



Forensic psychiatry in Kuwait - characterization of forensic psychiatry patients evaluated over year duration in the only available forensic psychiatry unit



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ABSTRACT

Introduction: The offending behavior arising from a mental disorder invokes criminal responsibility doctrines or insanity defenses and calls for legislative framework ensuring availability of care and treatment for the patient and protection of the public from harm from the offender. The conviction of mentally disordered offenders varies depending upon the local legislation and its socio-cultural context, so do the principles, procedures and guidelines for forensic assessments between different countries. The criminal Act of Kuwait, which governs the work of forensic psychiatrists remain unchanged, from a psychiatric point of view, since it was enacted in the early 1960's.

Objectives: To shed some light on the forensic psychiatry services running in Kuwait and describe forensic psychiatry patients evaluated in the only-available forensic psychiatry unit.

Methods: Retrospective chart review of all cases referred for criminal forensic psychiatric assessments during the period from January 1st, 2016 to May 31st, 2017. The demographics, types of offences, psychiatric diagnoses, and details of psychiatric evaluations were retrieved and characterized.

Results: A total of 95 case-notes were reviewed. Most of them were males (90%), Kuwaiti nationals (77%), primary or intermediate school education (74%), and were aged 20–39 (69%). Almost all (97%) of the referrals required ascertainment of 'responsibility' for the alleged offence. Eighty-six percent (N = 81) of the offenders were referred from the police or the public prosecutor office. Eighty-three percent (N = 79) of the offenders were found to have a mental disorder while 55% (N = 52) were found to be criminally responsible. The males (57%) outnumbered the females (33%) as criminally responsible.

Conclusions: The number of mentally ill offenders referred for criminal responsibility and fitness to stand trial is very small compared to western countries. One reason behind this could be that a substantial number of the mentally disordered offenders pass undetected through the legal system. It is then incumbent that psychiatrists and forensic mental health workers might need to provide better awareness and education about mental health to legal authorities in Kuwait.

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1. Introduction

Forensic psychiatry is a branch of psychiatry and a medical subspecialty that includes research and clinical practice involving mental illness and the law (AAPL, 2014). The forensic psychiatric work can be divided into criminal and civil. Criminal work generally involves assessments of criminal responsibility, fitness to stand trial, violence risk assessments, and work with incarcerated individuals. Civil psychiatric work generally involves different capacity assessments such as finance,

treatment, custody, and testamentary. In addition, a large part of the civil forensic work involves evaluation of both work and injury related disabilities due to mental illness (Arboleda-Florez, 2006).

Since the conviction of mentally disordered offenders varies depending upon the local legislation and its socio-cultural context, so do the principles, procedures and guidelines for forensic assessments between different countries (Abdalla-Filho & Bertolote, 2006). In some countries like Germany and Netherlands, the concept of diminished capacity is applicable to all crimes (Edworthy, Sampsonb, & Völlm, 2016) where as in countries like Canada and England, the diminished capacity application is limited only to specific intent crimes like murder. (Cronin, Gouda, McDonald, & Hallahan, 2017) Similarly, in Iran and Saudi Arabia, the 'sharia' laws, rather than the convention Western penal code

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system, determine the degree of intent involved in the given offence (Saberi & Mirsepassi, 2013). Therefore, it is important for any practicing forensic psychiatrist to be aware of both the legislations and then the local socio-cultural factors. The bulk of the forensic psychiatry work is based on the same principle of protecting the public from the mentally ill offender and protecting and managing, at the same time, the rights and illnesses, respectively, of the mentally ill offenders (Abdalla-Filho & Bertolote, 2006).

Forensic Psychiatry Unit (FPU) at Kuwait Centre for Mental Health (KCMH) provides the only official forensic psychiatry services in the country of Kuwait. At the FPU, we have specialized forensic psychiatrists and psychologists, as well as a team of nurses and social workers specialized in dealing with forensic cases. The FPU has the current capacity of accommodating 23 inpatient allocated spots and 10 allocated spots for assessments. Patients detained at the FPU go through rigorous risk assessments before being released into the community. Patients detained at the FPU are managed under Kuwait Criminal Act. Similar to many western countries, the test for discharge of the patient is “significant threat to the public”. Patients are admitted from the Court. The team is responsible for the assessment and management of detained patients in the forensic psychiatry ward, outpatient forensic psychiatry clinic, and Kuwait Central Jail. The team is also responsible for carrying assessments for patients referred from the Court, National Prosecutor Office, the National Security Bureau of Kuwait, and the police.

The job of the FPU can be divided into two major parts, assessment and management. Management is mainly given to detained not-criminally responsible patients at the unit, and patients sent from jail who need temporary psychiatric care and who cannot be managed in a general psychiatric ward for safety reasons. Assessment is divided into civil and criminal. Civil assessments include financial capacity, custody, and fitness for duty assessments. Criminal assessments include criminal responsibility, fitness to stand trial, and dangerousness assessments.

