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## THE LAW ENFORCEMENT BY THE BODIES OF PRELIMINARY INVESTIGATION AND INQUIRY

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DOI 10.52468/2542-1514.2024.8(2).92-101



### THE ROLE OF SOCIAL FACTORS IN THE CRIMINAL BEHAVIOR OF WOMEN WITH MENTAL ANOMALIES

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**Article info**

Received –  
2024 January 08  
Accepted –  
2024 March 20  
Available online –  
2024 June 20

**Keywords**

Woman, crime, criminal  
behavior, psyche, mental  
abnormality, mental states,  
social factor

The subject. The article analyzes the individual consciousness of a woman, which allows her to adapt to the surrounding social reality and to integrate into its structure.  
The purpose of the article is to confirm or disprove hypothesis that pathological features are not decisive in the criminal behavior of a sane woman, including those with mental abnormalities. They act in conjunction with the social content of her consciousness.  
The methods of the sciences of criminology, criminal law, penal enforcement law, sociology, psychiatry, legal psychology and jurisprudence were used.  
Main results. Her consciousness is not an externally introduced element of social nature, it is intrinsic to her as a way of her existence, it is the result of her own social existence. The level of consciousness of a woman is adequate to the richness of her social activity, thus, consciousness is, first of all, individual in nature. Whereas the individual consciousness of a woman is significantly influenced by the surrounding people, the experience of previous eras and generations.  
Conclusions. Consciously volitional potencies are given to a woman from birth. The study of mental processes of personality is necessary for law enforcement officials representatives of the judicial system to logically and correctly censor the testimony of a woman - a criminal, because without knowledge of the general laws of the course of mental processes, it is impossible to assess the specificity of behavior, formed under certain external or internal influences. It is noted that their development depends on the woman herself, her interaction with the surrounding world, which confirms the special influence of social factors on the criminal behavior of women with mental anomalies.

## 1. Introduction

Women's behavior, being determined by social conditions of life, must meet the basic requirements. Society dictates them taking into account historical experience, some of them are presented in the form of laws and regulations, some of them exist in the form of social norms, but all of them together regulate the behavior of women, their activities, being in society [1, p. 519].

According to both domestic and foreign experts, among women who committed unlawful acts, the proportion of persons with mental disorders is much higher than among men. The search for the correlation of biological, social and psychopathological factors influencing the formation of criminal behavior of women with mental anomalies is underway.

A significant contribution to the study of the problem was made by Y.M. Antonyan V.Y. Golubovsky, I.V. Gorshkov, A.I. Dolgova, E. Durkheim, R.M. Zulkarneev, N.G. Ivanov, A.V. Ilyin, A.V. Kovalev, M.F. Kostyuk, E.B. Kurkuzkina, I.M. Matskevich, A.L. Repetskaya, A.A. Chechulin and others.

As for the scientific problem of social factors in the criminal behavior of women with mental anomalies, such studies have been carried out very rarely, selectively and touched upon narrow aspects.

The research is based on methodological principles, developed on the basis of the conceptual foundations and guiding ideas established in the studies of socio-humanitarian profile. The scientific research has an interdisciplinary nature, and the methods of criminology, criminal, criminal-executive law, sociology, psychiatry, legal psychology and jurisprudence were used in its implementation.

Social and biological in man are inseparable, although the primary is his biopsychophysiological beginning, "because originally man developed as a biological species [2, p. 12].

The first ideal variant, when biological and social are combined, when morally healthy social beginning intensively "cooperates" with mentally healthy basis. The main social and moral value of this state lies in the harmonious combination of

excitation and inhibition processes.

The second variant of the correlation of biological and social is the interaction of a deeply affected human mental system with a disorganized social basis.

The third variant is characterized by interaction of morally defective social basis of a person with his physically healthy mental basis.

The fourth variant of the correlation of biological and social in a human being is the interaction of his healthy social basis with the mental system suffering from some deviations. This state, as a rule, arises as a result of emotional stress. For crimes committed in a state of emotional explosion, "are characterized by suppression of the course of material processes and action on the type of short circuit: the direct transition of affect into action, almost as in unconditional reflex" [3, p. 220] [3, c. 220].

To the person found guilty of committing a crime, which is characterized by an abnormal state of mind, along with punishment should be applied measures of medical nature [2, p. 13].

Some aspects of the problem have long remained undeveloped, and theoretical issues of criminal behavior of women with mental anomalies, insufficiently researched. Criminologists tend to look for an explanation of criminal personality and its illegal behavior not only in physiology and psychiatry, but in social psychology and psychological theories of personality. The criminal, in their opinion, is not some special defective personality, but one of the possible lines of development of events that lead to unlawful behavior of a particular personality [4, p. 49].

