

INVESTIGATION OF CRIMINAL LAW FOR CRIMINAL BEHAVIOR UNDER THE INFLUENCE OF PSYCHOTIC AND NEUROTIC MENTAL DISORDERS IN IRAN

INVESTIGAÇÃO DO DIREITO PENAL POR COMPORTAMENTO CRIMINOSO SOB A INFLUÊNCIA DE TRANSTORNOS MENTAIS PSICÓTICOS E NEURÓTICOS NO IRÃ

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Abstract: A person with a mental disorder can become an ordinary citizen or a criminal at some point in their lives. In the words of the Iranian legislators, free people and people with disabilities who committed a crime; They are considered guilty but irresponsible. One of the important issues in criminal law is the determination of criminal responsibility. The perpetrator of the crime can be attributed to the perpetrator and will be punished according to the crime unless the offender is unable to bear criminal responsibility for some reason. A person commits a crime under the influence of disorders of which he is unaware of the process. In the present study, with an analytical study, we will comparatively study the issue that; Mental disorders have a wide range that in some cases makes the person irresponsible and in some cases makes the person partially responsible and in other cases does not affect the criminal punishment of the person. Also, the difference between the madness mentioned in Article 51 of the Islamic Penal Code is different from the concept of madness considered by psychiatrists, and in the legislation, it only refers to the degrees of madness and does not deal with the types of madness.

Keywords: Insanity. Mental disorder. Criminal law. Offender.

Resumo: Uma pessoa com um distúrbio mental pode se tornar um cidadão comum ou um criminoso em algum momento de suas vidas. Nas palavras dos legisladores iranianos, pessoas livres e pessoas com deficiência que cometeram um crime; são consideradas culpadas, mas irresponsáveis. Uma das questões importantes no direito penal é a determinação da responsabilidade criminal. O infrator do crime pode ser atribuído ao infrator e será punido de acordo com o crime, a menos que o infrator seja incapaz de assumir responsabilidade criminal por algum motivo. Uma pessoa comete um crime sob a influência de desordens das quais ela desconhece o processo. No presente estudo, com um estudo analítico, estudaremos comparativamente a questão que; Os distúrbios mentais têm uma ampla gama que em alguns casos torna a pessoa irresponsável e em alguns casos torna a pessoa parcialmente responsável e em outros casos não afeta a punição criminal da pessoa. Além disso, a diferença entre a loucura mencionada no artigo 51 do Código Penal Islâmico é diferente do conceito de loucura considerado pelos psiquiatras, e na legislação, refere-se apenas aos graus de loucura e não lida com os tipos de loucura.

Palavras-chave: Insanidade. Distúrbios mentais. Direito penal. Criminoso.

Introduction

Madness is a greyhound word of jinn, jinn and on the weight of the verb and the source, and it has been defined as dementia or corruption. In the words of the desire for madness from the substance of the jinn, it basically means to hide something from the senses. In the culture of Dehkhoda, Majnoon means a person whose intellect has disappeared, is rebellious and insane against the wise and prudent, and a certain culture has brought it to mean insanity (Asgharzadeh, 2010).

Defendant's insanity is one of the most important issues in the criminal field. What is called mental illness today is mentioned in the Islamic Penal Code as madness. What is known as madness in law is used in psychology as "psychosis" (Bashirieh, 2008).

Considering the concept of insanity - and mental disorders in general - reflects the fact that this concept has gone through different periods, both theoretically and in terms of dealing with those suffering from it. The process of paying attention to this concept shows a wide range of approaches and encounters with the free. In general, research related to the subject of insanity can be classified into three categories: the first group refers to the topics of insanity and psychiatry; The second group talks about the rights and treatment of the free; The third group also studies the perception of people as crazy in different periods (Sadidpour, 2014).

People with mental disorders as a member of society need the support of the legislature, because they bear the name of the patient and their rights to individual freedoms and human dignity must be respected, because they are mentally ill should not be with them Deal with criminals who have violated social laws. Behind the supportive view is an attitude that causes the legislature to be divided. A policy that, on the one hand, claims protection and treatment, and, on the other hand, puts deterrent and preventive measures on its agenda, which are typically protective and protective.

