

Araştırma / Original article

**Evaluating the people who were sent
for determining of criminal responsibility**

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ABSTRACT

Objective: According to the penal code in Turkey, a person who, during the commission of a crime, is under the influence of mental illness, who cannot detect legal meaning and consequences of the act committed or whose ability to redirect his/her behavior in relation to the act decreased significantly, will not be punished. The purpose of this study is to evaluate socioeconomic data on people who were sent for criminal responsibility evaluation to the largest forensic psychiatry clinic of Turkey during one-year period, the expert opinion on criminal responsibility, the diagnostic distributions, and the nature of their crimes. **Methods:** The medical files of 332 people were examined retrospectively. **Results:** It has been determined that 54.5% had a full criminal responsibility since it was detected that they had no mental illness or weakness which might affect their criminal responsibility and 39.5% were found to have no criminal responsibility for having a psychiatric disorder on the date of crime. **Discussion:** Considering the fact that those who were sent for psychiatric evaluation after committing a crime have psychiatric disorders as well as the distribution of psychiatric disorder diagnoses, the nature of the crimes committed and against whom these crimes were committed, results of the studies in our country and abroad were found to be compatible and consistent. (*Anatolian Journal of Psychiatry* 2015; 16(4):270-275)

Key words: forensic psychiatry, criminal responsibility, crime

**Ceza sorumluluğunun belirlenmesi için
gönderilen kişilerin değerlendirilmesi**

ÖZET

Amaç: Türkiye’de ceza kanunu gereğince suç işlediği sırada akıl hastalığı etkisinde olup işlediği fiilin hukuksal anlam ve sonuçlarını algılayamayan veya bu fiille ilgili olarak davranışlarını yönlendirme yeteneği önemli derecede azalmış olan kişiye ceza verilmez. Çalışmanın amacı Türkiye’nin en büyük adli psikiyatri kliniğinde bir yıl boyunca ceza sorumluluğunun değerlendirilmesi için gönderilen kişilerin sosyodemografik verileri, ceza sorumluluğu hakkında oluşan bilirkişi kanısı, tanısal dağılımları, işledikleri suçun niteliğini değerlendirmektir. **Yöntem:** Toplam 332 kişinin tıbbi dosyaları geriye dönük olarak incelenmiştir. **Sonuçlar:** Kişilerin 54.5%’inde suç tarihinde ceza sorumluluğunu etkileyecek bir akıl hastalığı veya zayıflığı saptanmadığından ceza sorumluluğunun tam olduğu; 39.5% kişinin suç tarihindeki psikiyatrik hastalıkları dolayısıyla ceza sorumluluğu olmadığı saptanmıştır. **Tartışma:** Suç işledikten sonra psikiyatrik değerlendirme için gönderilenlerin psikiyatrik hastalığı olması, psikiyatrik hastalık tanı dağılımı, işlenen suçların mahiyeti ve kime karşı işlendiği açılarından incelendiğinde ülkemizde ve yurt dışındaki çalışmaların sonuçlarının birbiriyle uyumlu ve tutarlı olduğu görülmüştür. (*Anadolu Psikiyatri Derg* 2015; 16(4):270-275)

Anahtar sözcükler: Adli psikiyatri, ceza sorumluluğu, suç

INTRODUCTION

Consulting an expert 'in situations requiring special and technical knowledge' in order to make clear the act investigated during the prosecution

process, is determined by law in our country. At this stage of the legal process, psychiatrists legally operates as a 'medical expert'.¹ The point where psychiatrists help to the penal law is to determine whether or not the person is able to

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know that the act committed by himself/herself is a crime and can show the willpower that can stop this act. Because, in order to hold the person responsible for the criminal act he/she committed, the crime must have been committed intentionally, this person must know what he/she did will lead such results, must be aware that, in return, he/she will be punished and must be able to keep his/her impulses under control.² In case that one or more of these mental abilities are missing, medical (psychiatric) experts are consulted in order to find out whether this person has a criminal responsibility or not.^{3,4} In Turkey, pursuant to Article 32/1 of the Turkish Penal Code, in case that the expert consider that the person has a psychiatric disorder which completely eliminates or significantly affects his/her mental skills, this person is not punished, however, these people are taken under protection and treatment in high-security health facilities.⁵ However, those who have a psychiatric disorder that partially affects mental ability, are punished in a reduced rate. The aim of this study is to collectively revise those who have or not criminal responsibility or have it in a reduced rate among people who were retrospectively evaluated within one-year period, and to evaluate demographic data, diagnosis distributions, criminal profiles and other parameters associated with them.

