, some of the symptoms still exist(Shamlou, 2003, p. 226).

This disorder occurs in two forms: acute and chronic. In acute situations, patient's communication with real world is completely disconnected and the patient turns back to his own inner world(Saberi, *ibid.* p. 34).

**B) Firm Schizophrenia disorder:** This disorder has similar symptoms and characteristics like schizophrenia; however, the disease is completely disappears within a maximum period of 8 months and the individual regain his full recovery(Those issues whose occurrence in everyday life is possible such as prosecution, poisoning, wife or beloved's treason, and so on.).

**C) Schizoaffective disorder:** It is a combination of symptoms of schizophrenia and mood disorderand depression disorder at a period of time.

**D) Delusional disorder:** The main characteristic of this disorder is the presence of non-bizarre fixed and unchanging delusions.

In this disease, delusions are not strange or dispersed and are well organized. The patient's emotional response to the delusion system is proportional to its content. In this disorder, the patient's personality remains intact or undergoes minor changes. Their high sensitivity and waiting make them isolated from society, in spite of their capacity for high performance. However, if they are in challenging situations, they seem not to be suffering from mental disorders.

The common feature of these mental disorders is the patient's strong and delirium belief in a wrong idea which could actually happen in reality, contrary to the beliefs resulting from schizophrenic disorders which are so bizarre and unrealistic that undoubtedly they are incorrect (Saberi, *ibid.* p. 35).

These beliefs and delusions, which are often organized and orderly- are always limited to a specific domain and the patient often has normal behavior and actions in other fields; therefore, it is hard to believe that the person suffers from a psychosis.

Delusional disorders have different types, including:

**D-1) Persecutory Type:** In this type of disorder, the person feels bad about the damage and threat by others and he has as strong but false and unreasonable belief in his being prosecuted, poisoned, and having an enemy.

**D-2) Jealous Type:** This kind of disorder is also known as "Othello Syndrome"( This is derived from the immortal masterpieces of William Shakespeare and Othello's belief in his wife's "Desdemona" betraying). It refers to one's false and unreasonable belief in his wife's betray and disloyalty. Many cases of domestic violence and wife suicide are caused by this disorder(Saberi, *ibid.* p.35). This type of disorder which is a subset of psychotic disorders (Bashiriyeh, *ibid.* p. 126), (<sup>1</sup> Psychosis means lack of ability to measure and understand the facts and realities and impaired mental exercise which appears in the form of hallucinations, delusions, confusion, and memory impairment. Although, in an obvious way, societies with less freedom and less communication often train their people with much more of this potential to be more suspected of their marital relationship (Bashiriyeh, *ibid.* p. 128). It means that the person may not suffer from mental illness; however, due to his

trainings and culture in a closed society, he may be suspicious of his wife or partner or suffer from unwarranted suspicions. These suspicions are condemned in the Holy Quran and individuals are prohibited to pay attention to them (Al-hujurat/12). However, the false suspicion (of moral vices) should be distinguished from dignity which is one of the great features of human beings and is recommended not only in Islam but also in all cultures that based on the sublime of human nature from the past to the present have ordered their men and women to adhere to this feature. These two issues which one may secure the continuity of marital life and another one may destroy it should not be confused.

D- 3) Grandiose Type: Delusional thoughts in this type of disorder are in the form of high value assignment, power and self-knowledge, megalomania, feeling strong and being of paramount importance which make individuals involved in law and social and political learning

D – 4) Somatic Type: The content of delusional ideas is as a belief in physical defects and acute illness, disability or general diseases. In spite of valid experiments and medical explanations, the patient refused to accept medical reasons on his health and insists on his own illness.

D– 5) Erotomaniac Type: In this disorder, the patient's delusional thinking is indicating that someone belonging to the upper classes or the famous and authentic loves him and expresses love to him in different ways or disturbs him.

