

The Terrorist Actor Between Mental Illness and Criminal Responsibility: A Descriptive Analytical Study

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Abstract

Terrorism is still one of the most serious issues affecting international peace and security, posing complex legal and psychological issues related to the criminal liability of terrorist offenders. The focus of this study is on exploring the connection between mental illnesses and criminality under Iraqi criminal law in order to assess the criminal responsibility of people with mental disorders in light of Iraqi legislation and comparative law, as well as modern psychologies. A descriptive-analytical approach was used for analyzing Iraqi anti-terrorism legislation, Iraqi penal code, international conventions, comparative legal sources and interdisciplinary studies about terrorism and mental health. The study examines the conceptual and legal definition of terrorism, the main causes of poverty and destitution for its commitment) its connection with mental illness and the role that plays on the crime of terrorism. The results establish that the terrorism phenomenon is not exclusively mental illness, but rather a multifactorial phenomenon, which is determined by ideological, political, social and psychological factors. While some mental illnesses may make someone vulnerable in a particular situation, they are not a reason to reduce criminal liability. According to Iraqi criminal law, the most important issue to determine criminal liability for a crime is the legal capacity, understandings and free will of the crime performer in the moment of committing offences. Based on this study, it is argued that taking a psycho-legal perspective yields an integrated perspective of terrorist behavior which would be helpful for a fair assessment from a law point of view, while also allowing for the protection of both justice and public security.

Keywords: Terrorism; Terrorist Actor; Mental Illness; Criminal Responsibility; Criminal Law; Terrorism Studies.

1. Introduction

1.1 Background of the Study

Terrorism has grown from local to transnational concern and is one of the greatest transnational threats facing modern society. Terrorism has been transmitted across countries and borders with the support of globalization, technological innovations and ideological extremism, as well as international networks, and has become a threat to international peace, public security and social stability. Therefore, the concept of a "multi-dimensional approach to terrorism" is now on the radar, given the need for a broader response to terrorism that goes beyond merely security responses and introduces the need to respond to terrorism in a way that is integrated and based on legal, political, psychological and social approaches (Crenshaw, 2011; Wilkinson, 2011).

Newspaper accounts from abroad over the last few months suggest that terrorist groups are still going to great lengths to adapt their methods in the face of wide-ranging counter-terrorism activity. The Global Terrorism Index 2023 and Global Terrorism Index 2024 show that terrorism is a constant and it has increasingly developed in various patterns around the world and expanded its reach; and Global Terrorism Index 2024 and Global Terrorist Explanatory of Results (2024) reveal that the diversity of terrorist financing, recruitment, and operating methods have been growing in the last decade (Institute for Economics & Peace, 2023, 2024); as do the reports from the United Nations Counter-Terrorism Office (2022).

The complexity of the nature of terrorism has also sparked academic interest in the reasons for terrorism and what may have contributed to this, including any connection to mental illness. Whilst political, ideological, social and economic factors are cited as a cornerstone of the traditional explanations, there has been a rise in scholarly interdisciplinary research into the possibility of the involvement of psychological disorders in terrorist behavior. Existing data, however, do not substantiate a direct link between mental illness and episodes of acts of terrorism, pointing rather to a tendency of psychological disorders to interact with other broader social and ideological factors, under certain conditions (Crenshaw, 2011; James & Psoiu, 2016).

Current studies also suggest that radicalization is a multi-faceted phenomenon and not just psychiatric disease. The START report stresses the lack of serious mental disorders in most terrorists, while the Radicalisation Awareness Network (Radicalisation Awareness Network, 2019; James & Psoiu, 2016) points out that although psychological vulnerability is one of the factors in the bigger process of radicalisation, it is not the most important. Similarly, Sheehan (2014) makes the argument that suicide terrorism is not motivated by psychopathology, but ideology. In addition to the individual sufferers, there are also far-reaching psychological effects on the population as a whole, such as the fear that arises from the outbreak of a conflict, emotional distress and social polarization, as recent studies have shown that the act does lead to widespread feelings of emotional suffering, even amongst those who were not involved in the violence of terrorist attacks (Bove et al., 2024).

