

The impact of mental health disorders on determining criminal responsibility in Iraqi and Emirati law.

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Abstract:

AI is revolutionising human resource management (HRM) by automating recruiting, performance evaluation, workforce analytics, employee engagement, and talent development. While AI offers increased efficiency, data-driven decision-making, and personalisation, its implementation presents substantial legal, ethical, and administrative issues. Algorithmic bias can result in discriminatory outcomes, making companies liable under anti-discrimination legislation and data protection regimes like the GDPR and the EU AI Act. Opacity ("black box" judgements), invasions of privacy, depreciation of human dignity, and accountability gaps are all ethical difficulties. Managers encounter skills shortages, reluctance to change, integration challenges, data quality issues, and strategic misalignment. This article synthesizes recent literature and regulatory developments to examine these challenges and outlines governance, technical, and organizational responses necessary for responsible AI-HRM. Successful integration requires human oversight, bias auditing, transparency, clear accountability frameworks, and alignment with organizational values to balance efficiency with fairness, trust, and compliance..

Keywords: Psychological disorders, perception, free will, Iraqi law, Emirati law..

INTRODUCTION

Criminal responsibility is one of the most important topics in criminal law, as it is linked to achieving criminal justice by holding the perpetrator accountable for their actions, provided they possess the criminal capacity, awareness, and will that form the basis of responsibility. However, advancements in medical and psychological sciences have shown that some mental disorders can affect an individual's mental and volitional capacities to varying degrees, raising complex legal issues regarding the establishment, absence, or mitigation of criminal responsibility. It is no longer acceptable to consider all perpetrators of crimes as possessing the same capacity for awareness and choice. Rather, it has become necessary to distinguish between cases where mental health disorders lead to a complete lack of awareness or will, and those where their effect is limited to weakening these faculties without eliminating them entirely. Consequently, the need has arisen for a legal framework that achieves a balance between protecting society from crime and safeguarding the rights of individuals suffering from mental disorders, in accordance with modern principles of criminal justice and human rights.

The research problem lies in the discrepancy between the legal definitions of mental health disorders and their impact on criminal responsibility in comparative legislation, particularly between Iraqi and Emirati law. This discrepancy exists in the legal definitions of mental disorders, the criteria used to assess their effect on perception and will, and the scope of exemption from or mitigation of responsibility. Furthermore, procedural mechanisms for proving these disorders and the role of medical expertise in their assessment differ. This disparity raises numerous practical issues that could affect the integrity of judicial rulings and the achievement of criminal justice. Therefore, a comparative study is necessary to identify points of agreement and disagreement and to determine the adequacy of legal texts in addressing recent developments in the field of psychiatry. Based on this problem,

the main research question is: What is the impact of mental health disorders on the determination of criminal responsibility in both Iraqi and Emirati law, and to what extent has each succeeded in establishing a legal framework that balances the protection of society with guaranteeing the rights of a defendant suffering from a mental disorder? The importance of this research stems from the significance of the topic itself, given its close connection to protecting one of the most important principles of criminal law: the principle of personal criminal responsibility and its link to perception and will. The importance of this research is further underscored by the growing international and regional interest in mental health and the rights of psychiatric patients, and the consequent need to develop criminal legislation to keep pace with scientific and medical advancements.,.

This research aims to clarify and analyze the legal basis of criminal responsibility in light of the presence of awareness and free will. It also examines the legislative framework in both Iraqi and Emirati law to determine the extent to which mental disorders affect exemption from or mitigation of responsibility. Furthermore, it explores the role of the judiciary and medical expertise in proving these disorders and assessing their legal implications.

The research employs a descriptive-analytical approach, presenting legal and medical concepts related to mental health disorders and analyzing the legislative texts regulating criminal responsibility. A comparative approach is also used to contrast the provisions of Iraqi and Emirati law, aiming to identify points of agreement and disagreement and evaluate the effectiveness of each in addressing the legal consequences of these disorders. Therefore, this research is divided into the following sections:

First topic: Conceptual basis

Defining the conceptual basis of mental health disorders and criminal responsibility is essential for understanding the nature of their relationship. The legal implications of these disorders cannot be grasped without first defining their concept, characteristics, and distinguishing them from other mental and psychological conditions. This study, therefore, examines the fundamental concepts related to mental health disorders and criminal responsibility, paving the way for an analysis of their impact on determining criminal responsibility in both Iraqi and Emirati law.

First requirement: Concepts:

First: Psychological Disorders: Modern psychological studies, supported by neuroimaging and forensic psychiatric reports, indicate that some psychological and mental disorders can indeed negate a person's ability to discern or impair their moral and realistic judgment. For example, severe schizophrenia is a psychotic disorder that causes a break from reality, accompanied by hallucinations and delusions that directly affect the perpetrator's intent and will. A person with schizophrenia may commit a crime believing it to be a permissible act or self-defense against an imaginary threat. Similarly, severe depression accompanied by suicidal or obsessive thoughts may drive an individual to behavior whose consequences they do not fully comprehend. In such cases, assigning full criminal responsibility is psychologically illogical and legally unjust, as it attributes the act to someone who lacks genuine freedom of choice or judgment.

Philosophers have given this subject paramount importance, most notably the English philosopher John Locke, who linked the concept of responsibility with self-awareness. He argued that a person is only responsible if they are capable of consciously attributing the action to themselves and understanding its consequences. This makes the loss of awareness, even if relative, a bar to responsibility. One cannot be held accountable if they do not know the nature of their actions or if they are unaware at the moment of the act of its connection to a legal prohibition or command. This rational-ethical analysis has resonated in modern positive law, which has officially recognized the loss of awareness as a bar to responsibility. Article 60 of the Iraqi Penal Code explicitly states that a person is absolved of responsibility if they lack awareness or will at the time of committing a crime due to insanity, mental disability, or any other scientific reason, provided that the loss is beyond their control. This provision is not limited to traditional medical terminology but has opened the door for modern psychiatry to identify disorders that negate criminal capacity ¹. The UAE Penal Code, in Article 62, also adopted a similar principle, and included among the reasons for exemption from liability cases in which a person falls into a coma or becomes insane, or loses consciousness as a result of intoxicating or narcotic substances given to him without his knowledge, or for any other scientific reason.

