



Learning and Developmental Disorders in the Criminal Justice System

Armiyau AY*

Department of psychiatry, Forensic Unit, Jos University Teaching Hospital, Nigeria

*Corresponding author: Aishatu Yushau Armiyau Department of psychiatry, Forensic Unit, Jos University Teaching Hospital. Murtala Mohammad way Jos. Plateau state Nigeria, Tel: +2348035899338; Email: aarmiyau@gmail.com

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Abstract

Individuals with learning disability are prone to experience several inequalities and unfair access to the criminal justice system. This results in missed diagnosis of learning disabilities, delayed in accessing effective and efficient treatment, and ineffective and unequal access to justice. Individuals with learning disabilities experience problems with communication, comprehension, processing sensory information and social functioning. Therefore criminal justice system and clinicians need to adjust their practice so as to provide equity in accessing health and justice services. This will improve the experience of individuals with learning disabilities who come in contact with criminal justice system.

Keywords: Learning disability; Criminal justice system; Treatment; Diagnosis; Practice

Abbreviations: ASD: Autistic Spectrum Disorder; HFASDs: High Functioning Autistic Spectrum Disorders; AD: Asperger's; HFA: High-Functioning Autism.

Introduction

A mentally disordered offender is an individual who has a disorder or disability of the mind and suspected to commit or has committed a criminal-offence. Mental-disorders recognized include learning-disabilities, autistic spectrum disorder (ASD), bipolar-affective-disorder, and depression. Developmental-disabilities are defined as a wide-range of disorders occurring first in childhood. They span from mental retardation now referred to learning or intellectual disabilities to autistic spectrum disorders. These groups of disorders affect several domains of functioning such as speech, thoughts, sensory and behavioural problems. Considering developmental-disorders (ASD), its prevalence has increased and hence the shift of attention to consider adolescent and adulthood ASD, so also the public repercussion for this

group of individuals. During unintended violent or criminal behaviour, the emotional and social deficits associated with ASD may be salient, but their involvement with criminal justice system is an important area of focus [1-4].

Explanation

Individuals with ASD particularly the two subtypes; high functioning autistic spectrum disorders (HFASDs) which are Asperger's (AD) and high-functioning autism (HFA) have average to above average intelligence with normal language and speech development especially AD, but despite this they have an atypical development of intuition and social reasoning. These individuals also have deficit in numerous social domains such as recognition, social-reciprocity, non-verbal cues so also developing and maintaining relationships with peers and have increased incidence of depression and social anxiety [4-7]. These problems impair their emotional and social functioning. There is a potential increase of individuals with HFASDs in criminal-settings with

relationship linking their deficits and violent crime. Studies have shown increase prevalence of AD with violent-crimes, possible sexual offences, infrequent use of illicit drugs, but greater violent behaviours and questions about exculpatory fitness [8-11].

Legal Proceedings

Their emotional-deregulation affects mediating their judgement competency, because according to Kahan and Nussbaum (1996) understanding emotion in law is the best for optimal conception and evaluation of the views of emotion. Emotions are morally formed and not thoughtless to drive behaviour hence evaluating emotion of a defendant can influence the individual's guilt determination but rarely influence sentencing. Thus emotional-deregulation in HFASDs can affect legal proceedings for their crime. In situation of accidental-harm individuals with HFASD fail to withhold blame, with a relative withholding of moral-judgement. Because they are unable to present their motive via normal moral-reasoning, their capacity to communicate is impaired which is where culpability relies entirely on motive comprehension and evidence. Working with these groups of individuals could be extremely challenging, because of communication difficulties which results in acting out behaviour and frustration. The lack of communication may result in difficulty for the prosecutors and jury to make an intuitive sense for the odd motives of defendant thereby introducing bias-systematically into guilt evaluation (offender might not be fit based on existing moral schema) [4,12-14]. These are likely some of the reasons why legal proceedings may suffer set back in offenders with developmental disorders HFASDs. To give individuals with these disabilities increased emotional well-being and self-efficacy there are methods to aid their communication which I will discuss below.

Explanation

First – In order to adapt a good method of working with these individuals it is necessary to make a definite diagnosis in my opinion because a number of difficulties exist in their diagnosis. There have complicated issues such as psychiatric-comorbidity, social impairment is selectively improved and there is a lack of reliable information about their developmental history particularly the adult patient. Therefore to overcome these difficulties especially for professionals working in secure control units and prisons, using brief screening tools will assist. Example for Asperger syndrome use of Nylander questionnaire might suggest this disorder and diagnostic assessment follows. To establish diagnosis thereafter a precise clinical interview should be conducted, coupled with full history of the individuals behavioural development, social communication could be

gotten from an informant who is familiar with the patient in his/her formative years. Otherwise for an approximate good clinical judgement, semi-structured diagnostic and screening assessment tool could come in handy. When this is done in my opinion it will provide a milestone in working with these individuals.

Secondly- It will be important to maintain the right therapeutic milieu. The environment should be predictable and structured in such a way that a stimulus provides low-arousal with adequate number of staff trained to work with these individuals [15-17]. Example individuals with Asperger syndrome may find it difficult to understand their anxieties which results in their aggressive behaviour, particularly routine change, change of staff patterns or the environment in which they live. The approach to take should be person-centered in a non-judgmental, open and supportive emotionally for these individuals. Clear boundaries should be established, in a safe environment where these individuals can learn about behavioural self-regulation, and how to express emotions themselves. This type of approach provides them with a sincere, warm, and positive reinforcement for their successes. It should be bore in mind that minor changes could be challenging, as such the need for staff to be supportive in dealing with these peculiarities of taking care of patients developmental or learning disabilities [15,10].

Thirdly- It should be understood that these individuals have a high prevalence of depression, sleep disorders and anxieties, therefore pharmacotherapy is necessary and useful. In rehabilitating them psychological treatment plays a significant role. Techniques like cognitive behavioural therapy (CBT) are important in addressing problems that are identified such as preoccupation, sexual and violent themes and also in managing depression and anxiety. According to Blair, Mitchell and Blair (2005) both are associated with elevated aggression risk [11,17-20]. Social skill training may also assist in rehabilitation; it could address a number of their problematic behaviour.

Why Adaptations are Necessary

Making the right diagnosis, treating the underlying individual's problems, comorbid psychiatric disorders and being in the right environment are significantly important because they forestall further problems. In caring for the mentally disordered offenders marker of progress entails their stable behaviour in a secure environment [15]. Example Asperger syndrome patients who behave well in a particular environment may re-offend when transferred to another environment that is not appropriate. Therefore in managing them the milieu is necessary to manage their risk for re-offending. Their characteristics risk issues and rates of

recidivism warrants the need to ascertain these patients, treat them and keep them in an adequate environment, so as to prevent them from getting involved with the criminal justice system [21,11].

Conclusion

Apart from the above deficits in HFASDs other problems that can explain emergence of violent-behaviour are impairment in moral-reasoning and emotional-regulation [22,23]. Other models important for legal relevance include their weak central coherence, executive-dysfunction and theory of extreme male brain. Due to their risk of re-offending it is deemed necessary to identify such patients with good diagnostic makeup, deal with their underlying problems and keep them in a secure environment (familiar to them). It is also important to allow them to be familiar with professionals' key in their management as unfamiliar professionals may be more overwhelming than even changing their physical environment [24,15].

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