The fact that a person suffers from mental disorder is not sufficient to destroy criminal responsibility, from a legal standpoint. The principle of criminal liability in the criminal law doctrine and Iraqi legislation widely accepted that it requires cognitive awareness, free will of the offender and legal capacity at the time of committing the crime (Hasani, 1989; Qahwaji, 2010; Surour, 2015). In this context, the Iraqi Penal Code No. 111 of 1969 (as amended) defines the legal procedure for determining those who are liable for crime due to psychological/mental problems. In this context, it has grown more pertinent than ever to differentiate mental illness from psychological vulnerability, ideology from criminality.

The current study thus utilizes a psycho-legal approach to investigate the impact of mental illness on the criminal liability of the terrorist offenders under Iraqi law and applies current psychological literature and the legal approach in other nations. The study seeks to combine both legal and psychological analyses to offer a balanced view of the acts of terrorism and consequences for criminal responsibility.

1.2 Research Problem

Although substantial work has been done in developing international counter-terrorism legislation and the volume of psychological studies regarding violent extremism has continued to increase, the legal and scientific debate regarding the link between mental illness and acts of terrorist offending has remained controversial. The literature is inconclusive about whether mental illness is a standalone factor in terrorist behavior or just one among a series of interacting vulnerability factors. Uncertainty is especially important in the criminal law context where proving criminal responsibility depends on an objective understanding of the offender's mental state at the moment the offence was committed. Based on this, the researcher's problem for the research has been formulated as follows: Is it possible to view mental illness as a contributing factor for the perpetration of terrorist crimes and what its influence is on the crime responsibility of the terrorist offender according to the provisions of Iraqi criminal law?

1.3 Research Questions

The study seeks to answer the following research questions:

1. What are the legal and jurisprudential concepts of terrorism under Iraqi and comparative legislation?
2. What are the principal causes and motivations underlying terrorist behaviour?
3. Is there a scientifically established relationship between mental illness and terrorist behaviour?
4. Which psychological disorders have been associated in the literature with violent extremism?

5. To what extent does mental illness influence the criminal responsibility of terrorist offenders under Iraqi criminal law?
6. How does Iraqi legislation compare with selected comparative legal systems regarding the criminal responsibility of mentally ill terrorist offenders?

1.4 Research Objectives

The objectives of this study are to:

Discuss the concept and legal definition of terrorism in the national and international legal framework. Identify the main elements and reasons, which have facilitated terrorist activity. Read, understand, and evaluate recent psychological literature on the link between mental illness and terrorism. Assess the consequences of mental disorders on the criminal liability in Iraqi criminal law. Compare Iraqi legislation to the selected comparative legal approaches relating to those who are mentally ill terrorists offenders. Create psycholegal interpretation of the terrorist behaviour based on adapting the legal and psycho-legal approaches.

1.5 Significance of the Study

It is valuable from 3 complementary angles to this study. Legally it enables to clarify the condition under which mental illness can affect the permissibility of committing terrorist crimes according to Iraqi criminal law and the other legal systems. Psychologically it catalyzes critical reflection on the current empirical evidence that links psychiatric disorder with violent extremism and refrains from making simple assumptions linking terrorism with mental disorders. The study has analytical findings that are valuable for legislators in formulating more well-balanced counter-terrorism policies that combine legal responsibility with a proper psychological evaluation of terrorist offenders.

1.6 Scope of the Study

The study was only confined to the focus on the psycho-legal aspect of the relationship between mental illness and the criminal responsibility of the terrorist offenders. Subjectively, it emphasizes the concepts of terrorism, mental illness and criminal liability. Analytically, the main legislations that have been analyzed are the Iraqi Penal Code and the Iraqi Anti-Terrorism Law, and some models have been taken from them, as well as appropriate international legal instruments whenever suitable. Imprintis Law translates this into a research that is geographically focused on the legal system in Iraq and draws comparative references from the international and foreign legal systems to give a broader context to the analysis.

