

A comparative study of schizophrenia as an example of insanity within the framework of Iranian criminal law: theories of Iranian and Western psychologists in focus

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## **Abstract**

Abnormal behaviors may occasionally stem from deficiencies and inefficiencies in the psychological and neural structure of the brain, which can subsequently lead to mental disorders. Due to the inability to adapt and compromise with norms, values, and laws of the society, such a person may become a transgressor of both social norms and laws, violating security and peace, which are the most fundamental indicators for survival of the society and peaceful life. Schizophrenia is a mental illness characterized by significant alterations and distortions in the patient's thoughts, feelings, and perceptions, which ultimately lead to impairment in the individual's performance. This disease is one of the most confusing and debilitating mental disorders that deprives the patient's mind of making sense of the relationships and coherence between thoughts and emotions, filling it with distorted perceptions, false ideas, and illogical concepts. Some researchers in international research centers have done a lot of research and participated for years, gathering information. In some cases, this disease has a perfect fit with the insanity concept, and there are different types of this mental disorder, and the amount of punishment for the criminals who have committed the crimes depending on the level of the disease, is different. The present study aims to investigate the responsibility of these people according to Iranian laws and in the light of psychological findings.

Schizophrenia is a mental disorder that can have different types. Many researchers and scientists have studied this disease for many years and have gathered a lot of information on this disease. In some cases, this disease fits well within the concept of insanity.

This study was concluded using an analytical-descriptive method, using library sources; furthermore, we collected documentation through documentary methods, using laws and reliable citizens.

The legislator in the Islamic Penal Code has used the term 'mental disorder' in defining insanity, it has paved the way for a role for medical sciences in criminal law and has provided for cases of mental disorder as a complete defense, i.e., cases in which a defendant lacks free will, in the offense of insanity and lack of criminal responsibility.

Schizophrenia as a disease has different forms, and in some forms, such as catatonia, which is more significant, people lose their free will in most cases, and due to Article 149 of the Islamic Penal Code, they do not have criminal responsibility.

**Keywords:** Schizophrenia, insanity, criminal responsibility, free will

## **Introduction**

Responsibility is based on the two pillars of "knowledge" and "will", and any factor that affects these two pillars will cause the criminal capacity to be shaken and, as a result, the criminal responsibility to be non-fulfilled. Reason and intellectual capacity are the most important components in the formation of the element of "knowing" in criminal capacity, meaning that one has a correct understanding of reality and that one's intellectual capacities have the necessary ability to understand the reality.

Based on the above statement, if the perpetrator's mental state is such that he is unable to understand the legislator's address due to subjective and objective reasons, he is exempt from criminal liability, and if her mental disorder is not to the extent that it affects the spiritual element, she is found guilty<sup>1</sup>.

The human nervous and psychological system has a diverse spectrum, sometimes it is relatively healthy and sometimes it has deficiencies due to congenital or other reasons. Those deficiencies caused by mental illness, comprise various situations that have practically led to different opinions. The term 'insanity', predominantly in its non-technical sense, which has been introduced into legal literature, is meant to avoid entering a conflict of opinions.

Currently, insanity is addressed under Articles 149 and 150 of the Islamic Penal Code of 2013 and Article 13 of the Criminal Procedure Code of 2013. According to Article 149 of the Islamic Penal Code, if, at the time of committing an offense, the offender is afflicted with a mental disorder to such an extent that he/she lacks will or judgment, he/she is presumed insane and not criminally responsible. Note that the current law uses the word 'mental disorder', and the condition for lack of responsibility is defined as a 'lack of will and discretion power.'

One of the most complex mental disorders from a psychiatric perspective is schizophrenia, which psychologists believe is not a single disorder but rather a collection of psychoses that manifests with various symptoms and affects perception, thinking, self-concept, and the way people communicate with others (Rosenhan & Seligman, 2014).

Due to the specific complexities of schizophrenia patients and its different types, which can have different effects on the power of thought and will, adapting these patients to the legal concept of insanity, which is considered a factor that removes criminal responsibility, is of utmost importance, and the judge must use the achievements of medical sciences to adapt the case to the circumstances, and different rulings may be issued in different cases.