Conversely, the legislators emphasized the distinction between cases of involuntary or pathological loss of consciousness and cases where a person intentionally impairs their judgment through the voluntary use of drugs or intoxicants. The latter were excluded from the scope of legal defenses and were even considered aggravating circumstances if the purpose of consumption was to commit a crime, as stipulated in Article 61 of the Iraqi Penal Code and Article 63 of the UAE Penal Code. This strict distinction embodies

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the commitment to the principle of conscious freedom, meaning that a person is not exempt from responsibility when they voluntarily decide to impair their capacity for understanding; rather, they bear a double responsibility because they chose to suppress their consciousness in preparation for committing a criminal actⁱⁱ.

Therefore, the principle of free will is not only a legal condition for establishing responsibility, but also a just and moral condition that determines the legitimacy of punishment itself. This explains why just criminal justice systems are founded on this principle, and why legal capacity, in its psychological and mental sense, is a fundamental criterion for understanding criminal justice. The law does not hold accountable those who have lost their legal humanity, and it only holds responsible those who possess the capacity to choose, understand, and acknowledge the wrongfulness of their actions..

Second: Criminal Responsibility: Criminal responsibility constitutes the legal and referential framework upon which the judiciary relies to impose penalties and determine the appropriate criminal punishment for anyone proven to have committed an act that constitutes a crime under legal texts. This framework is not limited to positive legal systems, which are based on written laws and civil legislation, but also includes criminal systems based on Islamic Sharia, which adopt a specific legislative approach stemming from the objectives of Sharia and the preservation of the five necessities. In both systems, criminal responsibility is considered a means of regulating the relationship between the individual and society, in terms of defining rights and duties, and establishing the limits that may not be transgressed without accountability or punishment. Thus, the purpose of responsibility is not limited to merely inflicting punishment on the offender in a mechanical manner, but rather extends beyond that to achieving a set of major goals that constitute the essence of penal philosophy, including: First, establishing justice among individuals, thereby restoring the balance that has been disrupted by criminal behavior; and second, preserving public security and social order by affirming the authority of the law. Third, achieving general deterrence by preventing others from committing similar crimes, and specific deterrence by preventing the offender himself from repeating the offense; fourth, working to reform and rehabilitate the offender so that he may return as a good member of society, especially in cases of juveniles or those who show a willingness to repent and be disciplined; and fifth, protecting society from the repetition of criminal behavior, through a system of preventive and therapeutic measures that may accompany punishment or replace it in some cases.

These objectives play a pivotal role in achieving a delicate balance between society's interest in combating crime and individuals' rights to justice and legal safeguards. The legal system does not seek revenge or retribution, but rather the application of a just law that considers the individual circumstances of each defendant and issues a verdict based on objective criteria and rational justifications. Therefore, criminal responsibility is not a rigid standard applied equally to everyone, but a flexible concept influenced by a range of legal and practical criteria considered when assessing a person's capacity to bear responsibility. Foremost among these criteria is the defendant's mental state. Criminal responsibility is not established for those proven to have lost their mental capacity at the time of the act, such as the insane or those suffering from a severe mental disorder that impairs their ability to discern right from wrong. Age is also a crucial factor in assessing responsibility. Juveniles below a certain age are exempt from the same rules applied to adults and are governed by special legal systems that focus on rehabilitation rather than punishment. The considerations are not limited to these elements, but extend to the circumstances surrounding the criminal act, such as coercion, self-defense, provocation, and vital necessities. All of these factors may mitigate or completely negate responsibility, depending on the judge's assessment based on the available evidence and data. This flexibility in assessing responsibility is one of the most prominent features of detailed justice, which differentiates between cases and takes into account individual differences, rather than relying on a uniform model of punishmentⁱⁱⁱ.

From a broader perspective, legal responsibility, whether in its criminal, civil, or disciplinary forms, is considered the backbone of the entire legal system. It embodies, both theoretically and practically, the interaction between legal texts and human behavior in society. Responsibility is not merely a legal tool for determining punishment or sanction; it is also an integrated intellectual and social system that intersects with various fields of human knowledge, from law and sociology to psychology, and extending to moral and political philosophy. It is no wonder that thinkers and researchers have considered responsibility the link between the legal system and other social systems, as it reflects the extent to which law can accommodate the changing human reality and adapt its rules to meet social needs and prevailing values. From this perspective, law is not a closed science, but rather a living reflection of the movement and development of society, and criminal responsibility is the gateway through which this interaction is translated into tangible

legal outcomes. It is the tool by which it is determined who is held accountable, when, to what degree, and what factors mitigate, aggravate, or negate this responsibility, making it the center of gravity in criminal theory and the axis of balance between the state and the individual, and between public order and personal freedoms.

