

Interface between Psychiatry and Law

Submitted for partial fulfillment Of M.Sc. Degree in
Neuropsychiatry

Presented by

Walid Hassan Ibrahim Hassan

M.B, B.Ch.

Faculty of Medicine – Ain Shams University

Supervised by

Prof. Alaa Eldin Mohammed Ali Soliman

Professor of psychiatry

Faculty of Medicine

Ain Shams University

Dr. Hanan Hussein Ahmed

Assistant Professor of psychiatry

Faculty of Medicine

Ain Shams University

Dr. Doaa Nader Radwan

Lecturer of psychiatry

Faculty of Medicine

Ain Shams University

Faculty of Medicine

Ain Shams University

2009

Acknowledgement

I am deeply grateful for the support and constructive guidance of many people, whose valuable assistance made this study possible.

*First and foremost I would like to express my profound gratitude to **Prof. Alaa Soliman**, professor of neuropsychiatry, Faculty of Medicine, Ain Shams University for suggesting this topic. Without his assistance and paternal attitude, this work would not have been possible. It is great honor to work under his guidance and supervision.*

*I am eternally grateful to **Ass. Prof. Hanan Hussien**, Ass. Professor of Neuropsychiatry; Faculty of Medicine, Ain Shams University for her help and keen support. Without her help this work would have never been completed. a*

*I would like to express my deep thanks and appreciation to **Dr. Doaa Nader**, lecturer of neuropsychiatry, Ain Shams*

University, for her patience, encouragement, valuable instructions and advice throughout the work.

Last but not least, I wish to extend my thanks to my great parents , my brothers , my dear wife; whom I love so much, for without their help and support this work would have never been accomplished.

AAPL: American Academy of Psychiatry and Law.

AMA: American Medical Association.

APA: American Psychiatric Association.

BC: Before Christ.

CADCOMP: Computer-Assisted Determination of Competency to Stand Trial.

CST: The Competency to Stand Trial Screening Test.

DSM IV: Diagnostic and Statistical Manual of Mental disorders (Fourth Edition).

ECSHR: The Egyptian Center for Development and Human Rights.

ECST-R: The Evaluation of Competency to Stand Trial – Revised.

EIPR: Egyptian Initiative for Personal Rights.

GCCT: Georgia Court Competency Test.

GMC: General Medical Council.

HIPAA: Health Insurance Portability and Accountability Act.

IDRA: Insanity Defence Reform Act.

IFI: Interdisciplinary Fitness Interview.

Mac-CAT-CA: MacArthur Competence Assessment
Tool-Criminal Adjudication.

NPDB : National Practitioner Data Bank.

NSW: New South Wales.

RAND: Research And development corporation.

UK: The United kingdom.

UN: United Nations.

USA: United States of America.

WHO: World Health Organization.

WHO-AIMS: World Health Organization- Assessment
Instrument for Mental Health Systems.

Contents

Page

- Acknowledgement
- List of abbreviations
- Rationale of the work
- Aim of the work
- Methodology
- **Introduction**
- **Chapter 1 “History of forensic psychiatry”**
 - Before Christ era.
 - Early A.D. era.
 - Forensic Psychiatry Around The World.....
 - Psychiatry And Law In Egypt.....
 - Famous Forensic Cases.....
 - Scientists Who Added To Forensic
Psychiatry.
- **Chapter 2 “Patient Rights”**
 - Mental Illness Definition.....
 - Confidentiality
 - Informed Consent.....
 - Right toLiberty.....
 - Right to Treatment

- Right To Refuse Treatment
 - Civil Rights Of Mental Patients.....
- **Chapter 3 “Legal Aspects Of Psychiatric Illness”**
 - Violence.....
 - Criminal Responsibility.....
 - Competency To Stand Trial.....
 - Competency To Be Punished
 - Forensic Adolescent Psychiatry
and Child Custody.....
- **Chapter 4 “Ethics, Psychiatry and Forensic
Psychiatry”**
 - Ethics Of Forensic Practice.....
 - Malpractice
- **Discussion**
- **Recommendations.....**
- **Limitation Of The Study.....**
- **Summary.....**
- **References.....**
- **Arabic summary.....**

Rationale of the work

-Forensic psychiatry is considered one of the important and promising subspecialties of psychiatry which is rapidly developing in the last decades.

