



DOI: <https://doi.org/10.38035/jlph.v4i4>

Received: 13 June 2024, Revised: 28 June 2024, Publish: 29 June 2024

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## Criminal Responsibility For Perpetrators of Criminal Acts With Schizophrenic Mental Disorders

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**Abstract:** Schizophrenia is a psychotic disorder that causes sufferers to experience hallucinations and delusions that affect their emotions, behavior, and way of thinking. The purpose of this research is to find out the legal responsibility in handling cases committed by people with mental disorders, and to find out how legal policies in deciding actions against perpetrators with mental disorders. This research uses a juridical-normative legal method with a statutory approach. From this research, it can be concluded that Article 44 paragraphs (1) and (2) of the Criminal Code as well as Articles 38 and 39 of Law No.1 Year 2023 can be the basis for judges in deciding the actions that can be given to offenders with mental disorders. The ability to be responsible is an important part of determining whether the perpetrator can be given a criminal offense or not, so the judge can call an expert witness to assess the behavior and mental health of the perpetrator as a consideration for the judge in deciding. If the perpetrator is declared to have a mental disorder, then the judge can consider the reasons for criminal erasure.

**Keyword:** Criminal Liability, Legal Policy, Mental Illness, Schizophrenia.

### INTRODUCTION

A person's mood, mindset, and behavior in general can be affected by mental or psychiatric disorders. This disorder can inhibit sufferers in carrying out daily activities because there are conditions that can change the mindset of people with mental disorders. Sufferers or people who experience mental disorders can be said to be People with Mental Disorders (ODGJ) (Mane et al., 2022). In the book IDC-10 (International Classification of Disease) translated by the Ministry of Health of the Republic of Indonesia with the title Guidelines for the Classification and Diagnosis of Mental Disorders in Indonesia III, WHO states that disorders are used to express the existence of a behavior accompanied by symptoms and suffering related to the disruption of one's function (Departemen Kesehatan RI, 1993).

As for according to Law No. 18 of 2014 which regulates mental health, people who have symptoms that they are disturbed in disorders in behavior, thinking, and emotions that

cause suffering can be said to be people with mental disorders. Mental disorders can be said to be a serious health problem because they always experience an increase in the number of sufferers, and also the healing process that takes a long time. Mental or psychiatric disorders are not as desired both for other people and sufferers.

Over time, crime cases are increasing, causing tension in society because criminal crime is a major threat to social life. Cases of criminal crimes often occur in the community, school and family, such as acts of sexual immorality, rape, murder, brawls or violence. Such actions can have a major impact on people's welfare. With these crimes, law enforcers are required to be more assertive in handling existing problems by using legal instruments and imposing penalties for perpetrators for the problems they cause (Waluyo, 2007). All these crimes must be accounted for as a form of justice, and to prevent the recurrence of the same incident another day. Indonesia has laws and regulations regarding all rules in society for the welfare of life, and other rules that are also regulated by related laws. According to D. Simons, criminal acts are unlawful acts that contain elements of deviation, and these deviations are committed by people who have the ability to be responsible (Moeljatno, 2008), but in fact, deviations that often occur in Indonesia can be carried out both by individuals who are physically and spiritually healthy, as well as by individuals who experience mental disorders.

People who commit crimes often suffer from schizophrenia, which is characterized by a mixture of delusions and hallucinations, which are common symptoms of schizophrenia. Delusions are conditions that make it difficult for sufferers to distinguish between real and unreal things, and consider what they experience to be real. While hallucinations are disorders that cause the sufferer to hear, see, or feel something that is not actually there, such as whispers in his head. To be able to say that someone has a schizophrenic mental disorder is by physical examination and blood tests to find out if there are medical problems that may be the source of symptoms. In addition, by observing the patient's behavior and also providing questions about hallucinations or delusions experienced. Schizophrenia in adults can include extreme changes in daily behavior, such as social isolation, exhibiting strange attitudes, and expressing unconscious behavior (Mundakir, 2021). Symptoms of schizophrenia have been proposed by several doctors, including according to Eugene Bleuler (1857-1939), who said schizophrenia is a disease that makes a misalignment between the thoughts, emotions, and behavior of the sufferer (Fitrikasari & Kartikasari, 2022). One of the characteristics possessed by people with schizophrenia and other psychotic disorders is the inability to distinguish between something real (reality) and unreal (fantasy).