In this context, criminal responsibility represents a living example of the structural overlap between law as a normative system and philosophical and social thought as an interpretive system that embodies human perceptions of the self and its relationship to society. Although criminal responsibility is formally regulated within specific legal rules, whether through written texts in positive laws or through established customs and unwritten general principles in some legal systems, the content of these rules cannot be separated from their theoretical origins, which are drawn from broader fields of knowledge. The concepts that underpin the idea of criminal responsibility—such as will, intent, awareness, reason, and capacity—are not purely legal concepts that originated within legislative texts, but rather concepts that were derived and developed from the realms of moral philosophy, behavioral psychology, anthropology, and criminal sociology. The law has taken these concepts and formulated them within standard legal models, transforming them into binding conditions for determining an individual's capacity to bear the consequences of their actions. This makes the law, although it appears independent on the surface, fundamentally linked to the intellectual structure upon which society bases its understanding of human nature, behavior, and responsibility^{iv}.

The second requirement: Historical development:

Psychiatry plays a pivotal and advanced role in determining criminal responsibility, not through personal opinion or spontaneous assessment, but through a precise scientific system aimed at diagnosing pathological conditions that may significantly affect the criminal behavior of defendants, whether in terms of loss of will, impaired perception, or a radical change in the assessment of consequences. This role is not a procedural luxury in the justice system, but rather an essential and indispensable element in modern courts that seek to apply objective justice based on a deep understanding of the offender's condition, instead of merely viewing the crime as a legal fact isolated from the circumstances of its perpetrator.

The process of psychologically assessing responsibility begins with a series of integrated procedures, including detailed clinical interviews conducted by specialists with the defendant. These interviews aim to directly understand the defendant's emotional and mental state, followed by standardized psychological tests administered according to rigorous scientific standards. These tests are used to reveal the nature of the existing disorder, whether it be a disorder in thinking, emotional control, or the general orientation of behavior. The process also includes observing the accused's behavior at multiple times and in different environments to determine the consistency or inconsistency of their behavior, as well as resorting to organic diagnostic methods, such as neurological analyses and brain imaging, which help to detect any organic defect in the nervous structure that may be responsible for involuntary impulses or lack of control over actions^v.

This integrated methodology is considered, from both a scientific and legal standpoint, more accurate and secure than relying on personal testimonies or general impressions, which may be influenced by external factors, subject to human bias, or lack objective criteria. The approved psychological assessment is based on rigorous scientific principles and relies on internationally recognized classification systems, such as the International Classification of Diseases (ICD) or the Diagnostic and Statistical Manual of Mental Disorders (DSM-5), which establish specific criteria for characterizing each disorder, distinguishing it from others, and determining its impact on mental faculties.

Criminal legislation in several Arab countries, particularly Iraq and the UAE, has adopted these modern tools and considers them a binding judicial reference when examining criminal responsibility in cases of suspected mental illness. The laws explicitly stipulate that judicial authorities may not rule on such cases without relying on official psychological reports issued by specialized and recognized medical institutions. These reports are considered crucial documents in determining whether the accused is completely lacking in awareness or free will, or suffering from partial impairment or deficiency^{vi}.

Section Two: The Impact of Psychological Disorders on Determining Criminal Responsibility in Iraqi Law

Modern criminal legislation, including Iraqi legislation, has attempted to limit the reasons for the lack of awareness or full will to specific and limited cases, such as complete insanity, severe mental disability, compelling duress, or complete coma.

First requirement: The impact on perception and will in Iraqi law

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There is one common principle among all the grounds for disqualification from criminal responsibility in modern legislation: these grounds must be such that the perpetrator loses their awareness (consciousness) or will (choice) completely at the time of committing the crime. This loss may indeed occur, as in cases of complete insanity, severe mental disability, or unconsciousness resulting from the involuntary use of narcotics or intoxicants, as well as in cases of duress that completely negates free will. Modern criminal legislation, including Iraqi law, has attempted to limit the causes of complete lack of awareness or free will to specific and limited cases, such as complete insanity, severe mental disability, duress, or complete coma. However, this limitation cannot be applied with the same precision when it comes to the causes of diminished awareness or free will. These causes can vary in their severity and intensity, and it is impossible to establish a single, universally applicable standard for them ^{vii}..

If the assertion that a person who completely lacks awareness or free will is exempt from criminal responsibility is entirely consistent with the logic of moral responsibility, which rests on the human capacity for choice and the ability to distinguish between good and evil, right and wrong, then the same logic also dictates that in cases where a person has diminished awareness or free will—that is, not completely lacking them—criminal responsibility should decrease according to the degree of these limitations. The degree of responsibility is thus measured by the extent of the offender's diminished awareness or free will, proportionate to the degree of culpability or wrongdoing committed by the crime. This is the concept of criminal responsibility, also known as graduated responsibility, a theory based on the premise that criminal responsibility is not an absolute and fixed concept, but rather a relative one that varies according to the offender's capacity to bear criminal consequences. Responsibility is not a purely binary state: either complete or nonexistent. Rather, it is a spectrum ranging between two extremes: full responsibility for those with sound judgment and free will, and complete lack of responsibility for those who entirely lack these faculties. Between these extremes lie multiple degrees of diminished capacity, which must be translated into reduced criminal responsibility proportionate to the degree of deficiency in judgment or will ^{viii}..

However, the major difficulty in this context lies in determining when an offender is considered legally incompetent, neither completely nor fully competent. In other words, it lies in identifying the critical moment when a deficiency in understanding or will affects responsibility without completely negating it. While the concept of graduated criminal responsibility reflects a more precise and humane form of justice, its practical application remains complex. It requires accurate scientific diagnostic tools, specialized judicial expertise, and the ability to objectively assess the offender's condition. This ensures that the offender is not burdened with a responsibility disproportionate to their mental and psychological capacity, while simultaneously preventing the claim of incompetence from being used as a pretext for evading just punishment.^{ix}.