2. Method

2.1 Research Design

Descriptive Analytical Research design was used in this study because it is suitable to examine the relationship between mental illness and the responsibility of the criminal terrorist offender from the legal and psychological aspects. Each group used a descriptive approach to conceptualise the issues of terrorism, criminal responsibility and mental illness and an analytical approach to examine the legal provisions, psychological literature and critically analyse the link between psychiatric disorder and terrorist behaviour. The design helped to include an integral psycho-legal interpretation of the research problem, through a holistic examination of the legislative texts, legal doctrines and psychological studies.

2.2 Sources of Data

The sources used in this study were only documentary and library. The primary sources included were Iraqi laws and laws asleri relating to criminal responsibility and terrorism such as Iraqi Anti-Terrorism Law and Iraq Penal Code and the international conventions and legal instruments concerning terrorism and criminal responsibility. There were also sources that were secondary, such as legal textbooks and jurisprudential writings, comparative studies in the field of law, peer-reviewed psychological studies, scientific journal articles, conference papers, official international reports, and others discussing the topics of terrorism, mental illness, criminal responsibility, violent extremism and psycho-legislative research. These enabled the necessary

theoretical and analytical framework for assessing the legal, psychological issues relating to the topic of the research.

2.3 Analytical Framework

The analysis was carried out using an integrated psycho-legal methodology which is a blend of legal analysis and psychological analysis. In order to determine the conditions of liability under criminal law in situations involving mental disorders, an analysis of legislative texts pertaining to terrorism and criminal responsibility was performed. From the legislative materials related to the problem of terrorism and responsibility, the problem of the conditions for criminal responsibility in situations involving mental disorders was examined. Comparative legal analysis was used to compare and contrast between Iraqi legislation – selected foreign laws – and international legal instruments – relating to criminal responsibility and the definition of “terrorism” under law. To this end, contemporary psychological literature was critically assessed in detail to explore the link between mental illness, radicalization, violent extremism and terror behaviours. The results of both the legal and psychological sources research were subsequently combined to generate an even weighting in interpreting the scope to which psychiatric illness is likely to affect the criminal responsibility of terrorist offenders.

2.4 Study Limitations

This study examined the legal and psychological literature on the subject in a theoretical and analytical way, and only in some general terms. Did not include empirical data collection, field surveys, interviews, psychological testing or statistical analysis. The legal analysis was conducted mainly on the legal framework of Iraq with the additions of selected comparative laws and laws from international legal instruments to support the analysis. As a result, the results of the analysis are limited within the framework of doctrinal discussions, and the existing psychological and legal literature is interpreted, rather than explored through empirical research.

3. Results and Discussion

3.1 Conceptual and Legal Framework of Terrorism

In linguistic terms, the word terrorism comes from the fear, intimidation and panic associated with it. Classical Arabic scholars used to introduce the idea of “*tabu'u minul qata*” (detriment of the rectifying [order] of the nation) in the sense of sowing terror for the deterrence of evil; and Islamic jurisprudence differentiated between the permissible and the forbidden, between forbidding violence upon a group of people and the injunction to terrorize innocent people (Mansour 1995, Abu Ghazah 2002, Amara 2003).

Terrorism cannot be precisely defined as a legal, political and ideological phenomenon. These definitions are more concerned with acts of violence perpetrated to achieve 'political' ends, or with 'intimidation', 'coercion', and 'attacks upon civilians' (Atta Allah, 2004; Crenshaw, 2011; Schmid, 2011; Wilkinson, 2011). The same definition is given by Arab jurists, who define terrorism as organized violence aimed at terrorizing people and disrupting public order (Mohib Al-Din, 1981; Jalal Ezz El-Din, 1986).

The legal significance of the different definitions is adopted in the different national legislations. The Iraqi Anti-Terrorism Law (Iraqi Anti-Terrorism Law No. 13 of 2005, 2005) and the general criminal liability is regulated under the Iraqi Penal Code (The Iraqi Penal Code No. 111 of 1969, 1969). Similarly, the definition of terrorism is the French Penal Code, United Kingdom's Terrorism Act 2000 and the anti-terrorism law of the Kurdistan Region. Comparative analysis of Arab legislation also shows wide variations as regards the definition of terrorist offences (Code pénal français, n.d.; Terrorism Act 2000, c.11; The Kurdistan Region Anti-Terrorism Law, 2006; Rida Al-Sayed, 2022).