In handling criminal cases, crimes committed by people with schizophrenia are certainly treated differently from perpetrators who do not have psychiatric disorders. One example of a case committed by a perpetrator with a schizophrenic disorder is the case of obscenity in Decision Number 80/Pid.Sus/2020/PN Adl in 2020 committed by a person with a schizophrenic disorder who committed lewd acts to a child aged 7 (seven) years, where the act of abuse was committed by the perpetrator in the forest and resulted in the victim feeling traumatized. The perpetrator must have been secured and went through the legal process as appropriate. Because of his actions, the perpetrator was proven to have violated Article 82 paragraph (1) of RI Law Number 17 of 2016 jo Article 76 E of RI Law Number 35 of 2014 concerning Amendments to Law Number 23 of 2002 concerning Child Protection. However, due to the condition of the perpetrator who can be said to be sick, the judge considers Article 44 paragraphs (1) and (2) KUHP which discusses the mental health of a criminal offender (*Putusan Pengadilan Tingkat Pertama Nomor 80/Pid.Sus/2020/PN Adl*, n.d.).

To prove that the perpetrator of the crime is really mentally disturbed, an examination is carried out and information is needed by a psychiatric expert or information from the hospital at the time of the trial (Mubin et al., 2024). At the time of the hearing of

Judgment Number 80/Pid.Sus/2020/PN Adl, based on a mental medicine expert certificate issued by a mental hospital, it was stated that the perpetrator of the crime really had a mental disorder in the form of schizophrenia, and the discovery of elements of inability to take responsibility for his actions because the perpetrator was not fully aware of his actions due to chaos in the perpetrator's thought process. Therefore, the perpetrator can be found guilty of child molestation, but if it is based on Article 44 KUHP he cannot be sentenced because of his lack of perfect mind (mental disorder).

In determining a court decision, sufficient evidence and information are needed so that the results of the decision cannot be misused. In this case, the expert doctor or hospital needs to assess the mental health of the perpetrator before the judge makes a decision. This ensures that decisions taken are in line with the law and cannot be misused for the benefit of the perpetrator, his family, or others. It also helps prevent criminal behavior by those who claim to have a mental illness but do not actually have the disease (Ameln, 1991). According to E. Utrecht, there are 2 (two) conditions that must be met before it can be said that a crime has been committed: (Moeljatno, 2008)

1. Unlawful acts;
2. The perpetrator is considered accountable for his behavior, or can be punished.

Unlawful acts committed by people who have mental disorders have the possibility of being spared from punishment, and may still be responsible for their actions. This matter is based on Article 44 paragraph (1) KUHP concerning criminal responsibility for perpetrators who have mental disorders which states that in essence "if a person who violates the law but is mentally disabled due to illness, is not imprisoned". And continued in Article 44 paragraph (2) which basically states "if proven as subsection (1), then the person can be ordered by the judge to go to a mental hospital with a probation period of one year". Since the limits of mental disorders are not defined in paragraph (1), it raises the question of whether the person considered insane is the only one in question, or the person suffering from mental illness and disorders due to delusions and hallucinations is also considered mentally ill (Puspitasari & Rofikah, 2019). Therefore, it is very necessary to hold criminal law accountability and legal policies that allow it to be done when overcoming cases committed by people who have mental disorders.

When it comes to legal liability, there are several further checks so that the perpetrator can be determined whether he can be responsible or not. Criminal liability has 3 (three) elements of ability, namely: (Ndapabehar & Rahaditya, 2023)

1. The perpetrator is aware that what he is doing is against the law;
2. The perpetrator understands that what he does can unsettle society;
3. Perpetrators have free will in carrying out their actions.

