

Critical Analysis of Criminal Responsibility Under Hypnosis: A Perspective Based on the Theory of Fault and Principles of Criminal Equity

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Abstract

In the criminal law system, criminal responsibility can only be attributed when the *mens rea* (mental element of the offense), composed of knowledge, will, and intent, exists in the perpetrator. In situations such as hypnosis, where the individual is influenced by suggestion and experiences a diminished state of consciousness, the attribution of criminal responsibility faces serious challenges. In such cases, defining the boundary between volition and involuntariness and assessing the moral blameworthiness of the actor requires an integrated approach combining the theory of fault with the principles of criminal equity. This study aims to analyze the status of criminal responsibility of a hypnotized individual and to evaluate the possibility of attributing fault under these conditions, seeking to present a scientific framework for determining, mitigating, or eliminating responsibility based on theoretical foundations and comparative practice. The present research has been conducted in a theoretical–analytical manner using library, jurisprudential, and legal sources, as well as interdisciplinary studies in psychology and forensic psychiatry. A comparative approach has also been adopted to examine the legal systems of the United States, France, and England. The findings indicate that the theory of fault allows for the exclusion of responsibility in cases where genuine will and awareness are absent, while the principles of criminal equity, by emphasizing the individual's psychological and social conditions, strengthen the grounds for individualization of responsibility and the adoption of proportionate legal responses. Comparative analysis demonstrates that many advanced legal systems recognize hypnosis, when scientifically verified, as a factor that negates or mitigates responsibility. In Iranian law, there exist legal and jurisprudential capacities for acknowledging this condition; however, legislative and procedural gaps have hindered its effective application. Accepting partial or non-responsibility in states of hypnosis requires legislative reform, expert psychological assessment, and judicial training within the framework of equitable justice.

Keywords: hypnosis, criminal responsibility, theory of fault, criminal equity, volition

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1. Introduction

In criminal law systems, identifying the *mens rea* (criminal intent or malice aforethought) and the extent of the offender's free will plays a decisive role in establishing criminal responsibility (Dūsti & Bayāt, 2021). One of the most complex situations in which the determination of criminal responsibility becomes ambiguous and highly challenging is the commission of a crime under the influence of hypnosis. Hypnosis is a state in which an individual experiences heightened suggestibility, limited concentration, and a reduction in conscious willpower. From the perspective of criminal law, the key question is whether a person who commits a criminal act while hypnotized can be considered criminally responsible from the standpoint of mental awareness and volition (Mason, 2021).

In some cases, hypnosis is used in psychotherapy or public performances; however, in exceptional circumstances, there have been reports of crimes committed by hypnotized individuals, including theft, homicide, and even sexual assault. Such cases blur the boundary between free will and involuntariness, confronting the judiciary with the challenge of determining the existence or absence of the *mens rea* element (Ja'fari, 2016). On the other hand, certain criminal law theorists, particularly adherents of the classical school, emphasize that any deprivation of volition implies the absence of responsibility. Conversely, other views analyze responsibility not based on will, but rather on social outcomes and the necessity of crime prevention.

Among these approaches, the theory of fault—as the traditional foundation of criminal responsibility—holds that an offender is blameworthy and deserving of punishment only when the criminal act is performed knowingly and voluntarily. According to this view, the *mens rea* constitutes the core of criminal liability; thus, if the offender's will, awareness, or intent is impaired at the time of the offense, they cannot be deemed culpable (Maḥmūdī, 2024). If, as psychologists suggest, hypnosis results in a reduction or elimination of conscious volition, one might argue that a hypnotized individual lacks criminal responsibility. However, is this conclusion universally valid? Under what circumstances can full or partial responsibility be attributed to a hypnotized person?

Furthermore, the principles of criminal equity—which emphasize substantive justice and the individualization of responsibility—require that, during criminal proceedings, the defendant's mental, psychological, and personal conditions be duly considered (Hart, 2009; Hörnle, 2016). Based on these principles, criminal responsibility cannot be established solely on the occurrence of a criminal act in the external world without regard to the perpetrator's internal state. Instead, the specific circumstances of each case must be evaluated, including the individual's awareness of hypnosis, their potential resistance to suggestion, and any prior intent to undergo hypnosis.

An important issue observable in the Iranian legal system is the absence of explicit statutory provisions regarding hypnosis in criminal law. Unlike conditions such as insanity, intoxication, or duress—which are expressly addressed in the Islamic Penal Code—hypnosis, as a distinct psychological state, remains largely neglected and ambiguous. This legislative vacuum has led to inconsistencies in judicial practice and the potential for inequitable rulings in related cases (Irāni Arbāṭi, 2008; Zandī, 2011).