At present, the approach of the legislators is to apply both categories of measures (security and protection), together and according to the situation of the dangerous mental patient. However, in the new criminology, called "New Criminology-New Punishment" or "Crime Risk Management Theory", which originated in North America and Canada, "community protection against offenders requires that different actions and decisions be taken." "In the criminal process,

from the stage of issuing a security order to the stage of executing a criminal sentence, they are adopted and applied, not correctional, but risk-oriented."

The psychological effects that accompany mental disorders sometimes affect the patient's personality to such an extent that they clearly disrupt his behavior. Also, as we know, one of the complex and challenging issues of criminal law that has been the subject of controversy among some jurists is the issue of criminal responsibility, which legal scholars often consider to be subject to the existence of three legal, material and psychological elements and the absence of any of these. The three elements and their deterioration for any reason are the reasons for the elimination of criminal responsibility. The legislator sometimes does not consider the criminal act to be attributable to the perpetrator due to the existence of conditions and qualities that exist in the person, and in this regard, he considers him as not criminally responsible.

From the beginning, we have seen changes in the Islamic Penal Code in the explicit text of the legal article on insanity and people with disabilities, which in the current law is referred to as "insane" and "to any degree". This change of wording in the legislative process has created ambiguities about mental disorders and the inclusion of insanity, and consequently the abolition of criminal liability, which has led to the judges' taste in determining a just punishment. Sometimes a person commits a crime under the influence of disorders of which he is unaware. Studies have shown that when biological factors interact with psychological factors, they create criminal behaviors (George Wold, 2001, p. 127).

Research literature

Man is a social being who communicates with his surroundings to meet his various needs. This relationship, which is the result of a person's social adjustment and internal adjustment, is called psychological adjustment. Sometimes there are obstacles and problems in a person's life that upset the adjustment and as a result, the person's mental balance and the person suffers from stress and discomfort that may cause mental and nervous disorders. Mental disorder, mental illness or psychosis, is a serious mental illness by which the flow of thought, thought, behavior, actions, feelings, and actions is diverted in the right and normal way, and mental illness is usually accompanied by symptoms such as loss of contact with Reality is characterized by impaired perception, the emergence of childish and regressive behavior, a decrease in the

inhibitory force of primary stimuli and tendencies, and the emergence of abnormal thoughts, which include a variety of delusions and hallucinations. (Bahrami and Manawi, 1966).

Criminal liability

Responsibility and responsibility is derived from the word question and question. In order to find a clear and unambiguous answer, it means asking a person clearly and clearly and asking for a specific answer from him (Al-Isfahani, p. 1437).

Responsibility often comes in the sense of duty and what a person is responsible for (Amid, p. 213) and the state or attribute of a person who is asked to do something (Ebrahim Mustafa, p. 114) and legal obligation. A person is defined as compensating for the damage he has caused to another, whether this damage is due to his own fault or is due to activity (Langroudi, p. 624). In the term of ability and competence of a wise and rational human being to bear the punishment of action (Samir, 269) The crime and punishment in which the offender is known as "responsible" by crossing this bridge (Nurbaha, 61) and the human being in possession and understanding of the meanings of the consequences to bear the forbidden acts (Odeh, pp. 123-133) has been used.

But the sum of the opinions and opinions of lawyers, their definitions can be referred to one of the following three definitions:

A: The ability or competence of a person to bear the criminal consequences of his criminal behavior.

B: The criminal consequences of forcing or imposing a person's criminal behavior on him

A: The obligation or compulsion of a person to bear the criminal consequences of his criminal behavior.

Examining these definitions, the truth is that "ability to bear criminal consequences" and "coercion to impose criminal consequences" are two different forms of "criminal responsibility" because the former represents the abstract and abstract aspect and the latter the real and objective aspect of responsibility. (Mir Saeedi, p. 22) Therefore, by accepting this theory, the views and theories that try to separate competence from the realm of "criminal responsibility" are invalid and each of the three stages constitute one aspect or one side of criminal responsibility.