International instruments aim to provide a common basis of legal action against terrorism in terms of criminalisation, international co-operation and terrorist financing suppression. These objectives are reflected in such instruments as the UN Convention on the Suppression of Terrorism, the UN Convention on the Elimination of All Forms of Discrimination against Women, the Arab Convention on the Suppression of Terrorism, the European Convention on the Suppression of Terrorism, the UN Office on Drugs and Crime (UNODC) Legislative Guide, and the Financial Action Task Force (FATF) recommendations on terrorist financing (The UN Convention on the Suppression of Terrorism, 1971; Directive for Suppression of the Discrimination Against Women, 1979;

The Arab Convention on the Suppression of Terrorism, 1998; The European Convention on the Suppression of Terrorism, 1977; The UN Office on Drugs and Crime (UNODC) Legislative Guide, 2003; Financial Action Task Force, 2022).¹

3.2 Causes and Motivations of Terrorism

Economic inequality, poverty, unemployment status and social deprivation factors can make people more susceptible to joining extremist movements, but they do not necessarily single-handedly account for terrorism (Najjar, 2013; Gharib, 2006; Crenshaw, 2011). Social marginalization, family disintegration, social exclusion and lack of social integration are contributing factors towards radicalisation (Najjar, 2013; Jarbooti, 2007; Wadad Jaber Ghazi, 2004). Political instability, armed conflict, repression, human rights violations, and regional crises are among the factors that have been linked to terrorism and violent extremism (TEVE) (Shukri, 2008; Jenkins, 2014; Wilkinson, 2011; Munaa, 1990).

When religious ideas are distorted then religious extremism and religious manipulation to recruit followers and justify violence are among the important motivational factors (Abu Ghazah, 2002; Amara, 2003; Jarbooti, 2007).

Lack of proper education, disinformation and spreading from extremist propaganda and media manipulation, perpetuate the safety of radicalization beliefs and the repetition of extremist narratives (Daqouqi, 1986; The Revolution Newspaper, 1985; Saleh et al., n.d.; Jalal Ezz El-Din, 1986).

The results suggest that there is no single factor that can be blamed for terrorism, but rather that it is generated as a result of the interaction of legal, political, economic, social, ideological and psychological factors. This agrees with modern terrorism studies, which discard single causal attributions and point to multidimensionalism in terrorist behaviour (Crenshaw, 2011; Schmid, 2011). According to the recently released Country Indicators on Terrorism Trends 2023, 2024 and 2022, respectively issued by the Institute for Economics & Peace and the United Nations Counter-Terrorism Office, the threat of terrorism remains as dynamic as the geopolitical conditions, technology and transnational extremist networks that have shaped its current dimension. (Taskhiri, 2023: 256)

3.3 Responsibility of the terrorist actor

Criminal responsibility is a legal determination that a person acted with the appropriate mental capacity, knowledge and free will in their actions. With regard to criminal law, the liability is only attached to the one who has the capacity to understand the nature of the act and is at a fault that he could have stopped it, but did not do so willingly and intentionally (Based on the following readings: Hasani 1989, Surour 2015 and Qahwaji 2010).

Criminal responsibility is based on three key elements: Criminal Capacity; Awareness; Free Will. Criminal capacity is the ability of the offender to have legal competence to be held accountable (Surour, 2015; Hasani, 1989). Differing from this was the concept of awareness, mentioned by Qahwaji (2010), which is defined as comprehending the nature and consequences of the Crime, and free will, which is referred to by the Iraqi Penal Code No. 111 of 1969 which encompasses the act performed voluntarily without legal or psychological compulsions. (The Iraqi Penal Code No. 111 of 1969, 1969)

Terrorist offences typically involve the presence of a criminal intent, that is the act of an individual, deliberately undertaken, intending to have a specific effect on another person; instill terror and/or frighten the public; threaten public safety and/or security; and/or undermine or destabilize the State. In contrast, the Iraqi Anti-Terrorism Law No. 13 of 2005, the comparative law and Islamic studies legal works, and at the level of concepts, intentionality as a key element of the terrorist crime was recognized as such in the Iraqi legislation (Atta Allah, 2004; The Iraqi Anti-Terrorism Law No. 13 of 2005, 2005; Rida Al-Sayed, 2022).