If the 3 elements above are met, then the next process can be carried out and the perpetrator is responsible for what he has done. However, if there are elements that are not met, then you can use the criminal removal excuse policy, which is the justification reason, namely the unlawful nature of the perpetrator will be abolished, and the forgiving reason, which is the elimination of the deviation of the criminal offender even though what he has done is against the law (Nasution et al., 2023). The reason for forgiveness can be found in Article 44 paragraphs (1) and (2) KUHP, Article 38 of Law No. 1 of 2023, which essentially states that "any person who commits a criminal act but he is a person with a disability in his soul and/or mind may be given an act or his crime reduced". According to Article 1 of Law Number 8 of 2016 concerning Persons with Disabilities, those who have limitations in thinking, physical, and mental functions (emotions and behaviors), or feelings for a long time are considered as persons with disabilities. These symptoms are symptoms of disability, one of which is schizophrenia. The reason for forgiveness can also be found in Article 39 of Law No. 1 of 2023 which states that "any person who makes deviant actions but he is a person with a mental or intellectual disability with an acute severe recurrence condition that

affects the sufferer in thinking, cannot be criminally charged, but given action". From the point of view of criminal law, the question of legal responsibility for schizophrenic offenders certainly draws attention to a study. Based on the background that has been conveyed, a formulation of problems regarding criminal law responsibility for criminal offenders with schizophrenia mental disorders is made from a legal point of view, and special policies or mechanisms in handling criminal cases involving perpetrators who have mental disorders.

Research on this issue has been raised by several previous reviewers, including a study researched by Orintina Vavinta Ida and Nany Suryawati in 2023, titled "Criminal Responsibility for Perpetrators of Criminal Acts with Psychiatric Disorders According to Positive Law Provisions", which states that perpetrators who have mental disorders cannot be held accountable because they aim to correct the mistakes committed by perpetrators. Furthermore, research conducted by Alfridus Darto, Arief Syahrul Alam, and Fifin Dwi Purwaningtyas in 2023, titled "Criminal Responsibility for Perpetrators of Murder of People with Psychiatric Disorders in the Perspective of Criminal Law", which states that the ability to be responsible is closely related to criminal responsibility because the ability to be responsible is one of the important elements in determining that the perpetrator has a psychiatric disorder. Based on this previous research, the update in this study is that this study discusses the responsibility of criminal law towards perpetrators with mental disorders more deeply, and discusses legal policies in handling cases of deviations committed by perpetrators with schizophrenia mental disorders based on Law Number 1 of 1946 and Law Number 1 of 2023.

## **METHOD**

The method used in this study is a juridical-normative legal method with the aim of examining legal accountability in Indonesia through valid laws and regulations. This study was made with a statute approach to analyze regulations and provide a clearer understanding of applicable regulations. This study collects data from secondary data covering primary legal materials such as the KUHP, Law Number 1 of 2023, Law Number 18 of 2014, and other relevant laws and regulations. Secondary legal materials in this study are books, journals, scientific papers, and legal documents related to this research problem. The data analysis technique in this study is a descriptive analysis technique, namely the results of data analysis that have been collected will be discussed and poured descriptively so that conclusions can be drawn on the formulation of the problem discussed.

## **RESULTS AND DISCUSSION**

### **Criminal liability for criminal offenders with schizophrenia mental disorders**

Indonesia is a legal country whose state government system is based on applicable provisions and contained in the UUD 1945. With the aim of enforcing the law in Indonesia, the Indonesian government established a law enforcement agency that included judges, prosecutors, lawyers, and police whose purpose was to enforce the law in Indonesia. In the law enforcement system, judges have an important role because it is the judge who gives the final decision regarding the punishment for what the perpetrator has done. Criminal liability itself can be called responsibility, which is an assessment of whether the defendant can be held responsible for a criminal case that occurs or not. After all aspects of unlawful acts are proven, criminal liability is determined through objective and subjective assessment on the basis of legal interests and norms, as well as the principles of justice (Rusianto, 2018).