The problem of criminal behavior of women with mental disorders is complex, multifaceted and has several important components: clinical, social, legal, forensic psychiatric, each of which requires in-depth study.

Thus, the scientific hypothesis that mental abnormalities can have unlawful significance, they do not cause criminal behavior of women, and women suffering from them are not doomed to be always criminals will be tested. These disorders are predetermined by the subjective conditions with which a woman directly encounters, the background against which in unfavorable social circumstances can

arise and realize antisocial actions. Mental anomalies cannot fully explain the commission of a crime. In the behavior of a sane woman, including those with mental anomalies, pathological features are not determinant. They appear in conjunction with the social content of her consciousness.

## **2. Mental states of personality and mental phenomena**

The idea of identifying special mental states of personality, as its internal position, as a state preceding the real behavior of a person, was developed by many domestic scientists. Personality position is a stable system of views, beliefs and attitudes of the subject to the surrounding reality, to other people and to himself, manifested in appropriate behavior and practical activity. S.L. Rubinstein distinguished dynamic tendencies as special mental states preceding the real behavior of an individual. Consequently, dynamic tendencies act as special states of an individual's consciousness, as an ideal plan of consciousness that precedes his real behavior and is realized in it [5, p. 89-90].

V.N. Myasishchev [5, p. 90-91] in his developed concept of psychology of relations considers the latter as a special state of a person, as an individually integral system of his subjective-evaluative, consciously-selective relations to the surrounding reality, representing the interiorized personal experience of his relations with other people.

The behavior of an individual depends, first of all, on the ability to adapt in the changing world, establishing a connection between alienation and the humanistic concept of human nature and mental health [6].

B.F. Lomov [5, p. 90], analyzing the mental makeup of a personality, defines special states of consciousness as "subjective attitudes of a personality", i.e., how a personality relates to these or those actions of specific people and to the phenomena of the surrounding world in which a person lives, it is his subjective position in this social environment, his assessment of this environment. In case of deviations in the processes of socialization and social adaptation, as well as in the development of personality, some subjective relations begin to dominate over social or group

ones, and the values of some groups, for example, social or asocial, become dominant, which contributes to the formation of psychological readiness for law-abiding or criminal behavior. Without taking into account the above-mentioned special mental states of the subject, an objective causal understanding and explanation of his illegal actions and deeds is difficult or even impossible.

In the structure of a woman's psyche it is necessary to distinguish three mutually connected mental phenomena: processes, states and properties.

Normal human psyche is called normal because it is a product of established and prescribed rules and regulations [7, p. 18].

Classification of mental processes, like any classification, is conditional. In reality, different mental phenomena are organically connected [5, p. 13].

As a rule, cognitive processes include: sensations, these are the processes of reflection of both individual properties and qualities of the external world and the internal environment of the organism; perceptions, as a coherent reflection of the subject world; memory, as a process of imprinting and subsequent reproduction of the objective world in the form of images and concepts; thinking, as a process of mediated and generalized reflection of reality, providing cognition of the general and essential; imagination, as a process of reconstructing images and concepts reflecting reality.

To volitional processes should be attributed goal setting and motivation of behavior and action, i.e. justification of their expediency from the point of view of morality or from the standpoint of selfish inclinations, self-interest. This also includes decision and execution. Execution is a complex holistic act, which includes a number of processes: self-control, volitional effort, additional self-inducement to a new action.

Emotional processes are complex experiences of a human personality, which are divided into stylistic, activating the personality and asthenic, reducing the tone of life activity.

The main processes include various emotions, such as fear, anger, joy, sadness, as well as affects as strong and violent emotions - horror, rage, anger, despair. All mental phenomena are organically connected.

The study of feelings of a female criminal  
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2024, vol. 8, no. 2, pp. 92–101

from the position of moral criteria is important in the diagnosis of deviant behavior, and in the choice of behavioral options. By means of the received information it becomes possible to consciously manage the process of formation of various feelings, typical for a morally-educated woman with an active civil position.

Along with the processes and properties of a woman should be identified a special type of mental phenomenon - states, which is understood as a relatively stable level of mental activity, reflecting internal, organic or external environmental influences. Mental states, according to N.D. Levitov, often become typical for a given personality, characteristic of a given person. In this case, they seem to turn into personality properties [8, p. 12-13].

A certain state arises due to both the existing situation and the application of specific social measures of influence, such as, for example, public praise or censure, setting a task.