This disease may have psychological-social roots. These patients mainly have physical or emotional abuse, cruel and unreliable parents, and perfectionist education. According to "Erik Erikson" (Kaplan and Sadok, *ibid*, pp.144-145), basic beliefs in a person with delusional disorder have not formed in childhood. This defect leads to the formation of this belief in the child's mind that environment is aggressive and potentially dangerous. Other affecting psychosocial factors include deafness or blindness history, social isolation and loneliness, immigration or environmental and other sudden changes, and aging (Tahmors Bashiriyeh, *ibid*, pp. 144-5). However, some studies suggest that the delusional disorder risk is high among patients with relatives suffering from schizophrenia. Other studies, however, have rejected this idea (Parirokh Dadsetan, p. 135).

### 2.1.2 On the Relationship between Schizophrenia and Crime

As mentioned in this article, the main common characteristics of all species of Schizophrenia disorder are delusions and hallucinations which cause his inability to gauge reality and distress in perception, thought, speech, and action (Parirokh Dadsetan, p. 135). Even in some phases of the disease, there is impaired judgment and this causes the patient to commit unexpected and even dangerous acts in a family, work, and social environment and disturbs the social order and others' comfort. In fact, the mentally deranged people, there is a high correlation between delusion and violence (Taj Zaman Danesh, pp. 153-148).

Mental patients suffering from these disorders often initially commit petty crimes such as stealing less valuable objects, such as stealing from stores or shops and straying and the like; however, after disease progression, they without a specific motive commit important and dangerous crimes such as murder, unprovoked aggression, indecent behavior in public, prostitution and so on.

## 2.2 The Second Speech: Psychopathy and Crime

### 2.2.1 Nature of Psychopathy

Psychopathy is a term which was used by a French doctor Philippe Pinel for the first time in the nineteenth century to show the character those who continuously commit anti-social acts without any special suffering from a specific mental illness (Parirokh Dadsetan, p. 142). Although the range of the term has changed today and it encompasses a variety of personality disorders which will be discussed later. "Personality is particular way of thinking, feeling, behaving and behavioral act rooted in the self and each individual either conscious or unconscious shows it as a style and life taste or adapting approach to environment (Sanaei Zadeh, p. 299)."

Therefore, psychopathy or personality disorder refers to disorders in influencing behavioral patterns, mood, perception and thinking to the extent that causes serious damages to personal relationships and individual psychosocial functioning (Saber, p. 69) "Studies show that " among those suffering from mental disorders, personality disorder patients allocate a significant percentage to themselves. Among these, the major type includes patients suffering from anti-social personality disorder (Ghodosi, et al, 2002)."

Many factors influence committing crimes by patients suffering from personality disorder. They include alcohol and drugs consumption, lack of compliance and a history of violence, inability to empathize with others, and non-formation of consciousness for these people (*ibid*).

DSM - IV divided personality disorders into three categories:

A) Strange personalities: This category involves characters who seem strange and unusual, including:

A. *Paranoid personality disorder*: The paranoids are skeptical and distrustful, quarrelsome, irritable, or angry. Therefore, they have unwarranted bias and pessimism toward their wives and constantly condemn others to injustice and have them in court. These are aggressive and strange people (Hosein Sanaei Zadeh, *ibid*, p. 300). The causes of this disorder are generally genetic factors and family problems. They were abused in their childhood. This disease is more common in families with delusional disorder and schizophrenia.

B. *Schizoid personality disorder*: These people live apart from others and avoid accompanying them. Most of them have families with schizophrenia history. The effects of disorder in family relations at an early age and the genetic factors on the schizoid personality disorder are proved.

C. *Schizotypal personality disorder*: Those suffering from this type of disorder have weird and unusual performance, thinking, emotions, and words which makes seem strange to others. They have particular magical thinking and ideas, and distorted perception of reality. They also have family history of schizophrenia.

B) *Emotional personality*: This category includes those with exaggerated, emotional and unstable behaviors. They are as follows:

A. *Antisocial Personality disorder*: This disorder is recognized as a maladaptive behavior in which the patient is unable to understand others' rights and they often commit crimes and fraud. Lying, running away from home or school, committing violence and aggressive behavior, adultery and sexually abusing their spouse or children is common among these people.

Studies show that, males and females suffering from antisocial personality disorder commit crimes 10 and 50 times as much as normal people, respectively (Arash Ghodosi, *ibid*, p. 43).