-Forensic psychiatrists should master the policies, procedures, values, and vocabulary of both law and psychiatry.

Aim of the work

- To review the literature on the relation between psychiatry and law.
- To review history of mental patients rights and mental health acts in Egypt.
- To provide recent information about relevant legal issues, including statutory requirements, civil and criminal procedures.

Methodology (procedure)

To review relevant literature published in the libraries of different universities and different sites on the net.

[Type the document title]

INTRODUCTION

Law and Psychiatry are two professional partners who share two groups of clients. The first clients are people with mental illness, all of whom eventually interact with the legal system in some way, whether in terms of their rights or of their responsibilities. While the other client is society. Roughly speaking, Law considers its primary loyalty to be to society, while Psychiatry considers its primary loyalty to people with mental illness; but both Law and Psychiatry maintain significant loyalties to each client, given that, in reality, society is composed of both people with mental illness and all those who interact (sometimes distressingly) with them (*Deaton, 2003*).

The term “Forensic” comes from the Latin word “forensis” (the forum or court). Forensic Psychiatry is a subspecialty of psychiatry in which scientific and clinical expertise is applied in legal contexts involving civil, criminal, correctional, regulatory or legislative matters, and in specialized clinical consultations in areas such as risk assessment or employment (*AAPL Ethics Guidelines, 2005*).

According to AAPL Ethics Guidelines, published 2005, Forensic psychiatrists will practice at the interface of law and psychiatry where each of which has developed its own institutions, policies, procedures, values, and vocabulary.

And although all forensic psychiatrists are clinical psychiatrists and all assessments, examinations and clinical records are included in the practice of clinical psychiatry, psychiatrists should have training regarding the conduct of forensic evaluations before taking such work because clinical evaluations and reports differ from forensic ones. Also psychiatrists need to understand the relevant legal issues, including statutory requirements; civil and criminal procedures; how to prepare for and conduct evaluations; how to interact with the evaluatee, attorneys, and judges; how to write forensic reports; and how to give depositions and court testimony (*Binder, 2002*).

Last decades have seen an astonishing change in the concept of human rights in general and especially for the rights of those with mental illness and disabilities. Because of that, United Nations General Assembly

adopted Resolution 46/119 in 1991, comprising principles for protecting the human rights of persons with mental disorders which is considered now as a set of basic rights that the international community regards as inviolable in community and treatment settings (*WHO, 2003*).

The principles covered the following areas: Definition of mental illness; Protection of confidentiality; Standards of care and treatment, including involuntary admission and consent to treatment; Rights of persons with mental disorders in mental health facilities and this would represent the major part of this study work.

Another area that would be covered in this work is the legal aspect of the psychiatric illnesses. As psychiatrists are frequently called upon to make judgments on the future dangerousness of the mentally ill, both in civil commitment procedures and in legal proceedings, and the difficulties involved in making such judgments, and indeed the relatively low success rate in predicting violent behaviour is well documented (*Wallace, 1990*).

Now mental illness is not synonymous with legal incompetence, and forensic psychiatrist evaluation will be needed whether to assess criminal responsibility of a

patient or to assess his competence to be tried and punished (*Stasz, 2005*).

As regard child custody cases which are the most common legal proceedings involving child and adolescent psychiatrists. They are complex and emotion-laden in themselves, and also have become even more complicated by special issues that commonly arise. These can include a mentally ill parent, a homosexual parent, a stepparent or grandparent seeking custody, parental kidnapping, allegations of sexual abuse, relocation cases, and cases arising from advances in reproductive technology. In general, child psychiatrists ought to be court-appointed, impartial experts when evaluating such cases (*Herman, 2005*).

Ethical issues in forensic psychiatry are perhaps more complex than ethics in the practice of general psychiatry. Many professional responsibilities and activities of forensic psychiatry are unique to the field (*Wettstein, 2001*).

Forensic psychiatrists are frequently called to evaluate plaintiffs in personal injury litigation as workers compensation, claims of infliction of emotional distress, determine the disability etc., also evaluation of sex

offenders, malingerers (*Simon, 2004*). Yet this topics are beyond the scope of this review as they need more detailed and specific evaluation and cannot be conducted in this work which is directed mainly to general relation between psychiatry and law.