There is a reason why we need to compare schizophrenia with insanity. The reason for the comparison arises from the fact that the legislator when he has determined insanity to be a factor in exculpating criminal responsibility, has used the term mental disorder. Hence, for the comparison, the conclusions of medical science will need to be used, and perhaps, for different hypotheses, different conclusions will be drawn.

Considering the above-mentioned points, this article examines schizophrenia from the perspective of whether those suffering from it have the ability to distinguish and recognize the criminality of their behavior while committing a crime.

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<sup>1</sup>. Regarding the civil liability of the insane, see: Abin, Alireza (2020), Critique of Article 1216 of the Civil Code and Proposal of the Theory of Fair Liability for Minors and the Insane, *Journal of Research and Development in Comparative Law*, No. 8, pp. 15-53.

A detailed analysis of this issue will enable judges to use psychiatric issues to identify the nature of the behavior of perpetrators with schizophrenia and adopt a fair judicial policy towards them. In this article, we will analyze the above issue.

In the field of psychology, numerous studies have been carried out on schizophrenia. However, studies on criminal responsibility are very limited. For example, Seyyed Mehdi Saberi and his colleagues (2012) performed a cross-sectional analytical study on the comparison of crimes committed by schizophrenic patients with bipolar disorder patients referred to the Department of Forensic Psychiatry of Tehran province from April 2007 to April 2008. The article is field and crime-cognition-oriented, but it doesn't explain the issue of criminal responsibility (Saberi- Mohammadi, 2011).

In the article 'Schizophrenia and Criminal Responsibility Arising from it from the Perspective of Iranian Legislators', Mahmoud Abbasi and Alireza Khosravi (2012) asserts that schizophrenia is one of the most important mental illnesses in which the patient's thoughts, feelings, and perceptions are altered and distorted in an unbalanced manner, ultimately causing dysfunction of the individual. The most important characteristic of this illness is the patient's strong desire to separate from others and become isolated. The patient hates the outside world and flees from it, seeking refuge within himself. He becomes exceptionally delinquent because he is subject to his own imaginations and through this he may get involved in criminal adventures. These people commit crimes for several reasons, including:

1. The presence of hallucinations and delusions due to some form of psychosis or brain damage or substance abuse,
2. Suffering from disorders that cause impulsive or compulsive behaviors in the individual,
3. The presence of personality disorders,
4. The presence of states of irritability, low tolerance threshold, and other neurotic symptoms.

These people who commit crimes are not criminally liable under certain conditions.

In this research study, we employ a library method within the framework of an analytical-descriptive approach to explain the concepts of insanity and schizophrenia. We also seek to analyze the criminal liability of the individuals diagnosed with schizophrenia based on the latest current laws and medical principles.

### **Explaining the Concepts and Types of Schizophrenia**

Insanity is the loss of mental balance. It is, in other words, a personal and internal cause that necessarily leads to the lack of discretion and discernment (Emami,2013:214). Others have said. Insanity is the departure of reason and the flight of consciousness. In a restricted sense, madness signifies a form of decline and derangement of the mental faculties. So that the actions of the insane are involuntary and beyond the control of the conscious will. In truth, madness destroys particular brain cells, specifically those cells that are related to perception or intelligence. For example, just as general paralysis is brought on slowly, so also is insanity. Schizophrenia and moral insanity are types of these diseases (Goldouzian,2014:182).

Some jurists have attempted to define the insane and insanity, practically and accurately, such as insane is someone who cannot think and deduce from the combination and composition of information and, therefore, lacks will, and his actions are not intentional. Still, these definitions are based on the findings of psychiatrists on brain injury (Shahidi,2019,243).

Various jurists<sup>2</sup> regard insanity as a special concept and refer it to psychiatry and related sciences(Salehi - Khani – Foroughi,2012:159).