Based on this understanding, justice dictates that a perpetrator with diminished legal capacity should not be held to the same degree of responsibility as a perpetrator with full legal capacity. Rather, their responsibility should be reduced proportionally to their diminished cognitive or volitional abilities. This reduced responsibility is not determined by rigid standards or rigorous mathematical calculations, but is assessed by the judge based on the circumstances of each individual case. Consideration is given to the nature of the perpetrator's disorder, its impact on their behavior at the time of the crime, the circumstances surrounding the criminal act, and the frequency, severity, or threat to public safety of the behavior. Thus, reduced responsibility, as determined by the judge in accordance with their discretionary authority, emerges as a practical and applied manifestation of the concept of partial responsibility. The Iraqi Penal Code explicitly adopts this concept, stipulating in Article (60) that if the mental impairment, intoxicant, narcotic, or other substance results only in a deficiency or weakness of perception or volition at the time of the crime, this constitutes a mitigating circumstance. This text reflects the Iraqi legislator's understanding of the importance of a graduated approach to assessing responsibility based on the degree of impairment in awareness or willpower, while acknowledging the existence of categories that fall into a gray area between full and no responsibility. The assumption regarding this category is that they suffer from a clear weakness in resisting criminal impulses, whether resulting from chronic psychological disorders or from a deficiency in the formation of willpower or awareness. This makes the possibility of their recidivism very real and potentially even worse if they are not dealt with using a specialized therapeutic and rehabilitative approach^x..

Dealing with offenders with diminished capacity should not be limited to mitigating penalties in the traditional sense. Rather, it requires establishing an integrated system that combines punitive mitigation with preventive and rehabilitative measures aimed at their psychological and behavioral rehabilitation, and monitoring their behavior after their release to ensure they do not return to crime, and to achieve a balance

between protecting society and guaranteeing the rights of these individuals who suffer from partial impairment of their mental or psychological faculties^{xi}..

This means that it is neither logically nor legally acceptable, nor even justifiable, to treat minor offenders—a group presumed to pose a real threat to society due to their limited capacity to resist criminal impulses—with leniency or excessive tolerance. Such leniency could be entirely counterproductive, leading to increased criminality and higher recidivism rates, thus undermining the very concept of general and specific deterrence. This problem was one of the most prominent criticisms leveled against classical moral responsibility theory, which bases responsibility solely on guilt and wrongdoing, without considering the offender's dangerousness as an independent factor in the evaluation^{xii}..

This approach is evident in the system for dealing with juvenile delinquents, who are considered a category of those lacking legal capacity. The law stipulates that they be treated according to special rules that balance their interest in reform and rehabilitation with society's interest in protection and deterrence, taking into account the specific nature of the age group the juvenile is in and the resulting relative deficiencies in understanding and will. This orientation is also reflected in Article (60) of the Iraqi Penal Code, which establishes the principle of mitigating responsibility and punishment in cases of deficiencies or weaknesses in understanding or will, considering this a mitigating circumstance. It is further demonstrated in Article (105), which authorizes the court to issue a ruling for confinement in a treatment facility for those with mental illnesses, as a preventive measure applied to the mentally ill and those with mental disorders, another category of those lacking legal capacity. The aim is to prevent them from posing a danger to society while simultaneously ensuring they receive the necessary healthcare^{xiii}..

It is worth noting that these rulings are based on a fundamental principle in jurisprudence and law: that the person being judged must be legally competent to fulfill the responsibilities assigned to them. In Arabic, legal capacity (*ahliyya*) means eligibility and the ability to perform a task. For example, one might say, "So-and-so is qualified for this task," meaning they are competent and capable of carrying it out. In legal terminology, legal capacity is divided into two main categories: legal capacity to acquire rights and legal capacity to exercise them. Legal capacity to acquire rights is the eligibility of a person to have certain rights and obligations. This capacity is inherent to a person from the moment they are alive, such as the right to inheritance, maintenance, or legal protection. Legal capacity to exercise, on the other hand, is the eligibility for a person's actions and conduct to be considered legally and religiously valid. Thus, if a person makes a statement or performs an action, whether in the civil sphere (such as contracts) or the criminal sphere (such as crimes), it is legally valid and has legal consequences^{xiv}..

The second requirement: Psychological and judicial assessment of cases of mental disorders and its impact on the decisions of Iraqi courts.

The psychological evaluation aims to determine the extent to which mental or psychological disorders affect the mental capacity of the accused, assessing their cognitive abilities and the soundness of their free will, based on precise medical-legal standards. This evaluation is not limited to diagnosing mental illness as a purely clinical condition, but extends to examining the relationship between the disorder and the criminal behavior for which they are accused. Specifically, it determines whether the accused was capable of understanding the nature and consequences of their actions at the time of the crime, whether they could control their impulses and behavior, or whether they were subject to compulsive urges, hallucinations, or delusions that rendered them incapable of controlling their actions. This evaluation directly contributes to guiding court decisions, whether in determining the appropriate punishment or substituting it with therapeutic measures, such as confinement in a psychiatric hospital as stipulated in Article (105) of the Iraqi Penal Code, or in imposing precautionary measures, or even granting exemption from punishment in cases of diminished criminal responsibility due to a lack of awareness or free will. This assessment also allows for the development of treatment and rehabilitation programs for individuals with mental disorders, ensuring their protection from themselves and protecting society from their dangers. At the same time, it reinforces the principle of human justice, which is based on respecting individual privacy and not punishing those who are not capable of bearing full responsibility for their actions^{xv}..