Criminal responsibility is closely related to the ability of the accused or suspect to be responsible. The ability to be responsible can include being mentally healthy, physically, and mentally to be able to know consciously that his actions are against the law. When discussing the ability to be responsible, KUHP does not include provisions for the meaning of the ability



to be responsible, but there is one article of KUHP that relates to this, namely Article 44 paragraph 1 which basically states that if the perpetrator commits a criminal act but his soul is disabled or disturbed due to illness, then he cannot be punished. When viewed from the article listed, perpetrators with conditions suffering from schizophrenia cannot be held responsible, but must go to the hospital and undergo probation for one year.

The factors of reason and will are two factors that determine a person's ability to be responsible. Reason means that the perpetrator can distinguish and realize what behavior can be against the law or not, while the will means that the perpetrator can control his mind and behavior consciously against actions that are against the law or not (Fajri et al., 2020). In convicting people who violate the law, it is necessary to know clearly and prove that the act is indeed against the law and the perpetrator is aware of his guilt, then the defendant must be sentenced to a crime, but if the perpetrator is proven to have a schizophrenic mental disorder, which can be said that the defendant is unable to account for his actions, because schizophrenia mental disorders cause the sufferer to experience impaired thinking, and this can affect the actions of the sufferer. The judge in making a decision also needs to see the reality of the extent to which the mental disorder affects the perpetrator's state of thinking and doing, and the judge needs to consider whether the disorder causes the suspect not to realize that his actions are against the law, or whether the suspect is able to determine his own actions. If it is true that the suspect at the time of committing his act is indeed a relapse of his illness, then the suspect cannot be sentenced to a crime, but if it is known that the suspect's actions and illness are not related, then the judge can impose a crime (Lamintang, 2013).

A person can be exempt from punishment even if he has broken the law for a number of reasons, these reasons are justifying reasons and forgiving reasons. Justification reasons are reasons that will make the unlawful nature of the perpetrator abolished, including: (Sandra et al., 2023) Force (overmacht); Forced defense (noodweer); Following the orders of the Act; Perform incumbency orders.

Forgiving reasons are reasons that will erase the perpetrator's guilt even though his actions violate the law, including: Inability to take responsibility; Force (overmacht); Overreaching forced defenses; Perform office orders without authority.

By looking at the reasons above, it can be concluded that there is a difference between the two forms of reasons that can remove the crime, namely the justifying reason is more closely related to the action committed, while the forgiving reason is closely related to the attitude of the perpetrator. So that if the perpetrator of a criminal act has a psychiatric disorder at the time of conviction, then the perpetrator can be released from his criminal trap based on the mental illness he is experiencing as stated in article 44 paragraphs (1) and (2) KUHP, as well as Articles 38 and 39 of Law Number 1 of 2023. According to Adami Chazawi's book, there are two types of reasons that can be used to overturn a criminal sentence against a person, the first is the basis for canceling a sentence based on general and specific laws and regulations, forgiving and justifying reasons are included in the general basis. The second is the reason for eliminating extrajudicial crimes, which includes the loss of unlawfulness, and the elimination of crimes because the perpetrator is not found to be an element of guilt (Chazawi, 2016).

Criminal law liability for perpetrators with mental disorders or mental disabilities Before it can be said to be a true psychiatric disorder, the perpetrator must still carry out the same court process as with other perpetrators who do not have a psychiatric disorder because it is undeniable that the perpetrator with mental disorder has committed a crime, which requires investigation and investigation to find out whether the perpetrator really committed the crime. If the police have found enough evidence and witnesses to the perpetrator's actions, the police will delegate the perpetrator to the prosecution for prosecution of the perpetrator. Meanwhile, to find out whether the perpetrator really has a psychiatric disorder, the judge needs proof of letters, evidence of instructions, evidence of expert information, or

can bring in an expert doctor to assess and explain in detail about the perpetrator's mental disorder. If the perpetrator has been declared to have a mental disorder, the trial must continue to ascertain the actual legal facts to give a fair decision, as well as to determine whether or not the perpetrator can be held responsible for his actions.