- The pillars of criminal responsibility

Potential criminal liability

In the Islamic Penal Code, except for the issues related to hudud, qisas and diyat, there is no discussion of the elements of criminal responsibility, but in the book of generalities, some factors that eliminate criminal responsibility are discussed. What is important is that criminal capacity is another expression of Criminal responsibility is potential and this ability is called a "special state" or "certain situation" in a person that if he commits a crime in that state or situation, he will be able to bear the punishment (Kamaluddin Imam, p. 86), which is the most important Its components are:

First paragraph: maturity

Well-known Imami jurists consider the age of criminal maturity to be fifteen years for boys and nine years for girls, but there are opposing views against the well-known opinion of Imami jurists, whose sayings can be divided into two categories. A- A group of jurists and scholars, according to the narrations that have been included about fasting or the news that have been mentioned in different chapters of the rulings, have considered hierarchies for different tasks and have determined specific ages for each task (Feyz Kashani ·Pp1-14).

B- Another group of scholars according to the verses and narrations that have considered inclination and menstruation as the criterion of maturity and the conflict between the narrations cited by famous jurists with other narrations and considering the requirements of practical principles such as the principle of innocence and acceptance and according to external facts and opinions Experts in the natural sciences believe that the phenomenon of puberty is a developmental matter, and that the meaning of puberty in Islam is sexual puberty, and that it is a definite sign and sign in men to reach the level of menstruation, and in a girl to see menstrual blood.

Second paragraph: Perception

In criminal terminology, the ability to understand the nature of actions and its effects and consequences and the power to distinguish bad from good and permissible from forbidden is called perception (Mirsaidi, p. 115).

Understanding the "nature of behavior" means that a person can distinguish between the various actions that are issued from him, but understanding the "natural effects" of behavior is

to understand the material effect that behavior leaves and also the place of entry of this effect. And the meaning of understanding "social ugliness" is to understand the damage or danger that from this behavior to the legitimate rights and interests of others (Mirsaeidi, p. 121).

Therefore, perception is one of the pillars of criminal responsibility in the concept of potential and this element is closely related to reason. Reason in the dictionary has different meanings such as: understanding, receiving, intelligence, innate consciousness and wisdom (Moin, p. 251).

Third paragraph: authority

Authority in the word means to choose and choose (Ibn Manzur, p. 112) freedom of action, power to do work of one's own free will against compulsion and urgency (Dehkhoda, p. 89) and in the philosophical sense means the status of the subject in such a way that If he wants to do the present and if he does not want to do not do that (Tusi, p. 326). In this interpretation, authority implies two attributes of "power" and "will" to the subject.

A: Power means that the verb and the omission of the verb have an equal proportion in relation to a particular subject. That is, the state of the subject is such that "necessity" and "sanity" have both action and omission (Dehkhoda, p. 1502).

B: If the perpetrator does not have power, he will not have the will in the first place, and if he has power but does not have the will, his action will not be considered voluntary. Will is a kind of sensual act combined with consciousness, which is the direct source of criminal behavior. In principle, the material element of the crime will be attributed to the perpetrator when it arises from his will, otherwise it can not be attributed to him, and the person will be criminally responsible when, in addition to the power and ability to commit it or not, Use his will to perform or refrain from performing a prohibited act, and if the surrounding conditions limit the agent's will to such an extent that there is no alternative to the act committed, it does not seem meaningful to say that there was a choice and if "It can be said that there was a choice at work and the perpetrator can not be punished in any fair way" (Tibet, p. 201).

Psychopaths

Mental disorder, mental illness or psychosis, is a serious mental illness in which the mental disorder, mental illness or psychosis, through which the flow of thought and thought and

behavior and actions and feelings and actions is deviated from the right and normal way and mental illness They are usually characterized by symptoms such as loss of contact with reality, impaired perception, the emergence of childish behavior and regression, decreased inhibitory force of primary stimuli and tendencies and the emergence of unusual thoughts that include delusions and hallucinations (Bahrami and Manavi, 1345).