The power of the mind in its natural growth process may be disrupted due to various factors, such as genetic disorders and maternal illness during pregnancy, alongside physical growth. As a consequence of this, mental imbecility is born. Occasionally, the natural mental ability is destroyed, without any injury from its natural growth, by the onset of the mental evils; here, of course, we can speak of no mental imbecility as a concomitant of insanity. However, confusion enters into perceptual function, and the conditions of behavior are abnormal. Insanity should, therefore, be understood in the second sense as the progressive manifestation and complete resurgence of human mental functioning, encompassing the abilities of perception, emotion, and decision-making (Ardabili,2013:154).

Madness, in the psychiatric lexicon, is a colloquial and nonscientific term, a synonym for mental illness. It is not incidental that, in light of the emergence of a new paradigm in psychiatry, madness or psychosis is today considered a serious mental illness, as ‘the flow of thought, behavior, actions, and feelings have deviated from their usual normal and appropriate path, often with the patient presenting with symptoms of a loss of touch with reality, disturbances in perception, childish behavior, decreased inhibitory power of stimuli and tendencies, as well as various delusions and hallucinations, etc.’ (Guderzi - Kayani 2018:334). Psychologically, madness is classified under mental disorders, whose symptoms that are of a mental, behavioral, or psychological nature and are associated with difficulties in functioning, are caused by a variety of biological, cognitive, social, psychological, genetic, physical, or chemical factors, and include a large group of conditions with characteristic patterns of behavioral and cognitive symptoms that together represent dysfunction, and have their own specific classification (Zulfiqari,2018:334)

The encyclopedia of Psychology defined madness as the absolute term of the mad person referring the one who has lost his mind; the judicial term of the mad person refers to the type of general mental deviation; the psychological term of the mad person refers to the complete inability to perform mental action; the pathogenesis of the mad person refers to the disease, regression-psychotic, melancholia and extreme emotion; the psychosis of the mad person refers to the limit of mental psychosis; the motivation of the mad person is the organic and cerebral damage, the mental system disturbance and the loss of personality; [the mad person] is the extreme case of mental disorder, and [the mad person] will be the man without humanity (Shakibapour, 1984:199). Psychiatrists make a relatively vague definition of madness and believe that psychiatrists can distinguish between the good and bad madness of the patient under normal conditions. However, they are depressed by mental disorders and abnormal internal pressure, which deprives the patient of resistance. In contrast, he can only engage in antisocial behaviors and will even turn into a maniac and a danger to his life and the lives of others. Sometimes, with the aggravation of the degrees of imbalance or the disintegration of personality structure, the irritations will gradually accumulate and turn into madness (Danesh,2011:139).

The term schizophrenia is derived from the Greek words ‘skein’, which means split, and ‘phren’ ,which means mind (Shamlou,1996:190). The term schizophrenia or juvenile

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<sup>2</sup> Theory No. 1377/10/20-4875/7 of the Legal Department of the Judiciary also has such an approach.

madness is a coined term used in psychiatry. Eugen Bleuler<sup>3</sup> who was at the University of Zurich, developed the term schizophrenia out of the two Greek words, 'skhizein', which means split or divided into two, and 'phren' or 'phrenos', which means mind or intellect. He chose it instead of the term madness (Kaynia,2017:495).

Schizophrenia is one of the most common severe mental disorders. However, the fundamental nature of the condition has yet to be fully elucidated, and this is why it is still sometimes referred to as a syndrome. While schizophrenia is conceptualized as one disease, it is likely to be a cluster of disorders with heterogeneous etiology. It has patients whose clinical manifestations, treatment response, and course are not homogeneous. Manifestations can appear different in different people and over time; however, the result of the disease is always severe and almost always chronic (Sadok - Gims - Pedro,2014:551). Kraepelin also emphasized that schizophrenia is a concurrent syndrome with chronic process analysis and further considered that a neurological basis of pathology will, ultimately, be found for this disease (Levine -Ladon – Soni,1994:10). Bleuler describes the signs of the disease based on the four A components as follows:

1-Association: or thought disorder, that is, thoughts have little connection with each other, and the speaker's feeling or experience seems unaware of this lack of connection, which causes that person's speech to be disorganized and unrelated.