The ability to be responsible for the perpetrator's actions is one of the important bases in sentencing the perpetrator of the crime, because this ability is related to the perpetrator's psychiatric condition. If the perpetrator has a stable and normal psychiatric condition, he will be aware of his mistakes and also able to regulate his behavior according to the patterns of the surrounding community, but if the perpetrator has an unstable mental condition, he is not aware of his mistakes, and also difficult to follow the pattern of life of the surrounding community because he cannot regulate the pattern of thinking and behavior (Ohoiwutun et al., 2022). It can be said that when the perpetrator with schizophrenia understands his legal obligations and is able to distinguish what are good or bad actions, what behaviors are allowed and what are not allowed, then he can be held legally accountable. If the offender with a schizophrenic disorder cannot control his actions, this general criterion should be clarified with a psychiatrist.

Articles 38 and 39 of Law Number 1 of 2023 essentially state that "people who commit deviations but are persons with acute mental disabilities, may not be convicted but may be subject to action". The action in the article refers to Article 44 paragraphs (1) and (2) KUHP which essentially states that "a person whose soul is disturbed due to illness is not imprisoned, but may be ordered to carry out a one-year probation in a mental hospital". Considering that in the explanation to Article 4 paragraph (1) letter c of Law Number 8 of 2016 states that "people with mental disabilities are disorders in the functioning of thinking, behavior, and emotions, one of which is schizophrenia". If based on these articles, the action given to criminal offenders who have schizophrenia psychiatric disorders is not a prison sentence, but rehabilitation in a mental hospital for the healing process of sufferers, considering that the responsibility of perpetrators with mental disorders is included in the responsibility of the government and society in accordance with Article 42 of Law Number 39 of 1999 concerning Human Rights (HAM) which basically states that "all citizens States with physical or mental disabilities have the right to receive costs for treatment, training, education, and special assistance financed by the state for the life of sufferers", and Article 147 paragraph (1) of Law Number 36 of 2009 concerning Health which states that "local governments, governments, and communities have a responsibility in efforts to cure people with mental disorders". If the perpetrator who has a mental disorder, especially schizophrenia, is not given rehabilitation measures but only returned to his family, it can cause more severe symptoms because he is not immediately given special treatment. Not everyone who has schizophrenia has a good family and supports sufferers, there are even some families who do not know one of their families has a mental disorder. So for the safety of patients and the community, perpetrators with schizophrenia disorders must carry out rehabilitation to mental hospitals to be handled by professionals for healing from mental disorders.

### **Legal policy in handling criminal cases committed by perpetrators who have schizophrenia mental disorders**

Legal trials in general certainly have procedures and policies in handling problems against perpetrators of criminal acts that are against the law. These procedures and policies must certainly also be carried out for criminal offenders who have psychiatric disorders in accordance with Article 27 paragraph (1) of the UUD 1945 which states that "all citizens have an equal position in the eyes of law and government, but the difference is that in handling cases of perpetrators with psychiatric disorders there will be several further examinations so that judges can give a fair final decision using valid information as intended

in Article 184 KUHAP, which is expert statements, witness statements, letters, instructions, and statements of the accused. In criminal law, proof has an important part in seeking and discovering the truth. Expert testimony reports can be said to have an important role in final decision making in trials involving perpetrators, especially perpetrators suffering from mental illness.

In criminal justice, judges have full observation and confidence in their case to assess the guilt and ability to take responsibility of the perpetrator. In some cases, there are several cases in which the perpetrator is indicated to have a psychiatric disorder, therefore the position of psychiatric expert information can be said to have an important position to determine the existence of mental disorders, what kind of type, and the ability of the perpetrator to account for the crimes he committed. In criminal law, expert witness testimony is generally unrestricted and not binding on judges. Judges have a moral responsibility so that the truth can be realized in every criminal case, so judges are not obliged to accept expert testimony (Kristyanti, 2020). Basically, courts can freely judge perpetrators in the absence of expert opinion, but because expert testimony differs from witness testimony in some respects, this cannot be ignored. Expert testimony should not be viewed as weak evidence, because expert testimony will be used as material to convince judges to assess perpetrators based on the *negotief-wettelijk* evidence system in KUHAP (Wulur, 2017).

