

## Consultative In Use of Psychology Science In Penal Code and Criminology

<sup>1</sup>Saber Afrasyabi, <sup>2</sup>Ali Babayee Mehr and <sup>3</sup>Ahad Khazai

<sup>1</sup>Department Of Law Science And Research Branch Islamic Azad University Islamabad-E-Gharb Iran Branch.

<sup>2</sup>Department Of Law Science And Research Branch Islamic Azad University.

<sup>3</sup>Department of Law Science And Research Branch Islamic Azad University Chalos Branch.

**Abstract:** Complexity of Criminality phenomenon and plurality of crime factors enforce criminologists to determine Criminality phenomenon don't look at convicts only from Judicial frame , rather they use psychology , psychiatry and sociology viewpoint and ... for study about all character dimension of convicts . Criminology is a new science that spends it's infancy period. It's not more than one centenary that this empirical and combinatorial science shoots from imagination and thought and transmits to action and from subjective reach's to objective and this science follows out the way of experience and evolution . Different sciences try to enforce justice and goodness sanctions and these sanctions are two essential pillars for human welfare and he pride. Also law and psychology science aren't exempt from this principle. Recognition of dangerous status and moralist adjustment and psychotherapy and treatment of criminals and help to them ate phase of criminal law and psychology science's effort and other sciences. There are many subjects about application of psychology science in criminal law, but these manuscripts has not enough ability for study and specify all of them. In this article we try to, after explanation of history of psychology usage In criminal law science, survey about insanity as a factor for remove punitive responsibility that has many affects.

**Key words:** file of identity, insanity, punitive responsibility.

## INTRODUCTION

Recognition of sinner's personage has special importance for judges. Full knowledge about psychological and motivations of crime commitment and sentimental, mental and behavioral agents are inevitable in judge's decision making. Today, recognition of sinner's personage has an important role in judicial trials.

Because punitive judge for pronouncement should has curt and enough information about sciences such as psychology, hence he can study about personage file along side criminal floe and this rule be symmetric with spiritual and mental positions of sinner. In any penal trial, shows criminal activity and reasons of crime commitment, there is a file about personage, and this file is for this reason that responsible judge can make proper decision.

For establishment of personage file, cooperation of psychology and psychiatry experts and social aids is essential.

With a look at the legal systems of countries establishment of personage file for Arghantin 1907 and for belghik in 1919 and fiancé in 1958 was considered as a necessity for impartial judgment. But in many countries, yet there isn't this necessity and so we will discuss about psychology usage in law science.

Because clinical psychologists are human's behavior specialists, This will not be surprising that some of them are specialist of psychology usage in resolving problems of judges, agents, police officers and every one that meet with civil and punitive problems.

### *Consultative in use of Psychology:*

Legal psychology is " use of methods, theories and psychology contexts in judicial system (Raitz man, 1988) " among causes that legal psychologists help to the judicial system syndrome of offence strike , syndrome of whipping women , police psychology, determination of accuracy of witness personality and ....

A look at condition of appearance of psychology since and use of it is law will not be without profit frayed in 1906 said to some of Austrian judges "psychology really can help to the law " . Later, john Watson acclaimed that law and psychology have common backgrounds and interests.

Trial of Hogi foon mantsberg , author of witness box in 1908 was one of the immanent trials , and this shows effort of that author for declare psychology capabilities in judicial system .

P.john vigmoor (1909), magnificent master of law in North western university expressed that claims of Mantsberg about psychology are very high.

In a caustic litigation, vigor accused Mantsberg that be exaggerates about psychology capabilities, he disregards dissidences of Psychologists and he don't understand difference between experimental results and judicial realities?!

Court proceeds against Mantsberg, after a few minutes, verdict was that he is accused and complaint is true. Mantsberg forfeited one dollar. attack of p.vigmoor was nosing and destructive, so this attack causes 25 years last that psychologists as export witnesses show up in judicial files vim or, a few before his death in thirty years later, pall down the sharpness and intensity of his criticisms and declared that courts should try to use the methods that psychologists ad here about those (Jerry, A., 1383). In decade 1950 Based in Mantsberg's efforts and other psychologists, they went to the court as specialist.

We will discuss about insanity claim and how psychologists recognize it and it's affects on penalty law science and psychology.

Chinese and Egyptian and Greek believed that psychologies , and speciallinity, has direct relation with devils and bogies that live inside them as we know, first cognizance and treatment of these diseases be started by cavemen's about half million years ago.

They scoop a part of skull with sharp and cutter stones, they believed that miscreant ghosts are reason of psychosis and will be exit through hole of head (Danesh, D., 1381). Plato, Greek philosopher, declared that psycho paths are irresponsible and penalty less, but he also believed that psychosis's from one side psychical factor's and from another side are divine factors. In middle ages, because people believed that soul of mad's prey with devil's temptations, these people should penalize. Later with from of punitive academies of criminal law and psychology, European countries slave from this middle ages idea.