METHODS

The medical files and Forensic Medical Board reports of all people who were sent by related courts during one-year period at 2009, to Istanbul Bakırköy Prof.Dr. Mazhar Osman Training and Research Hospital for Psychiatry, Neurology and Neurosurgery where Turkey's largest Forensic Psychiatry Clinic is located for criminal responsibility evaluation and taken under observation by being hospitalized in Forensic Psychiatry Clinic, were studied retrospectively. This is a retrospective and descriptive cross-sectional study. As a result of scanning the archives and medical files, it has been found that 332 people were hospitalized and taken under surveillance for this purpose and demographic data, criminal profiles, psychiatric diagnoses and criminal responsibility of these 332 people were evaluated. Psychiatric diagnoses were made according to DSM-IV-TR. The data obtained were evaluated in SPSS (13.0) program and descriptive methods were used.

RESULTS

The 292 (88%) out of 332 people evaluated were

male while 40 (12%) of them were female. The mean age was found to be 33.67 ± 11.35 (range: 15-78). Eighty six (25.9%) of them were married, 199 (59.9%) were single and 47 (14.2%) were widowed. The average years of education was found to be 6.56 (range: 0-15). Two hundred forty-five (73.8%) of them did not have a regular working life while 87 (26.2%) had a regular work. Since 59 (17.8%) of 332 cases were imprisoned, they were hospitalized and followed-up in Prisoner Service of Forensic Psychiatry Clinic. In 221 (66.6%) out of 332 people had a history of psychiatric treatment before for any reason. In addition, 172 (51.8%) of them had a history of hospitalization in a psychiatric clinic before. The average number of hospitalization was found to be 1.73 (range: 0-20). Seventy six (22.9%) of them had a family history of psychiatric illness and 28 (36.8%) of these 76 people were found to have full criminal responsibility. When these 332 people were considered in terms of psychoactive substances and alcohol use; it was found that 180 (54.2%) of them did not have a history of psychoactive substances or alcohol use, 33 (9.9%) of them had a history of alcohol use, 55 (16.6%) of them had a history of psychoactive substance use and 64 (19.3%) had a history of both alcohol and psychoactive substance use. A hundred sixty two (48.8%) of these people had past criminal history while 104 (64.2%) out of 162 had full criminal responsibility. Besides, 110 (33.1%) had a prison history. Eighty three (75.5%) of these 110 people had full criminal responsibility. Criminal responsibility of 51 (15.4%) people had been evaluated because of another crime before.

As a result of the psychiatric examinations, investigations and observations, 181 (54.5%) of the 332 people evaluated were found to have a full criminal responsibility since it was found that they had no mental disorder or weakness that can affect criminal responsibility on the date of crime.

It was concluded that 131 (39.5%) people had no criminal responsibility due to their psychiatric disorders on the date of crime and it was found appropriate to evaluate these people within Article 32/1 of the Turkish Penal Code No. 5237.

Twenty (6%) persons were found to have reduced criminal responsibility within Article 32/2 of the Turkish Penal Code No. 5237 because of the psychiatric disorders they had on the date of crime.