¹ For more information see: Namamian, P. (2024). "The Feasibility of Addressing the Financing of Terrorist Crimes in the Realm of Cryptocurrencies: The Experiences of Iran and Other Countries", *Iranian Journal of International and Comparative Law*, 2(1), pp: 55-67

Terrorism is a grave crime against society, the state and individuals, according to a legal standpoint. Though each state adopted legislation pertaining to the definition of terrorism, most legal systems define terrorism as an "exceptional crime" because of its organised and its threat on national and international security, particularly mentioned in the Terrorism Act 2000, c.11 of the United Kingdom and Code pénal français, n.d. (Suroor, 2015; Hasani, 1989; Qahwaji, 2010; Terrorism Act 2000, c.11; Code pénal français, n.d.).

The comparative analysis shows a high level of consistency between the Iraqi law, British law, the French law and the international law instruments, in terms of their treatment of terrorism as a serious crime in which strict criminal responsibility must be observed. Yet there is still an ongoing demand for counter-terrorism international bodies to make more efforts to harmonise legislation on terrorism (The Iraqi Anti-Terrorism Law No 13 of 2005; Terrorism Act 2000, c 11; Code pénal français, n.d. The Arab Convention on Suppression of Terrorism, 1998; United Nations Office on Drugs and Crime, 2003).

3.4 Mental Illness and Terrorist Behaviour

Mental illness, which includes clinically recognised disorders of cognition, emotions, perception and behaviour, has different impacts on a person's psychological functioning and capacity to make decisions. But the fact that someone suffers from a mental disorder does not mean that they are not liable to criminal prosecution, or that they are likely to be violent (Goodwin and Jamison, 2007; Harris and Barraclough, 1997).

Modern psychological studies take a multi-pronged approach to understanding the causes of terrorism and do not isolate mental illness as the primary cause. There is a continuum of individual vulnerability, which can be a factor that influences radicalization; however, ideological commitment, social context and political influences continue to play key roles in shaping the actions of terrorists (James&Pisoiu, 2016; Radicalisation Awareness Network, 2019; Crenshaw, 2011).

The process of radicalization is now being recognized as a gradual process, which is influenced by personal vulnerability, received ideology, and environmental factors. Psychological factors can make individuals more vulnerable to extremist messages but do not necessarily cause an individual to become a terrorist (Radicalisation Awareness Network, 2019; James&Pisoiu, 2016). There are also, however, emotional and psychological impacts of terrorist violence on impacted communities that are important to consider (Bove et al., 2024).

There has been previous research regarding violent behaviour and a number of psychiatric illnesses such as depression (Harris&Barraclough, 1997), bipolar disorder (Goodwin&Jamison, 2007), borderline personality disorder (Oldham, 2006) and schizophrenia (Palmer et al., 2005). However, existing information does not corroborate a cause/effect link between these disorders and terrorism. In a similar fashion, ideology appears to be a stronger predictor of suicide terrorism than do clinical symptoms of suicidality (Sheehan, 2014).

The results suggest that mental illness should NOT be viewed as a risk factor in its own right for terrorism. Rather, psychological disorders can serve as dispositional factors that help to shape the nature of ideology, politics, and socialization within the radicalization process. The literature of the present day provides evidence for multiple interpretations of the term 'terrorism', and possible causes for terrorist behaviour extend beyond just psychiatric illness, as highlighted by James&Pisoiu (2016), Radicalisation Awareness Network (2019), Sheehan (2014), Bove et al. (2024).