In this way, we shouldn't disregard efforts of two psychologists and psychiatrist, " pineal " and " skirl ", the these two persons open chain from mad's feet and bond from their hands.

These efforts cause that European countries modify their penal laws and they don't include that psychical peoples are disqualification and try to treat them as a sick, not as a convict.

Ana psychical health at the moment of crime commitment, he will be condemned to jail or hanging. But if this be recognized that he was non compos mentis at the moment Islamic punishment law TV insanity is revolver of penal responsibility. In law, insanity not define and purpose of it isn't clear so, at is first we should see and how much is it effective and penal responsibility resolvers?

Insanity means hide and beetle. Technically, some one that doesn't use from his intellect and loses his comprehension. Because of spiritual and psychical baffle.

Intellect is most important factor for responsibility and this word has various meanings in dictionary as: understand, receive, sense, horse sense and intellect (Mohammad Moin). So insanity should means fatuity, retardation and brassiness. Insanity lexically means gradual and irremediable cadence of human psychical life. In article 51 of Islamic punishment law, insanity has a commin explanation that means severe psychical distress that spoils' distinction and recognition power (Ardabili, D., 1381).

In the convention of psychologists, insanity is a legal term, but predicates to the psycho's patients, so irrational behavior shows insanity.

Psychologist believe insanity has abroad meaning which includes and distinction and volition disorder, of impression insanity may be as mentality weakness, whether innate or phenomenal or because of illness. Also, insanity may be case of psychical baffle that means complete unorganization of psychical life and comprehension disorder such as paranoia and schizophrenia.

So, origin of insanity is different. From aspect, insanity may be general or partial, means that insanity may includes all aspects of human life or includes some parts of human psychical organization and other parts may be in security from this sickness, as aggrieved insanity. That this patient always thinks some people wants to offend him and they want to kill him.

Sometimes this hallucination has such power that patient may kills external enemy. In this form of sanity, wrong comprehension from facts has no effect on caution efficiently and other abilities of patient.

Also, insanity may be everlasting or intermittent. Also, If this fact be affirmed that crime becomited in insanity position, and then convict gain his health, there will not be punitive responsibility .

Insanity is a reality that should be determined. Some times, for judicial system recognition of insanity is hard and some times is easy.

In this case, court requires catching thought of expert or specialist psychologist. In estimate and in diction of penal insanity, psychologist should answer to three questions:

1. Does convict have psychical defect and disorder?
2. How is it his present position?
3. How was his mental position at the moment of crime commitment?

Here in, psychologist evaluate many factors for example:

Case history of convict and his family, rational estate, mental – neural factors, qualify of his for presence in court, his personality and level of simulation. This should be noted that judges and agents and collegians should have complete and executive information about different science such as psychology. Also psychology learning,

so they will do intelligent testimonies, advisements and researches. They should know that their opinion and judgment cause escape of a convict from law or extermination of a patient in judicial system.

For determination correlation insanity with age, intellect, matrimony life, job, of habitation in city and country and descent, many study accomplished and its abstract is as (Mohammad Moin):

Age: Averages of people that refer to the mental hospital for the first time are about 46 years old. But some of kinds of insanity break out in specify ages, as : schizophrenic (mental insanity) that usually take place in the first years of maturity and senility insanity in the last years of life .

Sexuality: Men are schizoid more than women, but senility Pisces and he be phrenia are further among women.

Intellect: intellect of people has no effect on insanity and insanity is among geniuses as other people. Sickness promotion may have effect on intellect and brain.

Marriage: married person's fewer than single persons and persons that divorced get insanity.

Jof: affection of insanity exit in all jobs.

Civic and rural life: numbers of urbanites that get insanity are double of realists.

### **Blood Variation:**

Psychotic actions are in all bloods. Social and cultural conditions have effect in growth of this sickness.

We can observe two behavioral signs indifferent levels of affection that are limited to the kinds of insanity, such as below:

#### **A ) Nimbus:**

Nimbus is irrational and fleas thoughts that patient defends of those ideas and he thinks they are true and reason able and acts based on his ideas.

In general, patient who has nimbus, meet with his intellectual ideas and images that they are reality. Most current nimbuses are:

Crime and offence nimbus, harm nimbus, doom nimbus, metaphor and gesture nimbus, influence nimbus, glory and hauteur nimbus, material dimidiation nimbus.

#### **B) Mazes:**

Maze is abnormal emotions and unreal perception of five senses. (Plawski, 1980)

Patient apprehends different and odd things and phenomenon's with out be real external stimulus. After study about insanity and it's symptoms, now with use of Islamic punishment law, we will discuss how elimination of it's responsibility. According to the punishment law of many countries, insanity Ramones responsibility with two conditions: insanity parallel ism and it's companionship with crime. Any way, judgment will be fetching up and continuances of it pertain to healthy of convict. Because in this case he cannot self defense.