In Iraq, where legal frameworks intertwine with social and cultural contexts, psychological assessment emerges as a crucial tool for ensuring the fair and equitable application of the law. This is especially true given the numerous challenges facing the judicial system, such as a shortage of specialized expertise, societal pressures, and tribal pressures in some areas, which can sometimes influence the course of justice. Assessing criminal responsibility is a pivotal issue based on the principle of mental capacity, a

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principle firmly established in Islamic jurisprudence and in Iraqi civil and criminal laws, particularly the Iraqi Penal Code No. 111 of 1969. The provisions of the Iraqi Penal Code clearly stipulate that individuals suffering from mental or psychological disorders may be exempt from criminal responsibility or have their responsibility mitigated depending on the extent to which these disorders affect their mental and volitional capacities at the time of the crime. Article (60) of the law states that the loss of awareness or volition due to insanity, mental disability, or similar conditions results in the absence of criminal responsibility, while a deficiency or weakness in awareness or volition is considered a mitigating circumstance. However, the application of these provisions is conditional upon conclusive and reliable proof of the existence of a psychological or mental disorder. This necessitates a thorough psychological evaluation by experts specializing in forensic psychiatry, based on approved and documented medical reports that include a diagnosis of the condition, its nature, and its impact on behavior at the time the crime was committed^{xvi}..

This psychological assessment is a crucial tool for the judge, enabling him to make informed decisions regarding the fate of the accused: Should he be completely acquitted? Should his sentence be reduced? Should he be placed in a treatment institution? Or should he be treated as a criminally responsible individual with the full penalty? These decisions are not based solely on the medical diagnosis, but also on the correlation between this diagnosis and the accused's behavior at the time of the crime, and the extent to which criminal intent and the elements constituting the crime were present in light of his mental state^{xvii}..

Psychological assessment in the judicial context is based on rigorous scientific methodologies that adhere to the standards of clinical psychiatry and forensic psychiatry. It comprises a series of integrated procedures aimed at achieving an accurate scientific diagnosis of the accused's mental and psychological state at the time of the crime. These procedures begin with in-depth clinical interviews conducted by a forensic psychiatrist with the accused. These interviews focus on gathering the patient's medical, family, and social history, understanding the personal context that led to the crime, and identifying the presence of significant psychological or mental symptoms, such as hallucinations, delusions, thought disorders, or severe mood swings. The assessment also relies on standardized psychological tests, such as intelligence tests, memory tests, cognitive assessment tests, and specialized psychiatric disorder assessments, such as personality disorder tests. Furthermore, neurological evaluations are conducted in cases where organic brain damage or complex neurological disorders are suspected, such as epilepsy, traumatic brain injuries, or neurodegenerative diseases. The diagnosis of the case is based on internationally approved diagnostic criteria, such as the Diagnostic and Statistical Manual of Mental Disorders issued by the American Psychiatric Association, or the International Classification of Diseases issued by the World Health Organization, in order to determine the type of mental disorder that the accused suffers from, which may lead to him being considered unfit to bear full criminal responsibility, based on the loss of the ability to perceive and distinguish at the time of committing the criminal act^{xviii}..

The process of psychological evaluation in Iraq faces significant challenges that limit its effectiveness and credibility. Among the most prominent of these challenges is the severe shortage of qualified psychiatrists specializing in forensic psychiatry. The number of psychiatrists in general in Iraq is very low compared to the population's needs, and the number of forensic psychiatrists is even lower, leading to a backlog of cases and long waiting periods for obtaining an accredited medical report. Furthermore, the infrastructure of mental health institutions, including hospitals, clinics, and specialized centers, suffers from severe deficiencies, whether in terms of human resources, advanced diagnostic equipment, or a shortage of beds for psychiatric patients requiring continuous care. This directly impacts the quality and accuracy of medical reports submitted to the courts. In addition, Iraqi courts face significant practical difficulties in interpreting and understanding psychological reports submitted by experts, due to the gap between the precise scientific terminology of psychiatry and the legal language and concepts used in drafting judgments and judicial decisions. Therefore, there is a pressing need to strengthen close cooperation between judges and forensic psychiatrists in Iraq, through activating mechanisms for continuous scientific dialogue and organizing joint clarification sessions during the trial stages. This would allow doctors to clarify any ambiguities or confusion in their reports and explain specialized terminology in a simplified manner that is easy for judges to understand^{xix}..

The tension between the demands of objective justice, based on a scientific assessment of psychological state, and societal and popular pressures demanding harsh responses to crimes represents one of the most prominent challenges in implementing the judicial psychological evaluation system in Iraq. This necessitates a profound institutional awareness of the need to balance the interests of society with the rights of individuals, and to manage public discourse on these issues with precise scientific and legal sensitivity.

This will preserve the independence of the courts in making decisions based on scientific facts and justice, without being influenced by external pressures or emotional impulses. Legally, the Iraqi Penal Code mandates that psychological evaluations of defendants in cases where their criminal capacity is in doubt be conducted by an accredited medical committee. This lends a formal and mandatory character to the process and enhances the credibility of the reports before the judiciary ^{xx}.

This absence practically leads to a clear disparity in rulings between different courts in Iraq. A court in Baghdad may differ from one in Basra, or from one in Mosul to one in Najaf, in how it deals with a psychological report indicating partial mental disorder or impairment of perception or will. One court may find the disorder sufficient to completely preclude criminal responsibility, while another may consider the condition merely a mitigating circumstance, or even fail to recognize it as a factor affecting responsibility, based on individual assessments or differing interpretations of legal texts and medical concepts ^{xxi}.