The assessment report submitted to the requesting legal authorities follow the same standard followed in forensic psychiatry in Ontario, Canada (where the head of the FPU practiced). The report includes details of the patient, type of assessment requested, crime/s committed, cautionary statement, resources of information, detailed psychiatric history, previous psychiatric record, previous criminal record, diagnosis, mental status examination, details of the incident, examination of the question asked from a psychiatric point of view (criminal responsibility, fitness to stand trial, etc), and recommendations.

Unlike in many parts of the West where the assessment and reports are performed by a single forensic psychiatrist, at the FPU the assessments and reports are performed by committees of three psychiatrists with experience in forensic psychiatry. (legal authorities usually request a committee when requesting an assessment).

Courts and other legal authorities give big weight to the psychiatric reports issued by the FPU team. The court and legal authorities usually ask for the head of the psychiatric committee writing the report to testify. Patients can at times appeal against the assessment, and if the court approves it, another psychiatric committee would be requested to make a new assessment. In these rare circumstances, the legal authorities, based on a request from the defence lawyer, ask for another opinion whereby another committee is formed by the other half of the psychiatrists working in FPU. In much rarer situations, the Court, based on a request from the defence lawyer, asks for another opinion from a different organization. Since the FPU is part of Kuwait Centre of Mental Health, which is the only psychiatric facility in Kuwait, and it is run under the Ministry of Health, the only other organization in Kuwait that has psychiatrists is Kuwait University. However, none of the current psychiatrists working in the University of Kuwait has any form of training in forensic psychiatry and therefore they cannot be seen as “expert witnesses”, hence, their opinion can easily be challenged and rejected.

The Criminal Act of Kuwait (Appendix attached, *vide infra*), based on British legislations, was first enacted in 1960 (Law No. 60/1960), and was amended ten years later in 1970. The Act was based on British legislations (Kuwait Criminal Act, 1960). The sections 22 and 23 deals with the test for criminal responsibility due to mental and substance-induced, disorders, respectively. The sections of the Criminal Act governing assessment and management of the mentally ill remain unchanged since the legislation was enacted (Kuwait Criminal Act, 1960). There are several gaps in the Act regarding issues relating to mentally ill offenders. First, the Mental disorder is not defined in the Kuwait Criminal law. Second, the rights of mentally ill offender to challenge or plead ‘not guilty on grounds of mental ill health’ are neither defined nor addressed. And lastly, there is no provision of independent review boards to monitor and regulate detention, assessment, and treatment of the mentally ill offenders.

Kuwait is a Muslim country situated in the Gulf peninsula with a population of just over four million with almost 3 million being non-Kuwaitis (Kuwait Central Statistical Bureau, 2017). We believe that a substantial number of the mentally disordered offenders pass undetected through the legal system and many of them are not only denied access to treatment but get convicted despite being ‘not fit to stand trial’ or being ‘not responsible’ for the alleged offences. More importantly, Kuwait lacks a Mental Health Act, something the country desperately needs to safeguard the rights of the mentally disordered and to ensure safety of the society in general. We decided to review the forensic case notes to determine the rates, nature of offence, psychiatric diagnoses, and outcome of patients referred to the Kuwait Center for Mental Health (KCMH).

2. Methods

2.1. Design

The study design is retrospective chart review of all cases referred for criminal forensic psychiatric assessments from 1st January 2016 to 31st May 2017. The recorded information included details of the index offence, age, sex, marital status, citizenship, occupation, education, referral source, place of residence, medical history, developmental history, social history, family history of psychiatric illnesses, legal history, and past psychiatric history. The psychiatric diagnoses were assigned according to the Diagnostic and Statistical Manual (DSM-5) criteria (APA, 2013). The ethical approval was obtained from the Ministry of Health Scientific and ethical committee. The sample included patients charged with criminal or drug-related offences. Since the scope of the study was limited to the assessment of patients with criminal and drug-related offences, the civil cases were excluded.

2.2. Setting

Kuwait Centre for Mental Health (KCMH), the only mental health facility in the country, has a capacity of more than six hundred inpatient beds distributed through a complex of several buildings. It receives over two thousand patients a month from across the country's six provinces (Kuwait Central Statistical Bureau, Statistical review, 2017). The Forensic Psychiatry Unit (FPU) at KCMH was established in 1981. It has 36 inpatient beds and receives patients from the court, public prosecutors for felonies, the country's 62 police stations for infractions and misdemeanors, and National Security Apparatus for national security type of crimes like terrorism suspected cases. All those mentally ill offenders found to be ‘not criminally responsible’ are detained for assessment and further management.

2.3. Procedures

The United States Federal Bureau of Investigation (FBI) crimes categorization was used to classify the crimes into those committed against

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