Diagnostic groups of 332 persons whose criminal responsibilities on the date of the crime were
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Table 1. Diagnostic groups of 332 persons whose criminal responsibilities on the date of the crime were evaluated

Diagnosis	Male (n)	Female (n)	Total (n)
Had no mental illness or weakness	153	20	173
Psychotic disorders	86	13	99
Bipolar disorders	31	6	37
Mental retardation	16	0	16
Dementia/organic mental disorders	6	1	7
Total	292	40	332

Table 2. Criminal distribution according to the diagnostic groups

Diagnosis	Crimes			total
	against people	against goods	public crimes	
None	84	62	27	173
Psychotic disorders	65	27	7	99
Bipolar disorders	25	8	4	37
Mental retardation	10	5	1	16
Dementia/organic mental disorders	7	0	0	7
Total	191	102	39	332

evaluated are shown in Table 1. Fifty one of 99 persons in psychotic disorders diagnostic group received a diagnosis of schizophrenia, 22 of them had psychosis not otherwise specified, 11 of them had substance induced psychotic disorder, nine of them had delusional disorder, three of them had schizoaffective disorder, three of them had psychotic disorder due to another medical condition. Twenty one of 37 persons in bipolar disorders diagnostic group were at manic episode during the commission of a crime, two of them at mixed episode, eight of them were at remission and two of them were at partial remission.

It was determined that 173 out of 181 persons with full criminal responsibility had no mental illness or weakness, however, in eight of these people, preexisting diseases were found to be in remission on the date of crime. In addition, 33 (18.2%) out of these 181 people had personality disorder, 10 (5.5%) of them had alcohol and substance dependency, three (1.6%) of them had alcohol misuse, five (2.7%) of them had anxiety disorder. When these 33 people with personality disorders were examined in detail, it was striking that 32 persons had antisocial personality disorder and one of them had borderline personality disorder, 32 (97%) of them were male, 29 (87.9%) of them were psychoactive substance user, 22 (66.7%) of them were prisoner, 18 (54.5%) of these 32 persons committed crimes against people while 13 (39.4%) of them

committed crimes against goods and two (6.1%) of them committed public crimes and that 12 (66.6%) out of these 18 persons who committed crimes against people committed crimes against people they do not know.

All those who are in the group of psychotic disorders on the date of crime, were decided to have no criminal responsibility.

When decision distribution of the bipolar disorders group was examined in detail, it was remarkable that the patients with atypic affective disorder, manic episode and mixed episode were reported to have no criminal responsibility, the patients in remission on the date of crime were decided to have full responsibility, one out of two patients who were in partial remission had no criminal responsibility, however, the other one had a reduced criminal responsibility.

It was decided that five (31%) of the 16 people who were found to have mental retardation had no criminal responsibility and should be considered under Turkish Penal Code 32/1, and 11 (69%) of them had reduced criminal responsibility and should be considered under Turkish Penal Code 32/2.

It was decided that four (57%) out of seven patients with dementia/organic mental disorder have no criminal responsibility and three (43%) of them had a reduced criminal responsibility.

A total of 332 people were also evaluated in

Table 3. Criminal distribution according to the diagnostic groups

Crime	had no mental illness or weakness	psychotic disorders	bipolar disorders	mental retardation	dementia/organic mental disorders	total
Murder	6	2	0	0	0	8
Bodily harm	44	37	164	4	105	
Theft	51	14	6	4	0	75
Insult-threatening	26	20	6	0	1	53
Property damage	17	11	2	0	0	30
Sexual offenses	12	6	2	6	1	27
Fraud	10	1	1	0	0	12
Deforcement	8	0	0	1	0	9
Drug traffic	6	1	0	0	0	7
Opposition to the gun law	9	1	1	0	0	11
Terror	2	0	0	0	0	2
Attempted murder	2	1	0	0	0	3
Desertion from military	1	0	0	0	0	1
Defamatory	1	2	1	0	1	5
Disturbing the peace	2	2	0	0	1	5
Negligence of duty of care	1	0	0	0	0	1
Resisting an officer	1	2	2	1	0	6
Breach of trust	1	0	0	0	0	1
Deliberate forest fires	0	2	0	0	0	2
embezzlement	2	0	0	0	0	2
Misappropriation	1	0	0	0	0	1
leave the person						
Deprived of liberty	1	0	1	0	0	2
Set fire	1	2	0	0	0	3
Effective action	0	1	0	0	0	1
Disturb by phone	0	1	0	0	0	1