In addition to legal and procedural challenges, social and cultural factors play a significant and crucial role in this context. In Iraqi society, mental disorders remain heavily stigmatized, making any discussion or mention of mental illness in public embarrassing or even shameful. This stigma indirectly affects the acceptance of court decisions that take into account the mental state of defendants. Such decisions, especially those ordering the defendant's placement in a psychiatric hospital instead of imprisonment or reducing the sentence due to their mental disorder, are sometimes perceived as leniency or lenient treatment of offenders, particularly in high-profile cases such as murder, domestic violence, or sexual assault. This popular perception, rooted in a culture that holds individuals solely responsible for their actions without considering the impact of mental disorders, can subject judicial decisions to criticism or social rejection. It may even lead to public pressure on courts to impose harsher sentences without regard for medical assessments. Awareness efforts can include extensive media campaigns involving judicial, health, and media authorities, focusing on explaining how mental disorders affect criminal behavior. These campaigns should provide illustrative examples showing how some crimes are committed in a state of diminished will or awareness due to severe mental illnesses such as schizophrenia or psychotic disorders. It should also emphasize that psychological treatment in these cases is not a substitute for punishment, but rather a means of rehabilitation and reducing the risk of recidivism, thus contributing to the long-term protection of society ^{xxii}.

Psychological assessment is a crucial and indispensable tool in juvenile cases, as many of these juveniles may suffer from psychological or behavioral disorders that directly affect their ability to make conscious decisions or control their impulses, such as attention deficit hyperactivity disorder (ADHD), conduct disorders, or even emotional and mood disorders. For example, a psychological assessment can guide the court toward cognitive behavioral therapy (CBT) programs to treat depression or anxiety disorders, common conditions that may be linked to the commission of crimes such as theft, verbal abuse, or physical violence. The Iraqi legislature has established a structured legal framework for determining whether an accused person suffers from a mental illness that affects their criminal responsibility, through the adoption of a mandatory forensic psychiatric examination mechanism. Article (11) of the Iraqi Mental Health Law clearly stipulates this mechanism, requiring that the accused be subjected to a psychological examination, their mental state assessed, and the results of this examination documented in an official medical report issued by the competent and legally authorized authorities. This is to ensure impartiality and objectivity in evaluating the accused's mental state, and to prevent leaving the matter to individual interpretations or assessments that may be subject to doubts or biases ^{xxiii}.

The system established by the Iraqi legislature for implementing this psychological assessment includes several well-defined procedural steps:

First: A forensic psychiatric committee is formed, composed of three specialists in forensic psychiatry or general psychiatry, appointed by the Minister of Health. Each member must have at least three years of experience in the field to ensure scientific and practical competence in handling these highly complex cases. This committee is responsible for examining defendants referred to it by the investigating or judicial authorities to assess their psychological and mental state and their capacity to bear criminal responsibility for the acts attributed to them. Second: The law mandates that a defendant be referred to the forensic psychiatric committee when necessary, whether based on the investigating or judicial authority's suspicion that the defendant suffers from a mental disorder affecting their perception or will, or upon a formal request submitted by the defendant, their family, their defense attorney, or the public prosecutor. This reflects an important procedural safeguard in the defendant's interest. Third, the article stipulates that the accused must be referred to the Forensic Psychiatric Committee within a period not exceeding seven days from the date the issue of their mental state is raised. A specific referral form must be used, accompanied by a detailed

summary of the case against them and the circumstances surrounding the incident. The law also mandates that a copy of the referral form be given to the subcommittee stipulated in Article (4) of the law.

This comprehensive procedural system established by the Iraqi legislator reflects a clear commitment to regulating the psychological evaluation process scientifically and thoughtfully. It represents an important step towards ensuring the protection of the rights of accused individuals suffering from mental disorders, while simultaneously safeguarding the interests of society. This is achieved by providing an accurate diagnosis of serious cases requiring therapeutic or preventative intervention, and by ensuring that no one escapes criminal responsibility without a proven, scientifically sound medical justification

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Third topic: The impact of mental health disorders on determining criminal responsibility in UAE law

According to Federal Decree-Law No. (31) of 2021 on Crimes and Penalties, mental health disorders are taken into account when assessing responsibility, as they may lead to the accused being exempted from punishment or having it reduced based on the degree of their impact on perception and will.

First requirement: The impact on perception and will in Emirati law

Mental health disorders are defined in UAE law, according to Federal Decree-Law No. (10) of 2023 on Mental Health, as: a disorder in thinking, mood, behavior, perception, memory, or other mental abilities, leading to impairment in social, occupational, or educational functions, or causing psychological suffering for the person .^{xxv}.

The classification of these disorders relies on internationally recognized medical references, thus giving UAE legislation a modern, scientific character that adheres to international standards in the diagnosis and classification of mental disorders. In the context of determining criminal responsibility, awareness and will are considered two essential and indispensable pillars in UAE law. Awareness refers to the accused's ability to understand the nature of their actions and their legal consequences and implications, while will pertains to their ability to control their behavior and direct their actions freely without pressure or coercion. Article (62) of Federal Decree-Law No. (31) of 2021 on Crimes and Penalties explicitly states this principle^{xxvi}..

A person suffering from a mental or psychological disorder at the time of committing a crime that impairs their awareness or free will is not criminally liable. However, if the mental or psychological disorder is partial, resulting in a deficiency or impairment of awareness or will without its complete absence, this disorder is considered a mitigating factor. This factor is taken into account when determining the sentence, allowing the judge to consider the defendant's psychological state at the time of the crime and granting them discretionary power to reduce the sentence according to the requirements of justice and the circumstances surrounding the case. This legal framework in Emirati legislation embodies a delicate balance between protecting society from criminal acts on the one hand, and guaranteeing the rights of individuals with mental or psychological disorders on the other, in light of internationally recognized medical and scientific standards. This achieves humane criminal justice that considers the specific nature of each case and its surrounding circumstances.^{xxvii}.