Genetic factors, brain injuries and disorders, history of leaving the parents, misbehavior of their parents, especially repeated and unjustified and harsh punishments are the reasons for this disorder.

B. *Borderline Personality disorder*: This category of patients is always in crisis.

"Instability in various fields, including mood and behavior with other people, is the common trait of this group" (Ibid. P. 7). Threatening of suicide and self-mutilation is seen a lot in this group. They easily and quickly get out of temper and are impulsive against behavior in relation to money and sex. They have drug abuse, dangerous driving, and periodical gluttony (Hosein Sanaei Zadeh, *ibid*, p. 300; Sotoude, Mirzaei, and Pazand, 1999, p. 170). Mood disorders and drug and alcohol abuse are common in among families of these patients with borderline personality disorder. These patients often have mothers with this type of disorder.

C. *Histrionic personality disorder*: They have a dramatic, emotional, realistic, and impressionist mood and they are willing to express themselves, even in a cheap and foppish appearance. They are often hypocritical and whimsical people with suggestibility. They are provoked and got angry with little provocation by others or by an act against their will. In their personal relationships, they are demanding, self-centered, and inconsiderate (Sanaei Zadeh, *ibid*, p. 300). These patients are alive and foppish, fond of exaggeration. In some cases, they unconsciously play the role of "princess" or "victim". They obviously react and have intense emotions such as afraiding, angriness, and fighting against some minor irritants. This disorder which is also called "Histrionic personality disorder" is mostly seen in women and makes them easily be affected by suggestions (Sotoude, *ibid*, p. 168). 8 This weakness has increased their talent in committing crime and disability in resisting against the attraction of criminal behavior. Women suffering from this disorder may be flattering and men with this disorder may play a lover role (*ibid*. P. 169). The most important cause of this behavior is having a cold father and maternal seduction. They are the behavioral models for the patient who is trying to resolve the conflict in the family and gets involved in this disorder.

D. *Narcissist personality disorder*: These patients suffer from extreme megalomania and regard themselves important and unique and selfish. They often, against criticism, react with anger or depression. Among their features are having right, exploitation in interpersonal relationships, lack of empathy and sympathy, needing admiration, and attention to the appearance more than nature, feeling being right and expecting thanks and affection from all the world without incurring a liability (Ibid). Some regard the root of this disorder in educating children by parents because patients with narcissistic personality disorder- as mentioned- believe that the world owes them (Ibid).

C) *Coward and anxious personalities*: This category includes:

A. *Obsessive-Compulsive personality disorder*: It will be discussed in the third chapter.

B. *Avoidant personality disorder*: Such patients are shy, ashamed, and non-sociable. They are hydrophobic and

fear from being rejected. Such patients have low self-confidence and low self-esteem. The major causes are disregard by their parents, their extreme advocacy and the presence of phobic features in parents (Kaplan and Sadok, *ibid*, p. 306) as well as physical illness which has led to body deformation.

*C. Dependent personality disorder:* The most evident feature of this disorder is dependence and submissiveness. Patients lack confidence and strongly need confidence provided by the recommendation of others. Because they are passive and have difficulty in expressing opposition, they may be financially abused. This is not due to their being incompetent; however, their weakness is opposing with others. Among the factors underlying this chronic physical illness is separation anxiety or loss of parents in childhood.

*D. Passive-aggressive personality disorder:* Their features include stubbornness, aggression, covert sabotage, negligence, compromise, dogmatism, and incompetence and the patient have generally imitated them from their parents.

*E. Depressive personality disorder:* These patients are pessimistic and anhedonic, with no self-confidence, quiet, introverted, passive and mostly with families of depression history. Premature loss of their parents or poor care is affective on the incidence of this disorder. As it was mentioned in the depression section, in severe cases, depression can be accompanied with psychosis and hallucinations.