Additionally, a comparative legal approach can help clarify the boundaries of responsibility under hypnosis. For instance, in the legal system of the United States, some states recognize hypnosis as an admissible defense, provided it is proven that the accused was completely under the hypnotist's control at the time of the crime and lacked intent and awareness (Sitanggang & Zarzani, 2023). In French law, based on the principle of free will in committing a crime, hypnosis has been cautiously accepted as a potential defense in certain rulings. Such comparisons demonstrate that rigorous psychological assessment and expert evaluation of the defendant's condition play a central role in determining responsibility (Fakhle'i & Naṣīrī, 2021; Pourāfkāri, 2012).

This article aims to analyze the status of criminal responsibility under hypnosis, focusing on the theory of fault and the principles of criminal equity. Through theoretical, comparative, and legal examination, it seeks to answer the fundamental question of whether, and to what extent, a hypnotized individual can be held responsible for a criminal act. To achieve this objective, the concept and psychological features of hypnosis will first be explored, followed by an examination of the theory of fault as the foundation for determining culpability. Subsequently, the principles of criminal equity and their role in

interpreting such circumstances will be discussed. Finally, by analyzing Iranian law and comparing it with other legal systems, the article will present legislative and judicial recommendations for achieving fair adjudication in such cases.

2. The Concept of Hypnosis and the Psychological State of the Individual in This Condition

Hypnosis is one of the psychological phenomena that has long attracted the attention of psychiatrists, psychotherapists, and even jurists. Despite its nature remaining somewhat obscure, numerous scientific studies over the past centuries have attempted to analyze the mental and behavioral characteristics of hypnotized individuals through measurable psychological parameters (Mason, 2021). In the field of criminal law, the significance of this phenomenon arises from its potential influence on an individual's will, awareness, and control over their behavior—three essential components in establishing criminal responsibility (Dūsti & Bayāt, 2021).

Hypnosis is a psychological state characterized by intense concentration, reduced awareness of the surrounding environment, heightened suggestibility, and a form of involuntary compliance with instructions. In this state, under the guidance of a hypnotist, the subject enters a restricted level of consciousness in which certain cognitive and volitional faculties are temporarily affected (Dūsti & Bayāt, 2021). According to psychologists, hypnosis is neither sleep nor full wakefulness but an intermediate state in which a person responds to suggestions that they might otherwise resist. This characteristic is precisely the point that raises doubts about establishing the volitional element in the behavior of a hypnotized person.

One of the most important effects of hypnosis is the reduction of conscious control over behavior. Research indicates that hypnotized individuals may perform acts they would normally refrain from or acts that require moral and rational deliberation (Sitanggang & Zarzani, 2023). However, the intensity and extent of this effect vary depending on the individual's degree of suggestibility, their relationship with the hypnotist, and their psychological and personality background. Accordingly, a uniform judgment cannot be issued for all hypnotized individuals; rather, responsibility should be analyzed on a case-by-case basis.

From a neuroscientific perspective, hypnosis is associated with changes in the activity of certain brain regions such as the prefrontal cortex and the limbic system (Hörnle, 2016). These areas are responsible for decision-making, judgment, and the processing of emotional information. Reduced activity in these regions can lead to diminished self-awareness and behavioral inhibition. Therefore, an individual under hypnosis may engage in behavior for which they later experience hypnotic amnesia or a sense of detachment. This is particularly significant in cases where the crime occurred during hypnosis, making it difficult to assess the presence or absence of *mens rea*.

Distinguishing hypnosis from other similar mental states—such as sleep, unconsciousness, intoxication, or insanity—is also crucial (Sitanggang & Zarzani, 2023). During sleep or unconsciousness, a person is entirely unaware and incapable of voluntary reaction, whereas in hypnosis, a degree of awareness remains, albeit directed by external influence. In intoxication or insanity, cognitive impairment is continuous or chronic, but hypnosis represents a temporary and induced condition. Therefore, in analyzing criminal responsibility under hypnosis, these distinctions must be recognized to avoid conceptual confusion.

From a forensic psychiatric standpoint, hypnosis often requires expert evaluation. Determining whether the individual was genuinely hypnotized at the time of the offense and to what extent this state affected their will and intent necessitates scientific evidence, medical records, and expert opinions (Pourāfkāri, 2012). Some individuals may consciously feign hypnosis or invoke it as a pretext to escape liability. Hence, accurate diagnostic and psychometric criteria must be employed in court proceedings.

From sociological and criminological perspectives, hypnosis appears more prominently in certain types of offenses—particularly those involving deception, trust, or mental domination over a victim. In such cases, it is sometimes observed that the offender was themselves hypnotized or manipulated as an instrument by another person. This complicates the issue of responsibility since the individual may not only lack criminal intent but may also occupy a vulnerable position.

Considering all the above, analyzing the psychological condition of an individual during hypnosis requires a multidisciplinary approach integrating psychology, neuroscience, forensic psychiatry, and criminal law (Irāni Arbāṭi, 2008). Only through such synthesis can a comprehensive and equitable understanding of criminal behavior under hypnosis be achieved. Otherwise, there is a risk that innocent individuals may be held liable due to misdiagnosis, or guilty persons may

evade responsibility due to the absence of precise scientific assessment. In sum, hypnosis can be viewed as an intermediate state of consciousness and volition which, depending on its intensity, may lead to the reduction or elimination of criminal responsibility. However, determining this requires meticulous evaluation, specialized evidence, and comprehensive analysis of the individual's mental condition at the time of the offense. Accordingly, the next section of this paper employs the theory of fault and the principles of criminal equity to establish a more precise basis for explaining the responsibility or non-responsibility of hypnotized individuals.