There are seventeen major categories of mental disorders in DSM IV. Some of these disorders, such as learning disabilities that first appear in infancy, childhood, or adolescence, are "not related to crime or legal conflict." In contrast, disorders characterized by inability to verify power, disturbance of thought, and disturbance in behavior, perception, and emotions, called schizophrenics, have a direct effect on a person committing a crime and being held criminally liable.

In addition to the DSM IV classification, mental disorders are broadly divided into psychotic, neurotic, functional, and organ types. However, it seems that mental disorders can be divided into five general categories according to their effect on the commission of a crime and the general encounter of a person with it with criminal law:

Mild mental disorders, which are the most common of these disorders and include a large number of known mental disorders, which do not play a role in the responsibility of people with the disorder; Or their role in this regard is negligible. This group includes a variety of anxiety disorders, morbid fears, psychosomatic illnesses, quasi-physical disorders, adaptive disorders and many others.

2. Personality disorders, which constitute the major category of mental disorders and DSM IV divides these disorders into three categories:

Category A: Paranoid, schizoid, and schizotypal personality disorder

Category B: Dramatic, narcissistic, antisocial, and borderline personality disorder

Category C: Obsessive-Compulsive, Passive-Aggressive, Dependent, and Avoiding Personality Disorder

3. Mental disorders of organ origin, which include the consequences of various types of epilepsy, addiction and dependence on psychotropic substances, concussions, brain damage due to vascular diseases and the like.

4. Mental retardation and disorders caused by defects in the development of powers of consciousness, which are sometimes due to congenital defects and sometimes other causes in some cases without known cause.

5. Severe mental disorders, which include a group of psychotic disorders, lose their ability to verify reality and suffer from delusions and hallucinations. The culprit is schizophrenia.

Schizophrenia

Of all the psychiatric disorders, the definition and description of schizophrenia is the most difficult and complex. The main reason for this problem is that over the past hundred years, very far-fetched concepts of schizophrenia have been expressed in different countries and by different psychiatrists (Pourafkari, p. 1961). However, in the dictionary and idiomatic idioms of psychiatry, while referring to the symptoms and the unknown causes of the disease, it is stated that: Schizophrenia or (psychosis) is a type of psychosis (psychosis) that is characterized by symptoms such as thought disorder, mood and emotions and behavior. (Bahrami and Manavi, 1991, pp. 326 and 327).

The word schizophrenia or juvenile delinquency is a well-known term for the psychiatrist's blower, and is derived from a combination of the two words "schizophrenia" meaning to split, disintegrate, disintegrate and lose unity, and "frenz or frenos" meaning mind or thought. Kinia, 2001, p. 261). Schizophrenia or psychosis or insanity of youth is one of the major mental illnesses in which the patient's thoughts, feelings and perceptions are asymmetrically changed and distorted and eventually cause dysfunction.

There are many different theories about the cause of schizophrenia. In general, there are two groups of important hypotheses in this field. In the first group, the main cause of the disease is inherited factors, genetics and disorders of the nervous system. Scientists of the second group believe that parenting and child-rearing methods, social and family issues, stressful events and incidents, how interpersonal communication and environmental issues, etc. are effective in the incidence of the disease. We will not enter into scientific debates and theoretical conflicts here. It should only be noted that research on the inheritance of the disease has shown that if one parent has schizophrenia, the risk for children is 4.16 percent, and if both parents have schizophrenia, there is a 9.33 percent chance that Have children with the disease. In simpler terms, genetic affinity (proximity) to the patient increases the risk of infection. For this reason,

experts have never considered the marriage and having children of schizophrenic patients to be effective in their recovery, but believe that this will double the problems of patients. Especially if it is without a plan and without consulting a psychiatrist or clinical psychologist.