### 2.2.2 On the Relationship between Psychopathy and Crime

On the relationship between crime and psychiatric disorders, it should be said that since these disorders lead to behaviors from patients that is different from accepted norms in the social and cultural environment (Pariraokh Dadsetan, p. 146), they make patients with antisocial personality disorder prone to commit different crimes such as stealing, lying, fraud, deception, destruction of property, lack of serious attention to cultural and social norms, intentional violation of law, violence against people and animals. Patients suffering from borderline personality disorder due to their inability to control unconscious impulses (violence, sex, hatred, etc.) will have severe mental shocks and, to overcome them, they take alcohol, drugs or illegal drugs or commit crimes such as robbery from shops, intentional violence, rape and so on. Patients with histrionic personality disorder display may get involved in crime, particularly sexual crimes, in order to show off. Inability in social adjustment in patients with schizoid personality disorder makes them not only dangerous but also criminal. Hence, they repeat their criminal acts after conviction. In addition, studies on such patients show a high frequency of their homosexuality.

## 3. Second Topic: Mental Disorder Resulting in Delinquency and Victimization

Although in today's society all examples of civil rights are not fully observed by government and other community members, and the degree of personal, social and religious morality has significantly decreased, it seems all kinds of mental disorders could be cause of delinquency and victimization of patients; however, some of these disorders due to their effects on patients and their particular characteristics, make them more susceptible to delinquency and victimization. In order to support community against the dangers and from their potential risks, they must be taken into consideration.

### 3.1 First Speech: Mental Disorder Resulting in Delinquency

There are some types of mental disorders such as delusional disorder, schizophrenic disorder, impulse control disorders, and personality disorders, especially borderline, paranoid, and antisocial personality disorders which drive patients into committing acts of violence, destruction and aggression. Studies conducted show that in most cases, wife abuse is the result of husband's mental health disorders or damage to his mental functions.

In each of the diseases considered, "feelings of suspicion, inclusive mistrust, and intolerance along with betrayal and jealousy which provide the grounds for anxiety and pessimism to the partner are the most important psychological reasons of endless stresses of marital life resulting in psychological or physical harassment of the woman [or the partner]. Men with aforementioned mental disorders commit violence and risky behaviors toward their women and children more than ordinary people. In most cases, investigating mental patients committing domestic violence and their psychological rehabilitation is difficult, especially in traditional societies like Iran, which the patient's thoughts are hidden behind concepts such dignity and bias and taking measures for the physical and psychological security of women confront countless obstacles (Azim Zadeh, 2007, p. 48). Furthermore, illicit sexual abuse of a spouse or a child is seen in patients suffering from with anti-social personality disorder.

### 3.2 Second Speech: Mental Disorder Resulting in Victimization

Being infected by some mental disease puts patients at risk of psychological damage to life and property and generally puts them at victimization; for example, the possibility for children suffering from ADHD being

exposed by children abuse is high due to their non- controllability and making parents and caregivers exhausted. Therefore, after identification and treatment of such patients, we should support training parent, caregivers, educators, teachers, and others to teach them the appropriate behavior and how to carry on with treatment, especially to avoid their persecution.

In many cases, patients with major depressive disorder are generally diagnosed as patients with incurable diseases by doctors due to disease severity and its impact on all aspects of their personal and social life. This leads to sanity order by the court and determining a guardian for them. Guardians are required, in addition to providing facilities for the treatment of patients, to handle financial affairs. An important point about this group of patients as well as those patients with avoidance and dependence personality disorders, bipolar disorders, and mental retardation (mild to moderate; competent or incompetent) is financial abuse. They may be prone to financial abuse due to their being severely affected by depressed or heavy dependence on others and low self-confidence. They also may be encouraged under the influence of others to do non-rational actions such as selling the property and assets, irrational generosity because of being tired of life and irrational speech. They need legal protection to be prevented from victimization.

#### **4. Third Topic: The Criminal Liability of Patients with Mental Disorders**

##### *4.1 First Speech: Criminal Liability of Patients with Schizophrenia*

1) Criminal liability of patients with schizophrenia: Schizophrenia which was previously discussed and divided into five categories (paranoid, disorganized, catatonic, undifferentiated, and residual) is not absolutely equivalent to permanent insanity or madness; however, it can be converted into insanity in acute and critical cases. At the beginning, such patients frequently commit insignificant crimes such as stealing from shops; however, in advanced stages of the disease, they without special incentive, commit big and dangerous crimes such as murder, violence and aggression without provocation or reason and indecent behavior in public and so forth. They are not afraid of the consequences of their actions and may be committed crimes in the presence of police officers (Taj Zaman Danesh, *ibid*, p. 153).