2-Affect: it means there is no reaction to upsetting events, or if you tell them that a family member or friend died, they laugh.

3-Ambivalence: definition: Conflict and contradiction of feelings such as intense hatred and love simultaneously.

4-Autism: it describes a withdrawal from the outside world into one's own isolated, illogical realm (Azad,2014:29).

Explaining the types of schizophrenia and the characteristics of each of them helps to reconcile the subject with the concept of madness, because in some forms, the disease may not be such that it completely destroys the will. In the classification scheme of the American Psychiatric Association, Schizophrenia is divided into a variety of subtypes depending on the dominant symptoms present at the time of evaluation:

A: Catatonic Type

The catatonic type is characterized by marked impairment of motor function, including mental consternation, negativism, muscle rigidity, excitation, hysteria, grandiose behavior, or assuming a specific position. Sometimes, there is a rapid alternation between the two extremes of excitement and stupor. Silence is also very common. Patients in catatonic

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<sup>3</sup>. Eugen Bleuler (1857-1939) was a professor at the University of Zurich and director of the famous Burgholzli Hospital of the University of Zurich. His works amounted to 167 volumes, most of which were in the field of psychological sciences: the science of identifying the psyche of criminals, biological psychology, congenital criminality, etc.

excitement or stupor are at risk of harm either to themselves<sup>4</sup> or to be monitored appropriately (Hamid,2019:194).

The characteristic of this kind of schizophrenia is a state of motor behavior that is either highly agitated or absolutely immobile and frozen or, more rarely, oscillates between the two. The disorder comes on abruptly. In the agitated state, the individual is completely disoriented or may actually be violent, refusing all attempts at control and endangering both himself and others. The emotions are completely inappropriate, and although the disorientation can be extraordinarily prolonged, it generally comes to an end only in response to medication. The immobile, frozen behavior is also characteristic of this kind of schizophrenia (Rosenhan - Seligman,2006:116).

#### B:Disorganized Type

The hallmarks of disorganized schizophrenia are a distortion of behavior and speech, plus inappropriate and shallow memory. They are characterized by deterioration of cognitive and functional performance reflected by speech breakdown and loss of communication plus loss of purposeful behavior. In other words, they can't perform and sustain those behaviors necessary for normal day-to-day living and may even become maniacal. Mood disturbances include obvious side effects of the disorder or ludicrous, dumb laughter. The onset of the disease is gradual and usually begins late in adolescence. The afflicted patient becomes increasingly isolated and less reactive to events around him (Davy,2011:407).

#### C:Paranoid Type

The person with paranoid schizophrenia is suspicious, stubborn, resistant, drawn back, withdrawn, and sometimes hostile but, as a rule, more or less capable of controlling himself and managing himself in the outer world (Sadok - Gims - Pedro -,2014:556). He denies his stubbornness and the anger he is trying to avoid and, as a defense mechanism, accuses the doctor and the world of hostility and of being stubborn toward him. However, as personality regression appears, the patient becomes quiet, introverted, and indifferent to the world. He may also turn into a very retentive hoarder of worthless objects, show stereotyped, repetitious, and fantastical behavior, and be in a childish state in general. In paranoid schizophrenia, the patient's thoughts are delusional, paranoid, persecutory, and grandiose with a feeble logic; his delusions are disorganized, unstable, variable, and weak, and his fantasies are often accompanied by auditory hallucinations. His life is organized around these delusions and hallucinations, and reality plays a minor role in this relationship, so his behavior is erratic, his judgment very often incorrect, and his modes of conduct unpredictable. In the early stages of the disease, the patient's delusions and hallucinations are the result of the direct projection of motives, especially internal anxieties. Still, as the disease progresses and delusions and hallucinations become more marked, one is no longer able to understand their meaning very well. With the gradual progression of the disease, the delusions and hallucinations gradually become more scattered and disorganized, and the patient's sensitivity becomes more acute and intense. It is likely that the age of onset for this form of schizophrenia is slightly earlier than the other forms. If the disease starts acutely, there are almost always clear and distinct stresses and pressures in the background of the