However, some mental disorders, such as schizophrenia and other psychotic disorders, can significantly impair this cognitive ability, weakening or completely eliminating it. In cases of schizophrenia, for example, the affected individual may experience auditory or visual hallucinations, delusions, and thought disorders that render them unable to distinguish between reality and fantasy. They may not perceive the true nature of their situation or the actions they are about to take, and may even act based on delusions, such as believing that someone is threatening, pursuing, or intending to harm them, even though this threat does not exist in reality. In such cases, if a psychological evaluation conducted by a qualified and certified psychiatrist proves that the accused was completely unaware at the time of committing the crime, the court will decide to exempt them from criminal responsibility, based on Article (62) of Federal Decree-Law No. (31) of 2021 concerning Crimes and Penalties, which stipulates that a person suffering from a mental or psychological disorder that deprives them of awareness or choice is not criminally liable for their actions^{xxviii}..

If this assessment proves that the accused was unaware of the nature of their actions at the time of committing the crime, the court will issue a decision exempting them from criminal responsibility and will instead resort to taking the necessary remedial measures, such as ordering their placement in a mental health facility for evaluation or treatment, in accordance with Article (38) of Federal Decree-Law No. (10) of 2023 on Mental Health, which authorizes the court to order remedial measures to protect the patient and society.

This is because some mental disorders can directly affect this capacity for free will, limiting freedom of choice and making the individual a prisoner of compulsive thoughts or impulses they cannot resist. Article (62) of Federal Decree-Law No. (31) of 2021 on Crimes and Penalties clearly stipulates this concept, stating that a person suffering from a mental disorder that has led to a decrease in their awareness or choice remains criminally responsible, but the court takes this circumstance into consideration when determining the length or type of punishment^{xxxix}..

This approach highlights the flexibility of UAE law in dealing with cases involving partial mental disorders, as it grants the court discretion to reduce the sentence or replace it with therapeutic measures that take into account the defendant's health condition. Article (40) of Federal Decree-Law No. (10) of 2023 on Mental Health stipulates the possibility of replacing the sentence with therapeutic programs, whether through admission to a mental health facility for specialized treatment or through outpatient care programs subject to regular medical supervision. This achieves a balance between protecting society from the risk of recidivism and guaranteeing the rights of individuals with mental disorders. UAE law mandates a thorough psychological evaluation of defendants who exhibit symptoms suggesting a possible mental disorder, in accordance with the principle of achieving criminal justice based on a precise understanding of the defendant's mental and psychological state. Article (38) of Federal Decree-Law No. (10) of 2023 on Mental Health stipulates that the judicial authorities, whether the Public Prosecution or the Court, have the authority to place an accused person suspected of having a mental disorder in a licensed mental health facility, for the purpose of conducting a comprehensive psychological evaluation or providing the necessary treatment, whenever it is proven that his condition may pose a danger to himself or others^{xxx}..

This procedure is a fundamental safeguard for achieving fair criminal justice, as it prevents holding a person criminally responsible for acts committed under the influence of a mental or psychological disorder that impairs their ability to understand or choose. The psychological evaluation is conducted by psychiatrists accredited by the relevant authorities, adhering to internationally recognized scientific and medical standards, such as the Diagnostic and Statistical Manual of Mental Disorders (DSM) published by the American Psychiatric Association and the International Classification of Diseases (ICD) published by the World Health Organization, to ensure an accurate and scientific diagnosis of the accused's condition. In cases where a forensic psychological evaluation establishes that the accused was completely lacking in awareness or volition at the time of committing the crime due to a severe psychological or mental disorder, the court may order the accused's placement in a licensed psychiatric facility instead of imposing a traditional criminal penalty. This is based on the provisions of Article (142) of Federal Decree-Law No. (31) of 2021 concerning Crimes and Penalties, which affirms the accused's right to receive necessary treatment whenever it is proven that they suffer from a psychological or mental disorder that deprives them of the ability to understand or choose, thus protecting them and society from the risk of repeating the act^{xxxi}..

However, in cases where a psychological evaluation establishes that the accused suffers from a partial mental disorder resulting in a deficiency or impairment of perception or willpower, without reaching the point of total loss of capacity, the court does not completely exempt the accused from criminal responsibility. Instead, it takes this circumstance into consideration as a mitigating factor when determining the sentence. In such cases, the UAE legislator has authorized the court to issue a decision to reduce the sentence or replace it with a mandatory external treatment measure, in accordance with the provisions of Article (140) of Federal Decree-Law No. (31) of 2021, which regulates the controls for this therapeutic care^{xxxii}..

The second requirement: Psychological and judicial assessment of cases of mental disorders and its impact on the decisions of the UAE courts.

The psychological and forensic assessment of mental disorders is a cornerstone of the UAE judicial system, serving as the foundation for ensuring balanced criminal justice. This assessment provides a precise and comprehensive understanding of the mental and psychological state of defendants at the time of the crime. Its aim is to determine whether the defendant was capable of understanding the nature of their actions and exercising their will freely, without being influenced by compulsive disorders or a complete loss of mental capacity—a fundamental requirement for criminal responsibility. This assessment relies on a systematic integration of scientific frameworks in psychiatry and internationally recognized standards. The forensic psychological assessment in the UAE judicial system begins with a meticulous and systematic process designed to provide a comprehensive scientific picture of the defendant's mental and psychological state at the time of the criminal act. In its initial stages, this assessment involves in-depth clinical interviews with the defendant, focusing on gathering information related to their mental history, current symptoms, behavioral changes, and their connection to the criminal act committed^{xxxiii}..

The impact of mental health disorders on determining criminal responsibility in Iraqi and Emirati law.