In a study conducted by a group of psychiatrists and forensic specialists in Iran on some schizophrenics patients with antisocial personality disorder over one year (October 2000- October 2001), it was revealed that crimes committed by patients suffering from schizophrenia are significantly sudden or impulsive without specific intention and they mostly have committed crimes punishable by the death penalty or long- term prisoning (Ghodousi, *ibid*, p. 7). This indicates the high frequency of perilous states in such patients. In particular, Lewis found that 8% of children who make fire have been suffering from schizophrenia (Shaneh Saz, *ibid*, p. 154).

For such patients, it should be said that if the patient has symptoms of psychosis, including lack of sense and perception of reality assessment resulting is disruption, delusion, hallucinations, confusion, memory impairment, and psychosis, he will be insane and free from criminal liability. However, as mentioned, these patients at the early stages of disease which so advanced commit non-dangerous crimes, Therefore, their diagnosis at this stage and proceeded to treat them at this stage, rather than just insisting on punishing the patient, can play a role in crime prevention in advanced and dangerous stages of the disease.

2) *Criminal liability of patients with firm schizophrenia*: This disorder has acute schizophrenic symptoms such as hallucinations and delusions. Although the disease mainly lasts for months and then the person will completely recovered, in the course of the disease, due to dementia (disorders in dementia and loss of consciousness) in person and the dominance of hallucination and delusion, the psychologist regard this disorder as permanent dementia (Saber, *ibid*, p.32) like acute schizophrenia. That is why the patients during the acute course are considered fully free from criminal responsibility. From a psychiatric perspective, if the patient has symptoms of psychosis, including a lack of instruments and perception of reality assessment and impairment of mental functions and suffers from with delusions, hallucinations and confusion, memory impairment and psychosis, he will be completely insane and free from criminal liability. In fact, the presence of specific disorders in psychiatry for the diagnosis of dementia is not the criterion, the disease can be under any title, such as acute schizophrenia; however, if the psychosis symptoms are obvious in patient and make him delusional and psychotic, from a psychiatric perspective, he is completely insane and free from criminal liability.

3) *Criminal liability of patients with effective schizophrenia*: This disorder is regarded equivalent to permanent or cyclical madness by psychiatrists due to schizophrenic symptoms such as impaired faculties and loss of consciousness and will, suffering from hallucinations and delusions, thought disorder and confusion in behavior as well as mood disorder, major depressive disorders, manic disorder

Regarding psychotic disorders and other mental disorders like acute schizophrenic disorder, one can say that all

mental disorders with signs and symptoms of acute schizophrenia such as inability of reality testing, confusion in thought, confusion of speech and mind, perception and emotion and having hallucinations and delirium due to loss of sanity lead to freedom from criminal liabilities.

4) *Criminal liability of patients with delusional disorder*: Delusional disorders were discussed in detail in last chapter and this was mentioned that the main feature of this category of disorders is patients' non-strange delusions which can happen in reality such as illness, being loved by someone, life partner infidelity, and so on. These delusions are mostly fixed, stable, and unchanging, and unfortunately psychiatrists and psychologists believe that no experiment can prove this and projective psychological tests indicate preoccupation with paranoid issues and grandiosity and categories of inferiority, inadequacy and anxiety (Kaplan and Sadok, p. 145). The diagnosis of this disease in psychiatric evaluations, after the biography, interviews, and investigations is not too difficult (Saber, *ibid*, p. 36). However, the big problem about this group of patients is the lack of attention to the lack of criminal liability for such patients. These are the people whose understanding and judgment in many cases of life is intact and they may commit crimes only based in a wrong belief system while their all rationales and speech seem logical (Sanaei Zadeh, et al, p. 404). In fact, they are insane only in one specific area. Therefore, some psychiatrists regard delusional disorder as "Exclusional Madness" (*Ibid*, p. 443). Regarding the criminal liability of patients suffering from delusional disorder, there are legal disputes in courts, encompassing a range from "absolutely free as a result of insanity" to "full liability". It seems that the disregard of the authorities to this disorder is the reasonability and proportionality other behaviors of the patient which are unrelated to his delusional disorder. Their special conditions make it necessary to examine each of them based on their mental, social and cultural state and all of them should be subject to the same law.