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<sup>4</sup>. Regarding the self-harm caused by mental illnesses, see: Arash Gharibi et al. (۲۰۲۴), A Comparative study of the perspectives held by Iranian criminal law and some Muslim countries towards self-harm, Journal of Research and Development in Comparative Law, No. 25, pp. 76-109.

patient's environment, and the chances of his recovery are high. But if this type of schizophrenia comes on insidiously in solitary and highly sensitive individuals without any apparent environmental stress, then the chances of his condition becoming a permanent and chronic one is much higher (Shamlou,1996:205).

Its psychic rather than intellectual intelligence remains largely unscathed (Sadok - Gims - Pedro ,2014:556) and, being highly intelligent, they are less behaviorally disrupted than other forms of the disease. The paranoid type of schizophrenia is the most common and problematic form of the disease and is categorized as the most virulent type.

#### D:Residual Type

Some people with schizophrenia do not have noticeable psychotic symptoms – they are not delusional, hallucinating, agitated, or confused – but they do have some persistent features of the disorder, such as flattened affect, social withdrawal, bizarre behavior, or formal thought disorder. They are diagnosed with residual schizophrenia (Halgin - Whitburn,2005:135)

#### E: Undifferentiated Type

In the latter, symptoms are mixed, and the clinical expert cannot classify the disorder into one of the abovementioned types. If a person displays a set of schizophrenia symptoms (e.g., delusions, hallucinations, disorganized thinking, agitated behavior), but does not meet the requirements for the paranoid, catatonic, or other types of schizophrenia, then the diagnosis used is undifferentiated schizophrenia (Halgin – Whitburn,2005:135).

### **Criterion of Criminal Responsibility**

A person's obligation to accept and impose the criminal consequences of his criminal behavior is criminal responsibility (Mir Saeidi, 2011, p. 21). In this definition, we find that those individuals who, although an act or omission has been attributed to them, lack the physical or mental conditions to bear the burden of punishment or potentially preventive or corrective measures are outside of the scope of criminal responsibility (Noorbaha,2011:187). We see individuals who are deemed criminally responsible and who deserve punitive blame are not in fact criminally responsible. By the material and formal modalities of criminal responsibility, therefore, an act or omission can be attributed to a person despite the absence of criminal responsibility, and this attribution is customarily made to the person who committed the act or omission in question. We can thus say in particular that the insane person committed the crime. Still, on account of the specific nature of the insanity of the perpetrator, customary law does not expect – and we say that customary law does not hold him criminally responsible for the crime that he committed – that he will be held accountable for that crime (Pourbafarani,2017:111).

To establish criminal responsibility and, therefore, the capability for punitive blame, certain complementary conditions, which we will discuss later, must be established. Article 140 of the Islamic Penal Code, adopted in 2013, says: 'Criminal responsibility, in terms of retribution and punishments, is established when the individual is sane, mature, and has free will at the time of committing the crime...' Based on this article, the complementary conditions of sanity, maturity, and free will are required to establish criminal responsibility. Therefore, the factors negating criminal responsibility are mental and psychological factors that make the perpetrator of the crime devoid of punishment. Generally, these factors are

related to the perpetrator, and their source must be sought by the perpetrator. These factors, as is implied by their name, do not create a defect in the mental pillar of the crime but rather negate criminal responsibility. In other words, the possessor of these factors, such as the insane person, has criminal intent and malice aforethought. But what impedes them from criminal blame is a lack of perception. Therefore, although criminal intent is a necessary requirement for realizing the mental pillar, since such intent is not acquired from free will but is based on the instincts of animals and is not from conscious thought, criminal responsibility is not established (Pourbafarani,2017:113).

The author believes that ‘This analysis is probably more in conformity with the conditions of the schizophrenic patient.’ For, if you consider the symptoms of the disease of schizophrenic patients and their conditions, it appears to the author that in all schizophrenic patients, will is not annihilated, and in some cases also the intention of the act (general insanity) and special insanity) is present.

