



Research Paper

Rights of Criminals with Post-Traumatic Stress Disorder: A Comparative Study in Islamic Denominations

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[HTTPS: 10.22034/MFU.2025.142231.1472](https://doi.org/10.22034/MFU.2025.142231.1472)

Received: April, 13, 2024

Accepted: August, 12, 2024

Available online: September, 30, 2024



Keywords:

Trauma Stress Post-Traumatic Stress Disorder (PTSD) Criminal Islamic Denominations.

Abstract

Post-traumatic stress disorder (PTSD) is a complex psychological disorder that can affect an individual's ability to control their behaviors, raising important questions in criminal law, particularly regarding the criminal responsibility of these individuals. Given the significance of this issue in Islamic societies, this research, based on a descriptive-analytical method, examines the jurisprudential aspects of the rights of criminals with PTSD across Islamic denominations. The main objective of this study is to investigate the various perspectives of Islamic denominations on the criminal responsibility of offenders, who have lost control of their behaviors due to PTSD, as well as to identify commonalities and differences between Islamic denominations and provide suggestions for improving the judicial system in dealing with this category of offenders. This research was conducted using library methods, drawing from jurisprudential, legal, and psychological sources. Initially, the general views of Islamic denominations on reason, perception, and criminal responsibility were examined, followed by a description and analysis of these perspectives in relation to criminals with PTSD. The findings indicate that while all Islamic denominations emphasize the importance of reason and perception in determining criminal responsibility, there are differences of opinion regarding the extent to which mental illness affects this responsibility and the appropriate type of punishment for criminals with PTSD. However, the vast majority of these denominations consider treatment and rehabilitation as an appropriate approach for these individuals.

Fallah tafti, F. (2024). Rights of Criminals with Post-Traumatic Stress Disorder: A Comparative Study in Islamic Denominations. *Comparative Studies on the Schools of Jurisprudence and its Principles*, 7(2), 68-43.

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Extended Abstract

1- Introduction

The rights of mentally ill offenders, particularly those with post-traumatic stress disorder (PTSD), represent a critical concern within criminal justice systems. PTSD can significantly impair cognitive, emotional, and behavioral functions, thereby influencing criminal responsibility. This research undertakes a comparative analysis of the jurisprudential (Fiqh) dimensions of these rights within Islamic law, aiming to uphold justice and the objectives of Sharia. It explores diverse perspectives across various Islamic schools of thought, providing a comprehensive overview of Fiqh-based rights for offenders diagnosed with PTSD. This study examines the clinical and psychological characteristics of PTSD, its impact on criminal responsibility, and relevant exemptions and Fiqh measures. Given the documented prevalence of PTSD among offenders, a precise understanding of their Fiqh-based rights is essential for enhancing their legal and judicial standing and informing the development of relevant legislation within Islamic legal frameworks. Distinguishing itself from prior studies primarily focused on insanity and minority, this research adopts a comparative approach across Islamic schools of thought to identify areas of convergence and divergence in Fiqh opinions, offering a more nuanced and comprehensive analysis of the criteria for determining criminal responsibility in the context of mental disorders. This article first defines PTSD and its characteristic features, then examines the concept of the mentally ill offender from an Islamic Fiqh perspective. Subsequently, it analyzes the views of prominent Islamic schools of thought regarding the rights of this vulnerable group of offenders and finally proposes appropriate Fiqh-based solutions to safeguard their rights.

2- Method

This research employed a descriptive-analytical methodology incorporating a comparative approach. Data collection was conducted through extensive library research, consulting authoritative Fiqh, legal, psychological, and medical sources. These sources encompassed canonical Fiqh texts from diverse Islamic schools of thought, relevant statutory laws and regulations, and peer-reviewed scientific books and articles in the field of PTSD. Following data compilation, the perspectives of various Islamic schools of thought on the criminal responsibility of offenders with PTSD were rigorously analyzed and compared, identifying key points of agreement and disagreement. Furthermore, content analysis was employed to systematically extract, code, categorize, analyze, and interpret relevant textual data from the selected sources, ensuring a robust and transparent analytical process.

3- Result

A comparative analysis of the existing Fiqh literature reveals that PTSD can exert profound effects on an individual's behavior, cognition, and emotional state. Key findings emerging from this research include:

- **Impact on Criminal Capacity:** PTSD can substantially diminish an individual's capacity to comprehend the nature of their criminal actions and exercise control over their behavior.
- **Principle of Criminal Responsibility and Mental Illness:** While the general principle in criminal law posits criminal responsibility for individuals with sound mental health, in instances where mental illness, particularly PTSD, significantly impairs an



individual's ability to distinguish right from wrong and regulate their conduct, their criminal responsibility may be diminished or even nullified.

- **Role of Reason and Will:** Islamic schools of thought emphasize the integral role of reason ('aql) and free will (ikhtiyar) in establishing criminal culpability. If PTSD demonstrably affects these critical faculties, thereby precluding the individual from exercising free will, their criminal responsibility is consequently reduced.
- **Necessity of Forensic Psychiatric Evaluation:** Accurate and comprehensive forensic psychiatric evaluation is of paramount importance to determine the severity and extent of PTSD, its specific impact on the individual's cognitive and behavioral capacities, and its direct causal link to the alleged criminal offense.
- **Divergent Approaches Across Schools of Thought:** While all Islamic schools of thought underscore the significance of reason and will in determining criminal responsibility, variations exist in the interpretation and practical application of these concepts in cases involving offenders with PTSD. These variations stem from fundamental differences in Fiqh methodologies and diverse perspectives on the nature and classification of mental illnesses.
- **Emphasis on Treatment and Rehabilitation:** A consistent theme across Islamic schools of thought is the emphasis placed on the therapeutic treatment and rehabilitation of offenders diagnosed with PTSD. This approach not only benefits the individual offender but also serves

the broader interests of society by mitigating the risk of recidivism and facilitating the offender's reintegration into the community.

Existing Challenges and Future Directions:

This research also identifies ongoing challenges in this area, including accurately distinguishing between genuine mental illness and malingering (feigning symptoms), differentiating between behaviors directly attributable to the disorder and those resulting from conscious intent, and determining appropriate forms and levels of punishment for this specific population of offenders. Further research is necessary to address these complex issues

4- Conclusion

This research confirms the significant influence of PTSD on an individual's criminal responsibility. Islamic schools of thought, while emphasizing the importance of reason and free will, offer varying approaches to addressing the legal status of offenders with this disorder. However, a unifying principle across these diverse perspectives is the prioritization of treatment and rehabilitation. The judicial system should adopt a just and humane approach towards this vulnerable group of offenders by effectively utilizing forensic psychiatric expertise and carefully considering established Fiqh principles. It is recommended that evidence-based treatment programs, with a focus on cognitive-behavioral therapies and the integration of contemporary therapeutic techniques, be further developed and implemented. Additionally, the establishment of well-equipped specialized centers, provision of support for families of offenders, consideration of cultural and religious factors, promotion of international collaboration in research and best practices, and the continued advancement of scholarly research in this



field are among the crucial measures that should be prioritized. Implementing these recommendations can contribute to a reduction in recidivism rates, improve the overall quality of life for offenders and their families, decrease the societal costs associated with crime, promote a more equitable and compassionate administration of justice, and ultimately enhance public trust in the judicial system.

5- Funding

There is no funding support

6- Authors' contribution

The author is solely responsible for all aspects of this research, including data collection, analysis, and manuscript preparation.

7- Conflict of Interest

Author declared no conflict of interest

8- Acknowledgements

thanks to the editorials of the Journal of Comparative Studies of Principles of Jurisprudence and Religions.