### **3. Illegal manifestation of mental phenomena in women**

Crimes committed by women not only threaten the security of various social relations and interests, but also significantly affect the spiritual and moral state of society, its culture, the level of conflict in it [9, p. 702].

Criminal behavior of women has undergone a number of changes to date, the most significant is that it has become more brutal, the number of violent crimes and crimes committed by a group of persons is increasing [10].

Cases from the domestic judicial practice can serve as an example.

*During a quarrel A. with her husband gave him two blows to the chest and abdomen. The victim died from the injuries received. In support of her position A. indicated that her husband was in a state of alcoholic intoxication and behaved aggressively. In the course of the quarrel, the victim inflicted several bodily injuries on A., and the violence she used was a method of defense<sup>1</sup>.*

*In another case, R., being in a state of*

*alcoholic intoxication, on the grounds of suddenly arisen unpleasant relations to her cohabitant as a result of a quarrel, made two sharp blows with the blade of a knife in the abdomen area. As a result of the injuries received, the cohabitant died<sup>2</sup>.*

The above examples confirm that the guiding force of criminal behavior in women is an emotional state, a strong mental shock. At the same time, the majority of such acts should be attributed to the number of rash, accidental.

There are cases when a crime is committed by a woman suffering from mental illness, but recognized as interfered. Any mental disorder affects the intellectual-volitional sphere of a woman, generates anomalies of her thinking and will. In this case, the problem is to determine the parameters and depth of abnormal changes in the woman's psyche. When defects of thinking and will of a woman reach significant sizes, she is reasonably recognized as insane.

But if these defects are not so substantial, the woman, although mentally unfit, is liable on general grounds.

A. N. Krasikov under mental disorder, not excluding sanity, understands mental disorders caused by labor process and postpartum period [11, p. 144].

Some women who suffer from depression have some form of unhealthy substance use or addiction. So, according to statistical information, 85-90% of drug offenders are men, and women are more likely to commit drug offenses as part of a group [12].

Factors that can increase the risk of depression in women include, first of all, unequal status, which can produce low self-esteem and lack of a sense of control over one's life. Also factors can include work overload and sexual or physical abuse [13, p. 31-32].

The reasons for the emergence of certain mental anomalies are different. Punishment should contribute to their elimination, so the type and amount of punishment should be chosen individually, taking into account all the signs characterizing the woman. These circumstances cause the need to allocate within the framework of sanity the category

<sup>1</sup> Sentence of the Central District Court of Orenburg, Orenburg Region, No. 1-34/2020 1-533/2019 of May 22, 2020 in case No. 1-34/2020. URL: <https://clck.ru/So4qS>.

<sup>2</sup> Sentence of the Moskovsky District Court of Ryazan, Ryazan region, No. 1-26/2019 1-314/2018 of January 15, 2019 in case No. 1-26/2019. URL: <https://clck.ru/So55s>

of "criminal responsibility of persons with mental disorders that do not exclude sanity", in the presence of which should be taken into account the inability of the subject to fully give an account of his actions or to lead them.

In the theory of criminal law, this state is referred to as limited sanity. Such a state is manifested in cases of mental disorders: organic brain damage and oligophrenia of mild and moderate degree, psychopathy [14].

Women who have committed violent crimes are characterized by a certain heightened emotionality, expressed in increased excitability, tearfulness, irritability, insecurity, anxiety, emotional dependence, so common motives for this type of crime are revenge and jealousy.

Psychological traumas received by women as a result of family and other conflicts can be of a protracted nature. As a result, such a long experience of any problem can be expressed in explosive, impulsive, aggressive behavior, contributing to the adoption of spontaneous, ill-considered decisions of unlawful orientation [15].

*R. deliberately caused grave harm to the health, dangerous to the life of her cohabitant Y., causing his death with a kitchen knife used as a weapon. Thus, Y.'s roommate had previously repeatedly beaten R., and on the day of the crime they were drinking alcoholic beverages together. In the process of drinking alcoholic beverages, a conflict arose between them on domestic grounds, during which he grabbed her by the hair and hit her in the face with his fist. She then went to the kitchen to make herself a sandwich. When R. was holding a kitchen knife in her hand, her roommate Y. approached her from behind, afraid that he would start hitting her again, she stabbed him in the stomach with the kitchen knife. As a result of the stab wound to the abdomen, he died a few days later in hospital<sup>3</sup>.*

Measures to create an appropriate legal basis for preventive activities of law enforcement agencies, providing accessible assistance to victims of family violence; informational assistance to the

realization by victims of their rights to protection contribute to the reduction of crimes against persons [14, p. 77].