3.5 Impact of Mental Illness on Criminal Responsibility

The definition of criminal responsibility is necessarily related to the individual committing the offence and their capacity to commit crime. Hasani (1989) that criminal capacity is the ability of the person to understand the nature of the unlawful action and the ability to control his/ her action accordingly. Likewise, Suroor (2015) shown that it is impossible to establish the legal responsibility without intellectual and volitional capacity of the offender. In that same spirit, the mental illness in Iraq comprises only when the offender lacks the legal capacity to understand and act on the will and mental wishes of law, and not only to obtain a diagnosis from a psychiatrist. (The Iraqi Penal Code No. 111 of 1969, 1969)

Insanity is one of the major reasons why a criminal will be acquitted of guilt under the law. As outlined by Qahwaji (2010) the Criminal responsibility cannot exist where the wrongdoer is not conscious or free to make

the choices because of some serious mental ailment. This is clearly stated in the Iraqi Penal Code No. 111 of 1969 which immunizes the person from whom the crime originates from criminal liability in the event that at the time of the offense he lacked a capacity to comprehend and willfully committed the action (The Iraqi Penal Code No. 111 of 1969, 1969).

Partial disorders are not enough to remove the connection between the crime and the criminal's guilt; unlike complete insanity. Diminished responsibility should be judged based on the reduction in judgment and self control caused by the disorder, says Surour (2015). Similarly, Hasani (1989) holds that every case must be adjudicated on its own merit and Qahwaji (2010) argues that only when overwhelming mental disability exists would it be justifiable to order mitigation or complete exemption from criminal liability.

Assessing the legal status of mental criminals who are deemed to be terrorists must be gauged by taking into account every individual's right and public security. The Iraqi Anti-Terrorism law No: 13 of 2005 was a strict legislation for terrorist offences, however criminal responsibility should be assessed according to the general principles established in the Iraqi Penal Code No: 111 of 1969. Finally, as stated by Rida Al-Sayed (2022), in general comparative anti-terrorism laws accept mental incompetence only when accompanied with medically credible and convincing evidence and/or legal proof. Similarly, the National Institute of Justice (2004) emphasizes the need for a sound forensic psychiatric evaluation prior to making criminal responsibility decisions.

As this discussion shows, mental illness cannot be the basis of a terrorist offending individual's that turns him into an innocent. The above shows that mental illness is not sufficient to be the basis of a terrorist offender to be exculpated of criminal liability. Instead, criminal liability is primarily linked to the mental capacity, awareness and freedom of the offender when they commit the offence. This is in line of the general principles outlined by Hasani (1989), Surour (2015), and Qahwaji (2010) and fully conforms with provisions of the Iraqi Penal Code No.111 of 1969.

3.6 Integrated Discussion

There is no specific evidence showing that mental illness is a direct cause of terrorism at the present time. The ideology, politics and social processes is the prime root of terrorism according to Crenshaw (2011), rather than psychiatric disorders. Similarly, James and Pisiu (2016) find that mental illness can make some people more vulnerable, but by itself is not the reason for getting involved in terrorist activities. The Radicalisation Awareness Network (2019) also views radicalization as a "multi-dimensional process" that is "governed by many intertwining factors", and Sheehan (2014) challenges the notion that "terrorist violence is necessarily linked to clinical mental illness."

In the contemporary era, research has been undertaken to shed light on this assumption; it is not substantiated. In general, terrorist groups recruit ideologically and politically motivated people, not as a result of psychiatric illness, Wilkinson (2011) noted. Crenshaw (2011) also uses the strategic and organizational aspect of terrorism and reminds people that the psychological effects that occur in society do not lead to the conclusion that terrorists are mentally ill; in fact, Bove et al. (2024) highlight the psychological impact terrorists have on society.

While psychological theories help when it comes to understanding the individual's susceptibility, they cannot, by themselves, account for the phenomenon of terrorism. To understand terrorism, it needs to be examined within a wider legal, political, ideological and social framework, as California theorist of law Jim examines in March 2011 (Schmid 2011). Single-factor explanations are explicitly denied by James and Pisiu (2016) and by Sheehan (2014), who emphasises ideological ideology as a factor that predominates in the theory of terrorist behaviour.