Criminal liability and mental illness

The intention and thought of committing a crime is the same as the psychological element of the crime. This means that every person who intends to commit a crime first develops his intention and will to commit a crime in his mind and prepares the ground for the revival of other elements with his pre-determined thoughts and plans. It is interpreted as a psychological element of crime. From this point of view, we interpret all the details of committing a crime that must be committed individually or in a group and are to be realized in the form of executive action plans and are about to be committed by the decision of a group or individual as intent and psychological element of the crime. The important point is that the first condition for recording any kind of crime or offense that must be committed knowingly and intentionally is initially subject to the psychological element and is in fact the main precondition for initiating or committing crimes that the person intends to commit. It has it, and the role of other elements is eliminated until this element is brought to the mind of the possible perpetrator of the crime. Psychological disorders target the spiritual element of the crime and cause the psychological element to be targeted among the three elements of the crime (legal, material and psychological) and the existence or effectiveness of this element in the realization of the crime to be disrupted. In order to make a connection between the psychological element and criminal responsibility, we must first start talking about the crime process, because the most obvious result of the crime is the issue of criminal responsibility. Of course, due to the multiplicity of attitudes, it is very difficult to provide a single definition of crime at first. In any case, the clearest concept of crime is the one defined by law; Therefore, what is stated in the explicit text of the criminal law is the criterion for action. In the process of creating a crime, the legislator, inspired by tradition, religion, custom, ethics and modern science, formulates rules that human beings are the target of these rules due to their intelligence and clean power and authority in performing their actions. Circumstances are imposed on the perpetrator and this is the valley of the intersection of the psychological element with criminal responsibility because in committing a crime we encounter three main elements that the fulfillment of all three elements is the main and basic condition

for the crime. (Aghaei Nia, 2006) . A person can be the guarantor of the execution of a criminal act who has a criminal capacity because, as we mentioned in the previous discussion, the perpetrator can be punished when he is actually criminally responsible and criminal capacity is the same as the possibility of reprimand and conviction. During criminal liability, the elements of crime are first considered. According to popular opinion, despite differences of opinion about the number of elements of crime among lawyers, the prevailing theory is that crime consists of three elements: legal, material and psychological. (Bashirieh, 2006) P. 67). To better explain the effect of neurological and mental disorders on criminal liability, we examine the concept of the psychological element and its components, because in patients with neurological and mental disorders, the discussion is about the disorder of discretion and authority to determine the attribution of crime. Examined them and, consequently, their criminal liability; In addition, criminal responsibility requires an in-depth study of the offender's personality, and criminal justice requires that the individual characteristics and specific psychological aspects of the offender be carefully considered in assessing his criminal behavior to determine the type and amount of punishment. . As a result, people who have been affected by coercion and reluctance or free and children who are considered criminally irresponsible due to their personal characteristics and special mental condition are exempt from punishment in this regard (Shambiati, 2001).

The psychological element can be interpreted as "mental interactions". (Bashirieh, 2007, p. 43) The psychological element of crime is in fact the psychological relationship between the perpetrator of the crime and the crime, the main essence of which is the criminal will and is one of the main elements of any crime. Some people believe that people with neurological and mental disorders are able to do something intentionally or negligently, but it should be noted that mere will and psychological relationship with the crime is not enough to achieve the psychological element because the crime must have legal validity and Be legal while a person with a neurological or mental disorder lacks a valid will, therefore is considered incompetent to commit a crime and, in a more specialized sense, lacks criminal capacity; However, his criminal behavior is devoid of psychological elements; Therefore, according to the above, the psychological element can be summarized in two pillars:

1. By the sentence and the subject of the act.
2. Intention to commit a crime

1. Knowledge of the sentence

First, one must be a scientist, because one cannot normally expect people to know exceptions, in which case it is as if we have shifted the importance of the two, but yet jurists have not accepted this, and in fact everyone in the world has assumed exceptions. Mohseni, p.

Knowledge of the subject will include knowledge of the action itself and knowledge of its component and knowledge of the result. If the perpetrator is ignorant of his subject, for example, he feels that he is taking away or destroying his property, but in fact it is not his own, this mistake will be effective because ignorance and mistake is the incompatibility of the subject's mentality with the reality of the outside world. . Knowledge of the subject is necessary for the existence of responsibility, and in common law, a correct belief in the existence of conditions can be an acceptable defense (Walker, p. 5). Therefore, the necessity of knowing the verdict and the subject in the realization of criminal malice based on the necessity of purposeful punishment can be justified in such a way that if a person does not know the prohibition and criminality of the act at the time of committing the act, and as a result, the mind and psyche He is free from any criminal thoughts. The execution of punishment is also abolished and useless (Mirsaeidi, the former, p. 177); Therefore, the spiritual element does not come into being by force, and the spiritual element that does not take shape is the coercive result of not fulfilling criminal responsibility.

