

Mental Defects Lower than Madness in Committing of Sexual Offences Viewpoint of Criminal Law & Physiologic

afsaneh hajipour*,Morteza Rahbar,

In this research, we have tried to prove the necessity of mitigating factors and also the treatment of person suffering mental deficiencies milder than psychosis. These deficiencies can be a result of genetic factors or mental disorders which appears as a complication in person. In this research we investigate the legal gap regarding the failure to comply mitigating factors in some penalties such as Hudud (prescribed punishments), Qisas (retaliation) and Diyya (compensation) for people suffering mental deficiencies milder than psychosis. Consequently, this question arises: how should a person suffering mental deficiencies milder than psychosis that have committed sexual offenses be treated in the criminal justice system so that he gets proper treatments and also the health of society and social environment is provided too. Therefore, we prove that some of the sex offenders are sick and some therapeutic solutions are mentioned as well. At the end, we conclude that the Islamic Penal Code considers the mitigating factors only for discretionary punishments and all the crimes committed by children, including tazirat (discretionary punishments), Hudud (prescribed punishments), Qisas (retaliation) and Diyya (compensation) but in the cases of punishments such as Hudud (prescribed punishments), Qisas (retaliation) and Diyya (compensation) for the adults, these mitigating factors are not considered for the convict who is suffering mental deficiencies milder than psychosis (the convict's special condition). The current study is innovative for considering the mental deficiencies milder than psychosis as a special condition of the convict and its effect on the commitment of sexual offers and also presenting therapeutic solutions and proposing safeguarding measures instead of retribution.

Keywords : psychosis, mental deficiencies milder than psychosis, criminal

responsibility, sexual offenses, mitigating factors, genetics.

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