terms of their crime types. For this purpose, all crimes were divided into three groups as crimes against people, crimes against goods and public crimes. Those with more than one crime were evaluated in the appropriate group according to the most indictable crime. Murder (8), bodily harm (107), insult-threatening (53), defamatory (5), negligence of duty of care (1), deprivation of liberty (2) and sexual offenses (27) were included in the group of crimes against people. Property damage (30), theft (75), deforcement (9) and set fire (5) were included in the group of crimes against goods. Fraud (15), drug traffic (7), terror (2), disturbing the peace (7), opposition to the gun law (11) and resisting an officer (6) were included in public crimes. Thirty seven persons had two crimes and 4 persons had three crimes; no mental illness or weakness was determined in 28 of them. Criminal distribution according to the diagnostic groups and the criminal distribution of the patients in both groups are shown respectively in Table 2 and 3.

It was determined that crimes against people were more than any other crime groups in all diagnostic groups and all of patients in dementia/organic mental disorder group had committed crimes against people. While, in the psychotic disorders group, the most committed

crimes were bodily harm, it was remarkable that only two people in this group had committed murder. The most common crime in the group of bipolar disorders was bodily harm. Six sexual offenses, four bodily harm, four thefts, one deforcement and one resisting an officer were committed by those with mental retardation. Bodily harm was the leading crime type also in dementia/organic mental disorder group.

After a closer examination of against whom these crimes were committed; it was determined that all of nine persons who committed crimes against their spouses were men, six of these nine persons committed bodily harm while three of them committed insult-threatening, these persons who injured their spouses had no mental illness or weakness and they had full criminal responsibility, one person who injured his spouse had organic personality disorder and his criminal responsibility was considered to be reduced and schizophrenia was detected in three out of 5 people with no criminal responsibility, one of them had manic episode and one of them had dementia.

It was determined that four out of eight persons who committed crimes against children were female while the other four were male, five per-

sons had no mental illness or weakness and had full criminal responsibility and in three of them had psychotic disorders. It was also found out that 43 persons committed crimes against their parents-brothers and sisters (20 of them had full criminal responsibility), 88 people committed crimes against other people close to them (36 of them had full criminal responsibility) and 58 persons committed crimes against those unfamiliar to them (31 of them had full criminal responsibility).

DISCUSSION

Istanbul Bakırköy Prof.Dr. Mazhar Osman Training and Research Hospital for Psychiatry, Neurology and Neurosurgery is the largest Mental Health Hospital where the largest Forensic Psychiatry Clinic of Turkey is available. It serves to a large region of Turkey as well as a quite crowded population. It can be shortly said that it constitutes a sample of Turkey. In our country, quite a little scientific and statistical data on forensic psychiatric practices is available. Psychiatric expertise services on criminal responsibility in Turkey are given based on Article 32 of the Turkish Penal Code.⁵ After the expertise services for people who were sent to our hospital are conducted by forensic psychiatric clinic, a report by the medical board consisting of six forensic psychiatrists is prepared and sent to the relevant court. Those who were determined to have no criminal responsibility, are hospitalized in a high-security hospital according to Article 57 of the same law and kept under mandatory protection and treatment until they are healed.⁵

Courts decide whether a person who commits a crime has criminal responsibility or not due to a mental illnesses or weakness for this crime, based on the reports by the experts specialized in this field.⁶ Similarly to the literature, the majority of 332 persons who were evaluated were male, single or widowed, with an age of about 33 in average and an average of about 6 years of education, having a non-regular working life.⁷

In a similar study conducted with 200 patient who committed crimes and have been hospitalized in a moderate security hospital, it was found that the average age was 39, 72% of whom were single, 17% of whom were married and 12% of whom were divorced; and 78% have been reported to have schizophrenia, 9% have been reported to have bipolar disorder and 12% have been reported to have other mental illnesses.⁸ Various mental disorders have been found to be associated with a variety of crimes.⁹ Although

most people diagnosed with schizophrenia are not dangerous or violent, the disorder is associated with increased violence and violent crime rates.¹⁰ Psychosis is related to violence.¹¹