Criminal irresponsibility is caused by real insanity, which must be established. Diagnosis of insanity as a mental disease, like any other disease, is a special technical matter that the court must rely upon the opinion of the specialist doctor to establish. However, such opinion is advisory in nature, and the court is not bound to follow such opinion the custom of the courts is to follow the opinion of an expert unless there is reasonable doubt in such opinion or the court wishes to arrive at the conscientious conclusion by obtaining the opinion of other experts (Zareh,2012:242).

The Islamic Penal Code that was established in 2013 has defined the legal meaning of insanity with due explanation and wisdom. The term ‘mental disorders’, which are the cause of the absence of ‘will or discretion power is insanity and a reason for exemption from criminal responsibility (Pourbafarani,2017:133). The foundation for exempting a lunatic from criminal responsibility is the lack of discernment and awareness. Such a person is incapable of discernment and distinction of the nature of committed behaviors and their ethical and legal consequences and acts instinctively. Even though much progress has been made in understanding the structure of the brain and how it works, there is still a large amount of ambiguity about how the cognitive and volitional parts of the human brain, especially in relation to other parts of the brain, work. Nevertheless, it is posited that this concept has perpetually existed throughout history and scientific discoveries have elucidated this notion. The volitional and cognitive components of the brain contribute to the formation of an individual's will and discernment and our behaviors concerning these capacities are open to analysis and assessment (Mansour Abadi, 2017:192). Consequently, the contemporary psychiatric science has introduced new nomenclature for various mental disorders, with each term reflecting a specific manifestation of abnormal behaviors. Nonetheless, regardless of the characteristics or forms of insanity, it is paramount that the individual who perpetrated the crime exhibit disturbances or disintegration of his unity of being. Therefore, in the doctor’s custom of psychiatrists, insanity has a broad meaning that includes any disorder of discernment and will (Ardabili,2013:154).

According to the criterion that legislator gave us, what matters is the proof of the inability and inefficiency of the power of will or of the discerning power. Accordingly, if it is proved in a scientific and skilled manner that the subject was incapable of discerning the conduct he

committed, or that he committed the conduct without the will and with no volition, then he is not criminally responsible (Mansour Abadi,2016:231).

From this specialized viewpoint, the cognitive process is responsible for integrating information that reaches the brain from various sequential processing sources encompassing both singular and multiple sensory qualities, along with the stored knowledge within the brain, to generate new formations of understanding (consciousness) aimed at problem-solving. In this manner, the brain transforms the unknown into the known.

Cognitive processes occur at all brain levels, and their final effect results from the functional health of all its regions and white matter. There is no specific pathway or region in the brain that can undertake this crucial function on its own, with a product of this process being dysfunctional to various degrees and aspects. When a part of the brain is damaged, the function of the process that uses the output of this region will also be dysfunctional (Kimiaei Esadi,2009:741).

The meaning of perception is the faculty and power of becoming acquainted with the nature of an act itself, its result, and its ethical, social, and legal consequences. The degree of this faculty depends on the situation of the individual himself regarding the behavior of his own and his mental and intellectual capabilities before committing the crime. According to this theory, the impairment of the faculty of reason may be inherent, or it may be the result of a temporary or permanent mental illness that may leave the individual unaware or partially aware of his acts and affect the criminal responsibility. Perception is connected, on the one hand, with the faculty of reason and on the other hand, with the faculty of human growth and development of relationships, and its meaning depends on the degree of the faculty of reason and the human's growth and development. Responsibility logically exists when, in addition to being aware of the nature of the duty towards which the action was performed and the ability to perform it, the human has the mental ability to perceive the nature of the behavior. Perception is an essential part of the discussion on the capacity of crime and the sense of awareness of the surroundings. When evaluating criminal capacity, the focus is on the ability to comprehend rather than on the actual knowledge possessed; it is through perception that an individual discerns right from wrong. In this context, the person is aware of his actions and the consequences those actions have on others. The individual can predict the results when he recognizes the nature of his behavior. The lack of responsibility due to brain disorders is because the person cannot perceive the good and bad deeds he commits (Shams Natri - Abdullah Yar,2019:34), So, when an individual performs an act that contradicts the laws and regulations of society and breaks the law, it can be said that the individual has the power of discernment and judgment, because with the sense of awareness and recognition of the ugliness of his behavior and realizing that this behavior harmed others, he committed that act.