Regarding the criminal liability of such patients, it can be said that:

- 1) If the crime committed was absolutely emanating from delusional beliefs and the person with delusional thoughts is with an apparent mood, he will be free from criminal liability.
- 2) If delusional thoughts reveals the differential diagnosis of firm or effective schizophrenia and the crime committed was absolutely emanating from delusional thoughts, he will be free from criminal liability.
- 3) If the crime is not directly derived from delusional thoughts or is relatively or indirectly associated with these thoughts, he won't be free from criminal liability
- 4) If the person's disorder is impaired to the extent that, with having knowledge of punishment or in the police presence, he is willing to accept the punishment and crime committed, defense for freedom from criminal liability "as a result of criminal insanity and uncontrolled behavior" is accepted; however, if the patient had been looking for secretly committing a crime and had been planning for it and committed a crime with knowledge and with full knowledge, the defense cannot be accepted (Saber, *ibid*, pp. 37-38).

## 5. Criminal Liability of Psychopaths

Criminal liability of patients with different personality disorders:

A variety of mental disorders in forensic medicine was discussed in previous section from a psychological standpoint. All of these disorders bring the likelihood of committing various crimes by the patients. The most important is antisocial personality disorder. In traditional criminology texts, this type of disorder is called "moral insanity" and the criminals suffering from this type are called innate criminals. This is due to the potential danger of this group. Paranoid, borderline, histrionic, and passive-aggressive personalities are among those who are likely to commit crimes. At the same time, these are not personality disorders, psychosis, and dementia and since these patients have right and enough knowledge of their actions and there is no sign of psychosis, there have under criminal liability. Although this acceptance is proved, it is not absolute in all cases and under all circumstances. Patients with borderline personality disorder often live in critical states and have mood swings. Their behavior cannot be predicted in any way and their social relationships in many cases are stressful. These patients were previously called "Ambulatory schizophrenic" since they have transient micropsychotic episodes with impulsive behavior and self-harming and self-identity disorder and suffer from emotional instability (Saber, *ibid*, p. 73). In this regard, if criminal acts occur during a mental aphasia period transiently, due to the person's insanity at that moment and his lack of understanding about his actions, a person shall be free from criminal liability. However, in other cases, patients with borderline personality disorder, according to Iran's Penal Code, is of full criminal liability; however, many problems linked to the disorder raises the reduction of criminal liability for such patients.

### 5.1 Criminal Liability of Patients with Obsessive-Compulsive Disorder



The disease was discussed in previous sections. It is one of the most common neurological diseases that make the patients perform a series of repetitive actions without need irrationally to reduce his inner anxiety. This kind of behaviors just covers inner anxiety and the patients are not aware of them. In this disease, the patient is mainly unaware of annoying nature of his behavior and cannot refrain from doing it (Taj Zaman Danesh, *ibid*, p. 169). In fact, compulsive behaviors can be based conditions with lack of thought freedom and an attempt to commit criminal acts are as a kind of force. Thus, the person forced to commit criminal acts has no determination in carrying out their attitudes and behavior and they are free from criminal liability for such actions.