Criminal responsibility for a terrorist offence is not automatically reduced because of the existence of a mental disorder (from a legal perspective). However, criminal responsibility shall be proven in accordance with the legal rules applicable to the question of the criminal capacity. Two documents in the foregoing context illustrate this principle in the Iraqi Anti-Terrorism Law No. 13 of 2005 and the Iraqi Penal Code No. 111 of 1969, although other similar approaches are seen in the Terrorism Act 2000 (UK), the French Penal Code and in the Arab Convention on the Suppression of Terrorism, which differentiates between the presence of a mental disorder and the legal conditions determining criminal responsibility.

The present study affirms the approach of wanting to interpret terrorist behaviour as an integrated psycho-legal approach. Legally, Suroor (2015), Hasani (1989) and Qahwaji (2010) also concur that the ultimate question of criminal responsibility cannot solely be the medical diagnosis but also legal capacity. Psychologically, Crenshaw (2011), Schmid (2011) and Wilkinson (2011), all conclude that ideological, political and organizational factors are most significant in shaping terrorism. Similarly, James and Psoiu (2016) and the Radicalisation Awareness Network (2019) underscore that the only vulnerability factor in radicalization is mental illness, in the presence of a number of other factors. As such, the Iraqi Anti-Terrorism Law No. 13 of 2005 strikingly balances between two issues: one being the admission of psychiatric evidence, and the other being the maintenance of criminal responsibility for committing terrorist acts, viewed in the light of the Iraqi Penal Code No. 111 of 1969.

4. Conclusion

This study investigates the link between mental illness and the responsible criminal of the terrorist offender from perspective of integrated law approach and psychology with special focus on Iraqi law and the selected comparative legal approach. The results prove that terrorism is a multidimensional concept rooted more in the ideology, politics, social and economic environment than in mental illness. Some psychological disorders can make some individuals more vulnerable to radicalisation, but current psychological research does not lend support for the notion that there is a direct link between mental disorder and engagement in terrorist activity. The legal question is whether the criminal was mentally capable of committing the offence, was self aware at that time and had free will to do so. Islamic criminal law therefore does not excuse or mitigate criminal responsibility based upon the concept of mental illness without limiting to cases that affect the legal capacity of the perpetrator, nor does it exempt a criminal from its responsibility on grounds of mental illness in cases of terrorism as required by fair play and public security. Finally, the study results indicate that integrated psycho-legal analyses are more adequate to evaluate a terrorist offender than analyses based on the legal or psychological argument alone.

Main Findings

Terrorism is an emerging phenomenon that cannot be attributed to a single cause, and rather is caused by a combination of ideological, political, social, economic, and psychological factors.

Mental illness has not been proven to cause or be the cause of actually becoming a terrorist.

Mental illnesses can raise the psychological risk of some but they can in and of themselves explained radicalization and/or acts of terrorism.

The capacity, awareness and free will to commit an offence are required for criminal responsibility and not merely the presence of a psychiatric disorder.

The Iraqi criminal law classifies mental disorders into full mental unsoundness, which is a complete exclusion of criminal liability, and partial mental disorders, which could only abate criminal liability, if there is any legal effect.

Comparative legislation, as a rule, is generally organized in accordance with principles similar to those outlined above, i.e., by providing for objective psychiatric and legal evaluation prior to an exemption from criminal responsibility.

It is important to have a balanced psycho-legal regime to safeguard public security and the rights underlying criminal justice.

Recommendations

Establish more explicit legislation on determining the criminal liability of mentally ill terrorist offenders.

Increase cross-disciplinary collaboration between legal authorities, forensic/psychiatric professionals and clinical psychologists in law enforcement and legal proceedings.

Establish standardized protocols for forensic psychiatric evaluation of the cases related to terrorism.

Enlarge the scope of studies on the link between criminal law, psychology, psychiatry and counter-terrorism studies.

Improve early prevention initiatives on the psychological, educational and community level related to radicalisation.

Advocate for judicial and law enforcement education on the implications of mental illness to terrorism incidents.

Support parliamentary scrutiny of anti-terrorism laws, and of measures which could create an imbalance between national security and human rights or between national and fair criminal responsibility.

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