If meanwhile punishment, convict catch insanity, his insanity will not be impediment of some punishments.

According to the many countries laws, if convict catch's insanity, be will not be punished and If, while he spends his imprisonment, he before end of Imprisonment he catch's insanity, If doctor confirms it, he will go to the mental hospital.

In general, enforcement of penalties about mad sinners is not adaptable with any targets of punishments such as amendment and training of sinner and warning of others.

Only parallelism or insanity with crime is not enough for resolving of penal responsibility, rather mental doctors actually put another condition for insanity and this condition is correlation of insanity with crime. So,one of nimbuses that psychologists should determine that committed crime is result of that psychosis or not ?

Because It is possible that committed crime has no relation with psychosis and convicts position and sickness has no effect on his manner. There, resolving of responsibility from mad will be difficult.

Distinct from said topics, situations that are similar to the insanity will be important, because they divests distinction and volition power as insanity, and it is also important that psychologists and specialists recognize it. None the less with study in different countries laws, it can be said that rules of these laws don't fit ideally with today psychological data about manner and character of mental sinners.

**Because**, problem of many today mad sinners isn't.

Weakness of distinction and recognition power, But It's behavioral and temperamental problem that legislator don't give attention to that. This article was about relation between criminal law and psychology /and this is only one of the usage of psychology in law science and other usages are particular.

### **Deduction and Give Solution:**

Efforts of psychologist cause that in criminal court don't be treated with psycho patches as other consists and with use of psychology since and it's guide lings, convicts that are psychopath be with out responsibility. This precept causes mental convicts be scrutiny in courts us a patient not as a convict.

Shortage of researches in different sciences for example psychology in criminal law and criminology, inexistence of essential facilities for these researches and interest to what existent and what should be existent, cause our delay in this setting than other countries. In some countries judge's act traditionally in criminal systems and reason of that is latch of proficient groups in different branches, especially psychology in judicial system.

Aware that insanity is responsibility resolving. They may resort to insanity after crime commitment to self defense, and escape from punishment and compass the law. As for complacent is inevitable. Recognition of psychologists and psychiatrists has such importance that we can say scourge that in recognition of psychosis's and neurosis's they are right arm of judicial system and their recognition is clue and vital.

At the end of this manuscript we give some solution for more ascendancy of criminal law science and psychology:

1. Reinforcement of criminal law politic for psychology science's trainings rules with use of criminology's data for exact study of sinner and crime and specify reasons of crime occurrence from different dimensions.

2. Personage file establishment for recognition of convicts personality in all penalty files, for this reason that judge can check curt image of crime commitment motivations and spiritual, behavioral alongside criminal file and emotional factors of crime along side criminal file and he pronounces proper rule with mental and spiritual position of convict.

3. Including a set of general rules about mental topics and usage of them in law science for this reason that psychologists note their serious job. That their true recognition can save a parent that committed crime from extermination and also introduce a convict malingerers for self defiance to the criminal system. And don't let him compass the law.

4. setting up learning classes for judges and agents and even collegians of law for more recognition of mental disorders and psychologists in important penal files and usage of them knowledge in criminology since for recognition of criminal phenomenon .

5. Including more lesson units about psychological topics in law training programs in degree of expertise and superior expertise and doctoral.

Is an irrational and false thought that patient defends of those ideas and hi thinks they are true and reasonable and acts based on his ideas.

In general

**Rescores:**

1. D. Ardabili, Mohammad Ali, public/criminal law, voloume two, Mizan publication, 1381.
2. D. Danesh. taj zaman, who is convict, what is criminiology, keyhan, publication, 1381.
3. Raitz man, Nitzel and farchon, 1998.
4. Clinical psychology, A.Jerry fires – timoti. G. tral, translation of mehrdad firooz bakht, Roshd publication , 1383.
5. Plawski: Droit penitentiaire. Lille. 1980.
6. Mohammad moin, persian dictionary, wisdom.

**REFERENCES**

Ardabili, D., Mohammad Ali, 1381. public/criminal law, voloume two, Mizan publication, pp: 79.  
Clinical Psychology, A. Jerry fires – timoti. G. tral, translation of mehrdad firooz bakht, Roshd publication, pp: 701.  
Danesh, D., Taj Zaman, 1381. Who is convict , what is criminiology, keyhan, publication, pp: 136.  
Mohammad Moin, persian dictionary, wisdom,  
Plawski, 1980. Droit penitentiaire. Lille, pp: 176.  
Plawski, 1980. Droit Penitentiave, Lille, pp: 176.  
Raitz Man, 1988. Nitzel and farchon, pp: 499.