In a similar study conducted in Turkey on people sent to hospital for criminal responsibility evaluation, it was determined that 92.5% of the cases were male, their average age was 33, 31% of them were married, 43.5% of them had full criminal responsibility while 48.9% of them had no criminal responsibility and 6.7% of them had a reduced criminal responsibility. According to this study which was published about 10 years ago, it is striking that the proportion of those with full criminal responsibility in our study is higher (%54.5). In those with no criminal responsibility, 32.8% were diagnosed to have schizophrenia, 26.4% were diagnosed to have mood disorder, %14.3 were diagnosed to have delusional disorder, 9.9% were diagnosed to have psychosis not otherwise specified, 5.5% were diagnosed to have organic mental disorder and 2.5% were diagnosed to have substance induced psychotic disorder. Thirty four percent of them were reported to have a crime history. It was detected that those with full criminal responsibility are significantly younger, those with non-penal capacity had commonly committed physical or verbal violence crimes whereas those with partially-affected penal capacity had commonly committed sexual crimes and those with full penal capacity had commonly committed theft-fraud and extortion crimes. In those with no criminal responsibility, bodily harm/murder, threats/insults and theft were detected as the highest crime groups.¹²

In a similar study carried out abroad, it was reported that 60-79% of those with no criminal responsibility were diagnosed to have psychosis, 28-37% of them were diagnosed to have schizophrenia, 10% of them were diagnosed to have schizoaffective disorder, 7% of them were diagnosed to have mood disorders, 7% of them were diagnosed to have organic mental disorder, 4% of them were diagnosed to have delusional disorder. It was also reported that 61% of those examined were associated with forensic and mental health systems and 57% of them were single while 45% of them were unemployed and 36% of them had a history of hospitalization.⁷

In another study in which forensic psychiatric cases who committed recurrent crimes after a compulsory inpatient treatment in our country were evaluated in terms of diagnosis and criminal nature, it was determined that the average

crime age was 34, the average years of education was 6.06, 27% of these cases were married and 33.6% of them had schizophrenia, 20.5% of them had mood disorder and 12.7% of them had delusional disorder. Considering the criminal nature, bodily harm has been found as 25%, murder has been found as 21%, threatening has been found as 7%, theft has been found as 5%, and sexual offense has been found as 6.7%.¹³ The study performed in Aydın showed that theft and bodily harm were the mostly committed crimes in children and adolescents like adults in our study.¹⁴

In a similar smaller sized study again in our country, but in a different region, it was found that average age of those whose criminal responsibilities were evaluated was 33, 95% of them were male and 64% of them were married. It was reported that 31% of those with no criminal responsibility had received schizophrenia diagnosis.¹⁵

When evaluated in terms of psychoactive substances and alcohol use, the absence of psychoactive substances or alcohol use history in 180 (54.2%) persons evaluated in our study seems compatible with the fact that the number of those without psychoactive substances or alcohol use history were found to be 158 (57.7%) in the study conducted by Almeida et al.¹⁶ Drug use can result in impulsivity that may worsen with chronic dependence.¹⁷

Literature data on forensic psychiatric practices is limited in our country. Despite this fact, when

we compare the data obtained by our study with the studies conducted in our country in previous years as well as similar studies conducted in other countries, it is noteworthy that similar results were obtained. Considering the fact that those who were sent to the hospital for psychiatric evaluation after committing a crime were found to have psychiatric disorders, the diagnosis distribution of these psychiatric disorders, the substance-alcohol use, the nature of the crimes committed and against whom these crimes were committed, it has been observed that the results of the studies conducted in our country and abroad are coherent and consistent. Neuroscientific clarification of the impact of a mental disorder on a person's decision-making might help to make a better distinction between those cases in which a mental disorder is related to an increased risk of recidivism and those in which this is not at all the case. The fact that the neurobiology of decision-making in mental disorders may be relevant to assessments of criminal responsibility does not imply that the interventions have to target the defendant's brain directly.²

This article is valuable because sample size is large also due to the limited literature on this subject and it is collectively assesses our working retrospectively and our situation in the field of criminal responsibility determination. Furthermore, it will be guidance to those who work in this field in the future and to plan next studies.

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