### **Investigating will and discernment in individuals with schizophrenia**

Awareness is a special mental state, where the natural function is carried out by intellectual powers, and it is made evident that the powers act correctly. The intercourse of human beings with their own kind and also with the external world takes place through the intercourse of intellectual and organic forces. From this, it follows that material sensation leads to mental perception. Although the brain cells are material, their data or findings are not material, and the brain cells are without thought. Thought is formed when this complicated mental function, which involves imagining and creating psychological bonds, becomes actualized.

Therefore, correct thinking is created when the function and process are carried out correctly (Mousavi Mojab,2018:115) Hence, when it comes to criminal responsibility, insanity is considered a mental health issue that coexists with a lack of willpower or discretion. In other words, a person is insane and not responsible for a crime when, under these conditions, he cannot tell the difference between good and bad behavior and the consequences of the actions (Goldouzian,2014:180).

In this discourse on will and discretion power of the individual with schizophrenia, in the case where, for instance, a person with schizophrenia commits murder, assault, theft, and other crimes, the person has the will to carry out the act and he intends to accomplish the result. The problem is that, in some cases, the will and intention to accomplish an act are disturbed in a schizophrenic individual due to the disturbance in his sense of perception and discretion . In this circumstance, the person with schizophrenia is unable to judge the good and evil of his actions. However, the impairment of perception and sense of discernment does not occur in all types of schizophrenic patients. In the case of the railroad killer Angel Maturino Resendiz, he felt a commitment and duty to destroy these people from society. He carried out his serial killings out of the thought of his victims as savage and animalistic (Ramsland, 2007: 58). According to the author, his sense of discretion and decision-making was not impaired because, according to his thought, he carried out the sexual assault and murder of these women, and the ability to discern that his act of murder was against the law and norms of the society. When a person has the consciousness that an act is against the law and still arrives at the decision and intent to carry out the act and, after weighing the harms and benefits of the act, still has the internal desire to carry out that act, he was a paranoid schizophrenic.

However, in some cases, some with schizophrenia lack perception.. In other words, they are incapable of willpower and discretion of their actions and moral or social consequences. Consequently, he/she lacks the capacity to comprehend the depth of his own actions' good and bad effects on other people. In this context, the Franklin case is a well-known example (Ibrahimsen,1992:206).<sup>5</sup>

Another reason for committing crimes in them is the weakness of the super-ego. The function of the super-ego is to bring the entity (id) and the self (ego) into order to reach a balance. In other words, the reason why schizophrenics have difficulty in finding the balance between the entity and the self is because the super-ego is weak. They commit crimes because the entity, that acts according to the pleasure principle, dominates them. In Franklin's case, one could claim that he stole because of the weakness of the super-ego in him and also because of his inability to adapt to the social laws, which prompted him to steal.

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<sup>5</sup>. Franklin was pressured by his father to play sports from a young age. He was unable to be a member of the school team due to his lack of ability. Franklin had difficulty getting into college. He was withdrawn and uninterested in his studies and was eventually asked to leave college due to his poor academic performance. After being expelled from college, he managed to find work as a secretary in an office. But because he was a disorderly person, he was fired. After a while, he was prosecuted for theft. Despite his father's bail, he committed other thefts as soon as he was released. Due to his special conditions, he was admitted to a mental hospital and the doctors diagnosed him as a schizophrenic who did not understand his behavior and considered theft a joke. He was found not responsible for committing the crime under the influence of an unconscious desire.