## 6. Conclusion

In the end, according to the diverse types of mental disorders with their individual effects on patients' criminal liabilities and with a view to criminal law and Iran's Islamic Penal Code, in particular, the following results are achieved:

- A) Legislator in the regulations shall predict filings of personality character for criminals and demanding their mental health examinations by professional of forensic psychiatry (prior to their training by psychologists and psychiatrists) ( Refer to D). Indeed, the diagnosis of a variety of diseases and mental disorders (after identifying in Law) shall be upon psychologists and psychiatrists to provide their comments and to determine its equivalent and the legal and judicial authorities comment on it. Actually, legislators and law makers should utilize the services of psychologists and psychiatrists in all important crimes for which there are still no distinguishing criteria in order for criminals to be immediately examined by a psychological specialist as soon as they commit crimes. Since, as mentioned, the number of mental disorders can predispose patients to the delinquency. If these professionals in cooperation with social workers, sociologists and criminologists are able to regard offender as a unified unit, they can provide an accurate and beneficial cooperation regarding the crime and the offender to reconstruct him and provide the grounds for his return to society as a healthy citizen. This issue indicates that the role of psychologists and psychiatric in identifying disorders and freedom and discharge of offenders shall not be ignored. These professionals shall confirm offenders' mental health and their return to the society.
- B) Legislators shall not exclusively rely on moral responsibility in enacting criminal law and punishment. According to Mantskiyo, " a judge is the speaker of law " and he cannot broadly interpret the criminal law, particularly in relation to mental illnesses and extend to items not foreseen in the law. In fact, giving priority to moral responsibility over social responsibility of people with mental illness by legislator on the one hand makes these patients, even those with advanced levels of disease, be released freely in the community, while they are considered as a risk to society and there is the possibility of their committing crimes in dealing with adversity and defects in the community, especially violent crimes against their family members and relatives or other citizens, something that today can be seen in abundance in our society and because of family and kinship relations, they are refused to be introduced to the judicial and police authorities. On the other hand, only paying attention to the moral responsibility of offenders, legislative and consequently, the officers prevents from paying attention to criminals who play an effective and significant role in a criminal phenomenon.
- C) Legislators need security measures and training in the community to effectively predict the prior and posterior of the crime. However, this prediction shall be in the way that there will be no damage to their freedom in the community. Prior to crimes, proper training measures shall be established and to operationalize this purpose, continual and on-going cooperation shall be established among institutions and educational, training, scientific and academic agencies, on the one hand, and courts and criminal courts and prisons and criminal institutions on the other hand, so that each of the institutions are aware of the measures and impacts of each other in the society.
- D) Regarding the patients with mental disorders who have criminal liabilities, instead of focusing on severe and harsh penalties with respect to the crime, the focus shall be on person's believing that he is responsible for his actions. Specific training programs for these criminals should be centered in prisons and their social and the emphasis shall be on explaining their ethical responsibilities and analysis of their responsibility and their justification and on differentiating between good and bad deeds. They shall be trained on how to overcome the issues and problems in their lives. Efforts should be made to provide interests and desire and novel, fun, and legitimate entertainment for these patients, especially in patients with depression and personality disorders and make them spend their talent and energy in a legitimate and constructive context. It should be recognized that many of these people are ready to improve;

however, unfortunately, they have no incentives and compassion in the community to do so. Thus, when correcting and training programs are designed for these people and are applied with compassion and seriousness, significant results will be obtained. In fact, they should be made to use the opportunity provided. As a result, they shall make use of security and educational measures, select their purpose and life plans for their future and perform their rehabilitation activities with self-determination and strong-willingness to reintegrate into their society.

- E) Preventive and educational measures need to be performed in the society in the right way to reduce crimes; obviously, these measures should not be in a way that harm individuals' freedom.
- F) Preventive and educational measures to control and improve mental health of patients with criminal liability or to reduce the psychiatric disorders should also effectively taken since, though, the punishment of these patient criminals is unfair, their discharge in society is regarded as a potential danger to the society and citizens. It is also something incorrect and unreasonable; therefore, security and corrective measures for their care and treatment shall be predicted in law and applied in different levels of society.