2. Intention to commit a crime

When the legislature, by formulating the penal code and regulations of a policy, determines that a person commits a crime when the result of his action is a violation of written law; Therefore, ignoring the warning of the legislator is basically the same mental interactions that are considered as the pillars of the spiritual element and the intention to commit a crime is the same as asking for an action that leads to breaking the law or has the ability to break the law (Ardabili, 2000). In criminal law, "criminal intent" can be considered as a definite will and leading to an act or omission that is prohibited by law; Of course, here the will or will must be raised in the normal circumstances of a wise, autonomous and physically and mentally mature human being because dementia or lack of growth causes the will or will to commit a crime to be violated and the criminal responsibility of the offender is often eliminated. Go or become a reduced criminal liability (Nurbha, 2005).

Criminal liability is the latest data on the commission of a crime, and when the psychological element has a function that affects the nature of the crime, then it should play a role in the realization and non-realization of a crime. This is the prevailing view of the role of the psychological element. One of the most obvious examples of criminal liability is insanity, which is one of the examples of neurological and mental disorders with the opinion of a psychiatrist. In madness we see the psychic element vanished. Now we have to see whether the crime was committed by the insane or not? Secondly, which of the neurological and psychological disorders is considered as an example of insanity, so that by extending it to Article 51 of the Islamic Penal Code, it can be considered as one of the causes of eliminating criminal responsibility. This is one of the areas where there is serious disagreement among lawyers. A group of jurists believe that in insanity, a crime does not actually take place until we accept the abolition of criminal responsibility. They believe that crime has three elements, and the absence of any of these elements means that no crime occurs at all.

The type of paranoid (suspicious), ie schizophrenia with pessimistic thoughts (Kiani, 2008) is characterized by the presence of frequent delusions and auditory hallucinations. It begins in the late second decade and early third decade of life. Delusions are mainly of the arrogant type and bite and injury. Patients with this type of disorder are usually tense, skeptical, resilient, cautious, and sometimes hostile and aggressive; In other words, the main feature of the paranoid type is: the presence of delusions and self-aggrandizement and the presence of many auditory hallucinations. These people are usually excited, skeptical and cautious, and are often violent and aggressive. They can also better protect themselves socially (Kaplan and Zadok, 2003, p. 22).

The position of Iranian law regarding the impact of neurological and psychological disorders on criminal responsibility

The issue of mental patients' involvement with the law and committing criminal behavior is one of the problems of judicial proceedings. Courts often rule in favor of a psychiatric patient with the help of psychiatrists. It has been more than eighty years since the enactment of criminal laws in Iran, and during the changes in the laws, mental and neurological disorders have been briefly discussed and their impact on criminal responsibility. In general, in our time, it is believed that the execution of punishments for criminals with mental and neurological disorders is not compatible with any of the purposes of punishment, ie correction of the offender and learning

from others, and the approach of the Iranian criminal justice system in dealing with this issue. It is necessary to examine the existing ambiguities in this field. Lawyers' opinions on insanity differ. Some accept the commission of a crime by an insane person according to the legal definition of a crime and consider insanity to be the elimination of responsibility; While some people generally consider the commission of a crime to be ruled out by the insane due to the lack of criminal intent and the decline of the spiritual element. A look at the history of legislation on insanity reveals the reasons for this fragmentation. General Punishment Law approved on January 14, 1304 AH. Adapted from French penal code, Article 40 recognized insanity as one of the remedies for criminal liability. Article 40 of the General Penal Code: "A person who is insane while committing a crime or has a mental disorder is not considered a criminal and will not be punished, but if insanity persists, he must be handed over to the insane asylum."