Guided by the *wettelijk* evidence system, judges can assess existing evidence in advance and determine the form of criminal offense charged, as well as prove the defendant's behavior is indeed unlawful. If it has been proven, then the defendant is then examined to find out whether the defendant can be responsible for his actions (Siregar, 2022). There are 3 (three) elements of the ability to find out whether the defendant has the ability to be responsible and can be held legally accountable, including:

1. The perpetrator is aware that what he did violated the provisions of the criminal law.

This means that the perpetrator at the time of the trial, agrees and understands that his actions are against the law and prohibited by law, then they must be given a criminal offense because it is one form that the perpetrator is able to account for his actions. However, if the perpetrator confesses that he does not remember, is not aware, and does not understand that his actions are against the law, then the judge needs evidence from mental health experts to assist the judge in considering his verdict because the perpetrator may have mental disorders or disabilities in growth. This can reduce the crime to be given, it can also remove the crime against the perpetrator. The judge of course weighs with evidence, the facts of the trial, and looks for a causal relationship between the perpetrator's illness and his actions.

2. The perpetrator is aware that his behavior may disturb public order.

This means that the perpetrator knows that his actions cause the surrounding community to be disturbed because of his intolerable and unlawful behavior. If the perpetrator does not have physical and mental impairments, then he can easily distinguish good and bad deeds with his intellect. Even this is not guaranteed because there are still many people who commit criminal acts deliberately even though they can think normally with their minds. But if the act is done by a person who has a psychiatric disorder, and the act is done when the perpetrator is relapsing his illness which causes chaos in his brain and there is an impulse that cannot be controlled, then it can make the perpetrator unable to be held accountable, considering that the act was done when he relapsed acutely and also he did not realize the consequences of the actions he had done.

3. The perpetrator carries out the deviation based on his free will.

This means that the perpetrator's actions are carried out on his will and will without any demands or urges from anyone, where the perpetrator has the freedom to choose whether he wants to do or not do his actions. Therefore, it is necessary to prove clearly whether the perpetrator committed the act by free will or because of coercion. Even the

perpetrator must be proven that he does have a schizophrenic psychiatric disorder, and he does his actions when he cannot control his thoughts and actions. Given that the symptoms of schizophrenia are sufferers will be difficult in sorting out good and bad deeds, which are real and imaginary, and often hallucinate. If it is proven that the perpetrator committed his act when the disease recurred, then the perpetrator cannot be imprisoned, but will be sent to a mental hospital for rehabilitation.

Based on this explanation, it can be said that the element of responsible ability is an important part in determining decisions about the actions of the perpetrator, because it can know the psychological state of the perpetrator. If a person is able to understand and admit that his actions violate the law, and can make decisions and fulfill his desires based on his own self-awareness, then that person can be considered capable of responsibility and have a healthy soul. That way, the person who commits deviant actions and can be considered capable of responsibility is a person who has a soul that is free from disease, does not experience interference in growth, is aware of his unlawful actions (Prasetyo et al., 2023). If the perpetrator is unable to meet any of the three components of capability, the court may decide to consider legal policy to make a final decision on the offender's actions. In considering his decision, the judge can rely on Article 44 paragraphs (1) and (2) of the Criminal Code, as well as Articles 38 and 39 of Law Number 1 of 2023, and the judge can also consider his decision using the policy of criminal removal reasons such as reasons for deletion and justification reasons.

## CONCLUSION

Criminal offenders with schizophrenic mental disorders require special consideration in the criminal liability process. The mental health condition of the offender must be carefully evaluated to understand the extent to which the mental disorder affects the offender's ability to understand and control their behavior. In the context of criminal liability, it is important to find a balance between legal justice and the humanitarian needs of mentally ill offenders. The main objectives of the criminal justice system go beyond punishment to include rehabilitation and protection of society. In the judicial process, mental health experts, such as psychiatrists and psychologists, have an important role in assessing and evaluating the offender's behavior and can assist judges in making decisions. The legal system should consider alternative treatments, such as treatment and rehabilitation, as a form of action against offenders with schizophrenic mental disorders, which not only provides protection for the community, but also provides opportunities for recovery for offenders.

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