For example, if a psychological evaluation proves that a defendant in a murder case was suffering, at the time of the crime, from an acute psychotic episode that impaired their ability to distinguish between right and wrong and caused them to act based on delusions or imaginary voices they believed threatened them, the court does not sentence them to imprisonment or the death penalty. Instead, it orders their placement in a specialized psychiatric facility for treatment until doctors confirm the resolution of their condition and periodically assess their potential danger to themselves and others. In cases where a forensic psychological evaluation establishes that the defendant suffers from a partial mental disorder that affects their cognitive abilities or volition to a certain degree, without completely impairing these abilities, the court does not absolve the defendant of criminal responsibility entirely. Rather, it considers this condition as a mitigating circumstance when determining the sentence. This therapeutic care serves as an alternative to imprisonment and is subject to strict regulations. The defendant is required to undergo psychological or social treatment programs under regular medical supervision, with ongoing monitoring to ensure the improvement of their mental health and prevent future criminal behavior. Despite this advanced legal framework that characterizes the UAE judicial system, the process of forensic psychological assessment faces several practical challenges that may hinder the effective application of these provisions^{xxxiv}..

This challenge highlights the urgent need for specialized training programs to qualify judges and members of the Public Prosecution in reading and understanding psychological reports, in addition to strengthening cooperation between the medical and judicial sectors, and developing unified procedural guidelines that contribute to unifying understanding and facilitating the application of legal texts related to mitigated liability and psychological disorders within the UAE judicial system^{xxxv}..

Furthermore, the social stigma associated with mental disorders in Emirati society poses a significant challenge to the implementation of psychiatric-based criminal justice. A traditional perception persists that mental illness is a sign of weakness or social shame, negatively impacting public acceptance of court decisions that rely on psychological evaluations, particularly in sensitive cases such as murder or violent assault. In such cases, some may view a court's decision to place the accused in a psychiatric facility as lenient punishment or leniency towards offenders, rather than as a preventative and therapeutic measure aimed at protecting society and reducing recidivism.^{xxxvi}.

Forensic psychological evaluation plays a pivotal role in guiding court decisions toward rehabilitation rather than punishment in cases where it is established that the accused suffered from a significant mental disorder at the time of the crime. Article (39) of Federal Decree-Law No. (10) of 2023 concerning Mental Health stipulates that if it is proven that the accused suffers from a mental disorder that poses a danger, the court has the authority to issue a decision to place him in a specialized mental health facility to receive the necessary treatment, instead of imposing a custodial sentence.

Conclusion:

This research concluded that psychological disorders directly affect perception and will, the two fundamental aspects of criminal responsibility. This has led both Iraqi and Emirati law to link criminal responsibility to the soundness of these faculties at the time of the crime. The study also revealed a convergence among these legal systems in acknowledging the absence of responsibility when perception or will is lost, while adopting the principle of mitigating responsibility in cases of diminished capacity. However, the legal and jurisprudential methods of proof and application differ. This underscores the importance of relying on accurate forensic psychological assessments to achieve a balance between protecting society, ensuring justice, and respecting the rights of individuals with psychological disorders.

First: Results:

The study revealed a fundamental agreement between Iraqi and Emirati law in considering awareness and will as the two essential pillars for establishing criminal responsibility. Responsibility is only established if the perpetrator possesses the mental and psychological capacity to understand the nature of their actions, comprehend their consequences, and freely choose their conduct. The loss of these faculties due to a psychological or mental disorder negates criminal or legal responsibility, reflecting the unity of the foundation upon which responsibility rests, despite the differing sources of each legal or jurisprudential system.

It was found that Iraqi legislation distinguishes between the complete loss of awareness or will and their partial loss. Complete loss leads to the absence of responsibility, while partial loss leads to its mitigation or consideration when determining the penalty. However, Emirati law is more detailed in regulating the therapeutic effects and procedures related to those suffering from psychological disorders, while Iraqi law

is limited to regulating general provisions.

The study demonstrated that forensic psychological evaluation is the primary means of establishing the extent of the impact of psychological disorders on awareness and will in all three systems, although the methods of regulating it differ among them. The UAE law has established a more modern legislative framework for regulating psychological examinations and therapeutic admission, while Iraqi law relies on forensic psychiatric committees to establish mental health status.

The study revealed that criminal policy in both Iraqi and UAE law does not aim for mere punishment, but rather seeks to achieve a balance between protecting society and guaranteeing the rights of individuals with mental disorders. Therefore, treatment is not limited to imposing or exempting individuals from punishment, but extends to adopting therapeutic, preventative, and rehabilitative measures to reduce the offender's dangerousness and prevent recidivism.

The study clarified that Iraqi law links responsibility to soundness of mind and free will, utilizing psychiatric expertise to determine their existence.

The study concluded that the effectiveness of implementing provisions related to mental disorders does not depend solely on legal or jurisprudential texts, but also on the efficiency of the forensic psychiatry system and the extent of cooperation between judicial and medical authorities. It was found that UAE law has a more detailed procedural framework in this area, while its implementation in Iraq faces challenges related to human and technical resources.

Second: Recommendations:

The Iraqi legislature is recommended to issue more detailed legislation that defines the controls and procedures for forensic psychological evaluation, while establishing unified legal standards to distinguish between cases of complete lack of awareness or free will and cases of diminished capacity.

It is recommended to strengthen institutional cooperation between the judiciary and forensic psychiatry by establishing specialized committees comprising judges and forensic psychiatrists, and by developing ongoing training programs for judges and public prosecutors on how to interpret psychological reports and assess the impact of mental disorders on criminal responsibility.

It is recommended to develop the infrastructure for forensic psychiatric services, particularly in Iraq, by increasing the number of forensic psychiatrists and establishing specialized assessment and treatment centers.

It is recommended to draw upon established principles of jurisprudence, particularly the principle of consulting experts, the principle of exemption from legal responsibility, and the principle of avoiding punishments based on doubt, when developing criminal legislation related to the criminal responsibility of individuals with mental disorders, in order to achieve a balance between protecting society and ensuring accountability..

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