This article put madness and mental disorder in the same category and practically created problems for the courts. Authors of the amendment law approved on June 27, 1973. Influenced by the new psychological terminology in Article 36 (a), they acted more precisely on insanity. According to the definition of this law: "If it is proven that the perpetrator is unconscious or has a complete disorder or will at the time of committing it due to congenital or incidental causes ..."

Paragraph (b) of the same article also referred to the relative disturbance of consciousness or the power of distinction or will. Law 1352 AH Using the terms "lack of consciousness," "total disorder," and "relative disorder," he categorized "insanity" as a discriminating force or will. Decision of the law of 1352 AH. It can be criticized in terms of mitigation of criminal responsibility and punishment of persons who have suffered a relative disturbance of consciousness or purity or will while committing a crime. . Law of 1973 A.H. Instead of considering and ruling on special security measures in terms of recovery and treatment of the mentioned individuals, in the position of Arfaq, it has only reduced the length of imprisonment and sentenced the half-responsible criminals to a shorter imprisonment. . These reduced punishments do not punish the semi-responsible person, nor do they have an effect on his recovery and treatment. (Sanei, Pishin, p. 518) On the other hand, keeping the offender "semi-responsible" among mentally healthy offenders who have chosen the criminal way to meet their needs causes him to learn criminal behaviors and values, to An arrangement that, after the end of the prison term, is likely to lead to more criminal activities and create more dangers for oneself

and society. Proponents of her case have been working to make the actual transcript of this statement available online. Proponents of her case have been working to make the actual transcript of this statement available online. Advocates should not be held accountable for their crimes. Used their correction and treatment. Hospitals for criminals, which are provided for in the Iranian Security Measures Law but have not yet been established, and exist in some countries, including Belgium, can be a good place to keep and treat such criminals. (Sanei, Pishin, p. 520. (Islamic Penal Code of 1982. In its Article 27, it considered insanity as a cause of non-criminal responsibility: The terminology of the 1973 law is far removed, while the more recent law was more in line with new issues in psychology, which, contrary to the laws of 1925 and 1973, seemed to criminalize the perpetrator but absolved him of criminal responsibility. Article 51 of the Islamic Penal Code, adopted in 1991, also emphasizes the exact wording of Article 27 of the Islamic Penal Code of 1982 on insanity. They are on the border of health and insanity. It can be understood that with a little care, it does not mean the legislator; The result is the abolition of criminal responsibility. In Article 8 of the Code of Criminal Procedure, insanity is one of the prohibitions of prosecution. It is considered. It should be noted that:

"Insanity removes criminal responsibility from personal causes and is effective only in the case of the insane and does not absolve the partners and accomplices of the crime who were wise."

There is disagreement among judges and psychiatrists about some mental illnesses, stating that there is no ambiguity in schizophrenia, but in the case of someone who is healthy in all cases; He works and makes wise decisions in other cases, but he is pessimistic about those around him and because of this he tries to kill or beat, etc., because this person has an illusion, that is, he really sees someone or even his voice. He hears and insists on proving what he said and swears that such a thing is true. He complains to the court but has no evidence. No one believes what he says, so he acts on his own. In the case of such a person, if his delusion and delusion towards those around him are done in proportion to the crime, he is relieved of criminal responsibility, otherwise he has criminal responsibility. Antisocial personality disorders are a group of behavioral disorders that appear due to overgrowth and the person does not pay attention to morals, conscience and social norms; For this reason, many crimes are committed by such people. In this category of people, while not growing enough on their own, in most cases, such people can be held responsible for their behavior and actions because they feel somewhat

responsible for environmental and social laws, and their actions can not be considered as a cause of criminal liability. These disorders do not have the power to understand and distinguish their actions and are somewhat aware of the nature of the act committed and it can not be considered as an example of madness mentioned in Article 51 of the Islamic Penal Code. Regarding the issue of criminal responsibility of patients with epilepsy and mental retardation, it is stated in the consultative theory that: "Madness and mental disorders eliminate criminal responsibility and whether epilepsy and mental retardation are among their examples or not is up to the physician." (Consultative Theory, 1994/3 / 28-7 / 50) It has also been stated that:

"If the trial judge, in accordance with the forensic doctor's theory, finds that the accused (a person whose sentence has already been issued for insanity) is not insane, he should prosecute and punish him. "If, according to the forensic doctor's theory, it is proven that the accused is insane, the sentence will not prevent him from being prosecuted." (Consultative Theory, 7/4/2004 / 7/10) Another consultative theory states that: After researching and obtaining the opinion of a specialist doctor, it is the responsibility of the court to determine whether epilepsy and mental retardation are examples of insanity or mood disorders with an expert (psychiatrist) and the court can, if the expert opinion To know the certain circumstances of the case in accordance with the case, to act according to his opinion. Therefore, in general, it is necessary to use the opinions of experts, psychiatrists, neurologists, psychologists, criminologists, lawyers to further investigate the limits of criminal responsibility of criminals with mental and neurological diseases, including the mentally retarded. The result should be considered in the laws. Obviously, the relationship between criminal responsibility and the degree of mental retardation is a complex one and consists of many different factors, and the treatment or rehabilitation or discipline of such a criminal requires a detailed expert examination. In Article 51 of the Islamic Penal Code, insanity was defined according to the applicability of the legislator in order to determine the scope of insanity for the inclusion of bipolar disorder.

The point that should be said about insanity in this article is that insanity refers to dementia and lack of consciousness and includes those diseases that cause the loss of the power of distinction and the decline of the will, and the other is that mental illness includes insanity. And not every mental illness is diagnosed as insanity. Therefore, according to the materials described about bipolar disorder and the basic explanations about it, it was found that this disorder is a type of mental illness and this disease can be severe in acute cases, whether in severe

depression or excessive euphoria. Madness and consequently eliminates criminal responsibility, but in cases where this disorder does not cause dementia, although it puts a person in a state of unconsciousness to perform certain actions and deeds, it can not be considered subject to Article 51 of the Islamic Penal Code, but according to Article 22 The Islamic Penal Code should provide the supervisor of the crime (in the case that he has this disorder while committing the crime) with the qualities of mitigation so that the sentence issued with justice has the necessary proportion and coordination.

Conclusion

Impairment of liability is a mitigating factor in punishment based on the offender's mental disorder or illness, and this disorder or illness can be for inherent or acquired reasons such as illness or auction, which primarily affects a person's psychological responsibility to commit criminal behavior. In Iranian criminal law, liability or non-liability is fully or completely included in the Penal Code.

Defendant's insanity is one of the most important issues in the field of criminal law. This issue is raised in both the Islamic Penal Code and the Code of Criminal Procedure, and separate sentences are issued depending on the stage at which insanity occurs. In such a way that only insults during the commission of a crime lead to the elimination of criminal responsibility, and in other stages, since the principle is to execute the punishment and its non-execution requires the explicit text of the legislator, ultimately impose punishment on the insane. will be. در ق.م.ا. Approved in 2013, similar provisions have been passed as the aforementioned laws, but in this law, crimes and insanity are more explicitly stated in them, and also just claiming insanity in some crimes causes some criminal irresponsibility and is one of the innovations of this new law. . But in general, the execution of punishment in these cases is in conflict with its primary goals, which are rehabilitation and deterrence. Basically, what should be applied to the insane for committing an act is security and educational measures. Because punishments in the specific sense, criminal nature, is the main feature in them, while deterrent punishments do not have this type of feature and mostly have the feature of deterrence, which is an example of this type, security and training measures. Precautionary measures are various measures that have a preventive aspect and are apparently largely separated from the punishments. Although punishments also focus on crime prevention, the tools of punishment are other than the tools

that security measures are equipped with, because in punishments the means of social prevention are execution and other punishments such as imprisonment, deportation or compensation, while the means of action Provides hospitals, agricultural workshops, correctional centers and the like. It seems that providing comprehensive and specific criteria in relation to mental disorders in the form of insanity can help to identify the criminal status of these individuals and to identify judges. It is also necessary to identify impaired criminal responsibility (given that many of these disorders have genetic roots) in the Iranian criminal justice system as in other countries.

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