#### 4. Clinical manifestations of mental disorders

From the history of psychiatry and law, the initial scientific interest in the study of psychopaths was explained by the demand of legal practice in connection with the propensity for morbid re-orientation, the difficulties of expert evaluation and increased criminogenicity of psychopaths. For the first time the term "psychopathy" was contained in forensic psychiatric expert opinions of V.H. Kandinsky, I.M. Balinsky and O.A. Chechott.

In the clinical picture from early school age should pay attention to disinhibition, disregard for authority, mainly teachers and their instructions. In adolescence they prefer the society, similar to themselves, with the same behavior, the range of interests in such companies is quite definite: alcohol, drugs, casual sexual relations, theft, vandalism, hooliganism.

In psychopathic personalities with a tendency to constructive and especially deficit forms of aggressive behavior in conflict intrafamily situations there is a long maturation of aggressive response and strong dependence of this process on unfavorable conditions of microenvironment, provoking and often illegal behavior of future victims. In these cases, the deterrent role of established prosocial behavior is clearly seen.

The tendency to destructive forms of aggressive behavior in psychopathic personalities of different patho-characterological types in connection with the specified relatively greater pathology of them indicates the possibility of applying to them such an expert assessment as limited sanity. Forms of aggressive behavior can serve as an essential element of a single criminological, clinical-psychiatric and psychological principle of assessment of mental disorders in persons who have committed intrafamily and other aggressive illegal acts.

The most criminogenic and prognostically unfavorable is the group of persons with a tendency to destructive forms of aggressive behavior, which are combined with deeper personality disorders and antisocial attitudes, in contrast to the other two forms. Ego definitely testifies to the pathological

<sup>3</sup> Sentence No. 1-167/2021 of July 7, 2021 in case No. 1-167/2021 / Shatursky City Court (Moscow Region). Judicial and Regulatory Acts of the Russian Federation. URL: <https://sudact.ru/regular/doc/Ai40QuiAE8xq/>

character of destructive aggressiveness.

In persons with deficit forms of aggression manifestation in committing the considered offenses the situational factor plays a determining role. This is indicated by the data on confirmation of all cases of legally significant emotional states, including physiological affect [17, p. 24].

### **5. Psychotraumatizing situation in the murder of a newborn child by its mother**

A special place among the crimes committed by women is occupied by a female crime, the murder of a newborn child by the mother. According to S.V. Borodin, there is no need to single out the murder by the mother of a newborn child as an independent privileged corpus delicti. Undoubtedly, there are cases when infanticide is committed by a person who is in conditions where a special mental state influences her actions, but this cannot be attributed to all cases known to practice.

*K. gave birth to a viable male infant. Further on the basis of existing financial difficulties, she had an intention to kill her newborn child. Immediately after the birth, K. closed the openings of the baby's mouth and nose with the palm of her hand and stopped the process of air intake, which resulted in the baby's death<sup>4</sup>.*

The above example clearly shows that the social danger of this crime does not allow to attribute it to the privileged. Thus, indeed the point of view of S.V. Borodin has a place, as follows from the example of judicial practice mother committed a crime, being not under the influence of her mental state, which does not allow to attribute a privileged type of murder and mitigate responsibility.

The same point of view is held by N.E. Alenkin [18].

The number of actually committed crimes exceeds statistical indicators. Many women, while still pregnant, prepare to commit infanticide [19, p. 68]. According to V. V. Rusina, out of 55 cases of murder by mothers of their children, only one is

registered by law enforcement agencies [20, p. 71].

In judicial practice there are cases when in the case of attempted or even murder of a newborn child the mother remained unpunished due to reconciliation with the victim in accordance with article 25 of the Criminal Procedural Code of the Russian Federation.

*Thus, a woman committed the murder of her newborn child, and her husband, as the victim's representative, petitioned the court to dismiss the criminal case against his wife on the grounds provided for in Article 25 of the Code of Criminal Procedure of the Russian Federation, in connection with reconciliation with the defendant. The woman fully repented of what she had done, apologized, and made amends for the moral harm caused by the crime. The husband had no claims to the defendant and insisted on the termination of the criminal case<sup>5</sup>.*

The court granted the victim's petition. This position of the court is confirmed in the decision of the court of Kemerovo region, but the crime was not completed due to circumstances beyond the control of the defendant<sup>6</sup>.

In the above example, there is a direct collusion between the guilty person and the victim, which includes close relatives of the defendant: husband, mother and father. The parties realize that the court decision will not be challenged.