As mentioned before, the legislator in article 149 of the Islamic Penal Code of 2013 has confined criminal irresponsibility in mental disorders to two criteria: willpower and discretion . That is if a mental disorder of the perpetrator at the time of the crime is such as to deprive the perpetrator of his will and discernment, in these cases, the perpetrator's criminal responsibility is waived by the plea of insanity. Nevertheless, if the mental disorder of the perpetrator at the time of the crime is not so severe as to deprive the perpetrator of his will, and he is able to discern between the normal and the unlawful actions, in these cases, the criminal responsibility of the perpetrator is preserved.

Since one of the obstacles to criminal responsibility is the inability of the agent to commit a crime at the time of the crime as a result of impairment of mental health, meaning that the agent either lacks will or discretion, and given the cognitive impairments resulting from the illness, namely, the fact that the schizophrenic often suffers from severe delusions and hallucinations, loses the ability to discern and judge reality, and may not have insight into themselves and their actions. Schizophrenics may no longer have the mental capacity to choose and select an act from between two or three acts and may no longer have an internal desire to carry out an act that is wrong ; they may not have a will and discretion, and may commit acts of which they do not have insight, knowledge and sufficient awareness of the act or its consequences. It can be said that in these cases, the agent, according to Article 149 of the Islamic Penal Code of 2013, is considered to be legally insane and not criminally responsible since their affliction with schizophrenia has impaired the agent's will and discretion, thereby removing it and placing the agent, the schizophrenic patient, into a state of not knowing the reality of the illegal act that they have committed.

Nevertheless, some schizophrenic patients who have will and judgment are not considered insane because of their will and judgment. In such cases, even though the patient is ill, through his will and judgment, the patient can distinguish between proper and improper actions and between legitimate and illegitimate, as well as legal and illegal conduct, and he can understand that the illegal act he intends to commit is against the law. Thus, in such cases, the patient's will and judgment are not impaired because the patient distinguishes between legitimate and illegitimate, proper and improper, and between several types of conduct and chooses the illegal conduct. After this choice and in light of his will and judgment actually commits the illegal act or performs the act he willingly and purposefully intended to commit. In such a situation, as mentioned above, he should be aware of unlawful acts. Thus, by ignoring laws and the norms of society and willingly committing illegal conduct, he has committed a crime. Consequently, in such cases, schizophrenic patients, even though they are ill, are not legally insane, and there is no legal excuse for them because of Article 149 of the Islamic Penal Code. Based on the aforementioned discussion, it can be concluded that in these instances, individuals diagnosed with schizophrenia maintain criminal responsibility for their actions. However, such ill patients can have their sentences reduced as provided for by Article 38 of the Islamic Penal Code, which states the court can reduce the sentence in cases having special circumstances.

## **Conclusion**

Schizophrenia is a psychotic mental disease, a disorder that affects the cognition, emotions, perception, and behavior of the affected person. As for the patient, the thoughts and functions of the person are in a state of disorder that leads to delusions, hallucinations, and severe

paranoia, or an obsession to eliminate others and seek separation from others that leads to isolation and total withdrawal. The disturbances of thought and loss of contact with reality in a sick person with schizophrenia are so severe that they are accompanied by intense and severe delusions and hallucinations that interfere with discernment between right and wrong and do not show a sense of internal desire and will to continue their crimes, so they do not directly obey prohibitions or social regulations. In 2013, the legislator used the term 'insanity' as a form of mental illness that causes 'loss of will and discretion, which led the way for a psychiatric approach for diagnosing the problem more accurately. Schizophrenia with regard to the different types and asking for expert opinions, it is requested to take a different approach. For instance, in catatonic schizophrenia, where patients do not respond to anything but medication, will is more impaired, and therefore, mentally ill patients in such a case, according to Article 149 of the Islamic Penal Code of 2013, could not be held criminally responsible. In other cases, like residual schizophrenia, despite emotional slowness and isolation, the will is less impaired, and these people can only have a reduced punishment according to Article 38 of the Islamic Penal Code. In the case of both aforementioned groups, if they are in a dangerous situation and threaten public peace, the prosecutor can take security measures and care for them according to Article 150 of the Islamic Penal Code.

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