## References

- Anvari Hassan, et al. (2002). Big culture of words, No. 4. Tehran: Sokhan.
- Ardebili, M. A. (2002). *General Criminal Law*. Tehran: Mizan Publication Press.
- Ashoori, M. (2004). The pleadings course in criminal procedure, BA, College of Law and Political Sciences of Tehran University.
- Azim Zadeh, Sh. (2007). Causes and consequences of spouse abusing. *Criminal science Journal*, 1(1), 48.
- Bashiriyeh, T. (2002). On the investigation of crimes committed in a sample of hospitalized mental patients", MA dissertation in Law and Criminal Justice and Criminology, Tehran University, Faculty of Law and Political Science.
- Bashiriyeh, T. (2006). Evaluation of madness from a legal standpoint and comparing it with madness from psychiatric point of view based on IV – DSMDSM. PhD Dissertation in criminal law and criminology, Tehran University, Faculty of Law and Political Science.
- Brovel, L., Koviliyeh, H., & Gurvitch, G. (1979). *Law and sociology* (Trans: M.Rahimi), Tehran, Amir Kabir Publication.
- Dadsetan, P. (2006). *Forensic psychology* (3rd ed.). Tehran, SAMT Publication.
- Dadstan, P. (2007). *Morbid psychology: A transition from childhood to adulthood* (Vol I, 7th ed.). Tehran, SAMT Publication.
- Estephani, G., Lovasor, G., & Bolok, B. (1998). General Criminal Law. Translated by Hassan Dadban, Volume I, Tehran, Allameh Tabatabaei University Press, first edition.
- Ganji, H. (2000). *Mental Health* (3rd ed.). Tehran, Arasbaran publication.
- Ghazaei, S. (2000). Legal pleadings, medical school, MA Thesis, Faculty of law and political science at Tehran University.
- Ghodusi, A. et al. (2002). Comparing the criminal factors in patients with antisocial personality disorder. *Scientific Journal of Forensic Medicine*, 23.
- Key Niya, M. (1995). Criminal psychology (1st ed.). Tehran, Roshd Publication.
- Marashi, S. M. H. (2000). A discussion on Madness of criminals. *Legal Issues Journal*, 21.
- Mirsaeidi, S. M. (2004). *Criminal liability: Scope and elements*. Tehran: Mizan Publication.
- Naimi, L. (2003). The criminal liability of children from the viewpoints of different schools. *Nedaye Sadegh Quarterly*, 8(32).
- Najafi Abrand Abadi, A. H. (2002). *Pleadings of criminology course* (Hamid Bahrenmand and Mohammad Saderi). Tehran, Imam Sadegh University.
- Odeh, A. Q. (1994). *Islamic criminal law* (1st ed., Trans: A.Shiri).
- Razm Ara, H. (2001). Psychology culture (Vol. 1). Tehran, Elmi publication.
- Saberi, S. M., & Mohammadi, M. R. (2005). A new approach to forensic psychiatry (1st ed.). Tehran,

Teymourzadeh cultural Institute publication.

- Sadeghiyan, M. (2006). *Insanity and criminal liability*. MA thesis in criminal law and criminology, Tehran University, Faculty of Law and Political Science.
- Sadok, K. (2002). *Clinical psychiatry* (1st ed., Trans: E. Khalighi Sigaroudi). Tehran, SAMT Publication.
- Sanaei Zadeh, H. (2005). *Forensic medicine* (1st ed.). Tehran, Dadgostar publication.
- Sanei, P. (2003). *General Criminal Law*. Tehran: Tarhe Noe.
- Sarikhani, A. (2006). *Islamic criminal law* (3rd ed.). Tehran, Payam Noor University Press.
- Shamloo, S. (2003). *Psychopathology* (2nd ed.). Tehran, Roshd Publication.
- Shaneh Saz, A. A. (2004). Common psychological problems of female boys at a correction center located at Ahvaz in 2000. *Scientific Journal of Forensic psychiatry*, 10(35).
- Sotoudeh, H. A., Mirzaei, B., & Pazand, A. (1999). *Forensic psychology* (2nd ed.). Tehran, Avaye nour.
- Tavajohi Abdol, A. (2010). *Age of Criminal Responsibility for Girls, Reinvestigating Women's rights*. (Naser Qorbanniya et al.) Tehran: Rooze Noe.
- Zamani, D. T. (2005). *Who is criminal? What is criminology?* (10th ed.). Tehran, Keyhan Publication.
- Zaraat, A. (2001). *Islamic Penal Code* (Generalities Section, Common Criminal Law) (2nd ed.). Tehran, Ghoghnoos Publication.

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