The situation can be attributed to psychotraumatizing only after a careful analysis of the interaction between the individual and the situation, in which the psychological significance has an impact on the consciousness of the subject [21, p. 94].

As a result of the expert examination, an assessment will be made of the emotional state of the woman caused by psychotraumatic circumstances, which subsequently had a significant impact on her consciousness and behavior.

A significant omission of the legislator is that the current Criminal Code of the RF does not contain

<sup>5</sup> Resolution No. 1-58/2018 of 22.03.2018. Dinskoy district court (Krasnodar region). Judicial decisions of the Russian Federation : website. - URL: <http://xn--90afdbaav0bd1afy6eub5d.xn--p1ai/33311222>

<sup>6</sup> Resolution No. 1-113/2017 of 17.05.2017 Yurginsky city court (Kemerovo region). Judicial decisions of the Russian Federation : website. - URL: <http://xn--90afdbaav0bd1afy6eub5d.xn--p1ai/27319684>

<sup>4</sup> Sentence No. 1-118/2018 of September 10, 2018 in case No. 1-118/2018 / Bogdanovich City Court (Sverdlovsk region). Judicial and regulatory acts of the Russian Federation : website. - URL: <https://sudact.ru/regular/doc/ceXt73hJnNVQ/>

the concept of psychotraumatic situation. It is necessary to supplement the Criminal Code of the RF with article 22.1 - "Criminal liability of persons who committed a crime in a psychotraumatic situation", taking into account the fact that a person is subject to criminal liability. Having stated the concept of psychotraumatising situation as a state of mixed character consisting of problems of family and social nature.

Taking into account the unstable economic situation in the country and the constant stressful situations present in a person's life on a daily basis, not all domestic and social situations occurring in life can be recognized as psychotraumatic. In the current legislation, the subject of this corpus delicti can be a mother who has reached the age of 16, in connection with which there is a question of lowering the age of criminal responsibility for the considered corpus delicti [22, p. 5].

## 6. Conclusion

To understand criminal actions, their sources and motives, it is necessary to know not only external circumstances, situations, but also the spiritual appearance of the whole person. A significant part of crimes is committed by women in a state of strong emotional shock. In this regard, it should be recognized that such acts have no prior preparation.

The wrongful manifestation of mental anomalies in women is conditioned by socio-psychological differences and is expressed in the special significance of personal and intra-family experiences. Objectively difficult and individually significant situations, affecting the most vulnerable sides of women's value system, have a certain influence on the development of mental illnesses in them, which is manifested in the content of psychopathological experiences reflecting violations of interpersonal and intrafamily relations with the corresponding orientation of aggressive actions on persons of the immediate environment, mainly family members, close associates.

It should be emphasized the psychological

and nervous tension of women who have already served a sentence of imprisonment. Conflicts in the sphere of dormitory, the desire to undermine confidence in the system of execution of punishment, attempts to increase their authority among convicts, the very environment of isolation of a person from society is a favorable ground for criminal acts [23, p. 87], manifestation of mental anomalies in women.

Criminal justice should be aimed at improving the response to criminal acts, the victims of which are women and children, from the standpoint of prevention and prevention of their unlawful behavior. The domestic legal system should be aimed at eliminating negative barriers to the liberation of women from criminal influence [24, p. 87].

The creation of a federal register of people with severe mental disorders who may be potentially dangerous to society is currently under consideration. Such measures will be effective: involvement of such citizens in the sphere of socially useful work; raising the level of culture and legal awareness; especially careful control over previously convicted persons; timely identification of persons with mental disorders, prone to aggressive behavior; assistance in the domestic sphere; support for the preservation and strengthening of the family [25, p. 133].

Disorders of mental activity contribute to the formation of a woman - criminal only under certain unfavorable social conditions, they can include: unfavorable environment, lack of socially useful contacts; poor, insufficient upbringing on the part of the family, relatives; insufficient level of education and the degree of development of consciousness; lack of instilled moral and spiritual values; humiliation, negative attitude on the part of society.

The present study is aimed at solving the social problem, which has great scientific value and relevance. Its further research and study is necessary for further progressive and productive development of the sciences of criminal law, criminology, criminal-executive law, criminal procedural law, psychology, psychiatry.

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Kunts E.V. The role of social factors in the criminal behavior of women with mental anomalies.

*Pravoprimenenie = Law Enforcement Review*, 2024, vol. 8, no. 2, pp. 92–101. DOI: 10.52468/2542-1514.2024.8(2).92-101. (In Russ.).