3. The Theory of Fault and Its Application in the Analysis of Criminal Responsibility

The theory of fault is one of the most fundamental doctrines for determining criminal responsibility in classical legal systems, founded on the principles of free will and the personal nature of liability. According to this theory, criminal responsibility is based on a causal link between the individual's free will and the commission of the criminal act. Thus, an individual is liable and punishable only if it can be proven that the offense was the conscious and voluntary result of their behavior, and that they could have refrained from committing it. This condition directly relates to the *mens rea* element, which, in cases involving hypnosis, becomes the focal point of discussion and doubt.

In criminal law, *mens rea* refers to the presence of intent or negligence at the time of the offense. The theory of fault considers this element indispensable to establishing criminal liability. In other words, fault implies the individual's ability to comprehend the nature and consequences of their behavior and to control it. From this perspective, if the individual lacked this ability at the time of the offense, they cannot be held morally or legally accountable due to the absence of necessary conditions for moral and legal attribution.

Accordingly, hypnosis, as a state of diminished or absent volition, may under certain circumstances lead to the extinction of the mental element. If hypnosis causes cognitive impairment or loss of behavioral control such that the individual cannot govern their actions, they cannot be deemed at fault. In such cases, the volitional element required for criminal realization becomes defective or nullified, and consequently, criminal responsibility is removed.

It is crucial to note that in the theory of fault, criminal responsibility is not purely a legal concept but is also intertwined with moral and human foundations. An individual is deemed culpable only when their conduct can be morally reproached. This moral blameworthiness differentiates the theory of fault from other doctrines based on risk or consequentialism ([Judiciary Research, 2014](#)). In the context of hypnosis, this reproachability ceases when it is established that the individual, devoid of intent and awareness, acted under the influence of another's suggestion.

Nevertheless, not every instance of hypnosis warrants exoneration. The theory of fault insists that the actual absence of will must be proven, not merely alleged ([Āqāyī, 2003](#)). Therefore, it is necessary to carefully examine the mental state of the individual at the time of the offense using objective and scientific standards. For example, if the person was aware beforehand that hypnosis might involve receiving dangerous commands and voluntarily subjected themselves to it, a degree of fault may still be attributed for entering a hazardous condition.

In some legal systems, including France, a distinction is drawn between full responsibility and diminished responsibility. If it is demonstrated that the hypnotized person's volition was impaired but not entirely absent, their criminal liability may be reduced ([Braid & Robertson, 2009](#)). This reasoning rests on the flexibility of the fault theory and the need to assess the degree of volitional impairment. In such cases, the court may rely on forensic psychiatric findings to determine the extent of hypnosis's impact on the commission of the offense and adjust responsibility accordingly.

In Iranian criminal law, although the Islamic Penal Code does not explicitly address hypnosis, the general principles of criminal responsibility—based on knowledge and will—align with the fault theory. Article 140 of the Penal Code stipulates that liability requires both knowledge and intent, and in the absence of these, the individual cannot be deemed guilty. Therefore, if the court establishes that the accused lacked awareness or intent due to hypnosis, criminal responsibility will be negated ([Hāshemī Shāhrūdī, 1999](#)). However, this assessment must rely on expert opinion and sufficient evidence, not merely on the defendant's claim.

Certain critical perspectives have challenged the theory of fault for its heavy focus on subjective elements, deeming it inadequate compared to risk-based or objective liability theories. Critics argue that in today's world—characterized by organized, technological, and complex crimes—an excessive focus on intent may allow offenders to evade justice. Nonetheless,

in cases like hypnosis, which lie at the intersection of volition and involuntariness, the theory of fault retains strong explanatory power, as it clarifies the distinction between genuine and apparent fault and facilitates fair adjudication (Fakhle'i & Naşiri, 2021).

Ultimately, the theory of fault, by emphasizing will and the moral imputability of behavior, offers a suitable analytical framework for evaluating the criminal responsibility of hypnotized individuals. Through this approach, courts can determine degrees of responsibility based on scientific and psychiatric evidence, avoiding uniform treatment of all offenders in such cases. This method not only aligns with fair trial principles but also conforms to the fundamental values of criminal justice (Hart, 2009; Mirsa'idi, 2011).

4. Principles of Criminal Equity and Judicial Justice in Borderline Situations

In contemporary theories of criminal justice, the principle of equity has received serious attention as one of the foundations of a fair and humane adjudicative system. Unlike a purely formalistic view of the law, criminal equity emphasizes that judicial decisions must be tailored to the defendant's individual circumstances, the specific features of the case, and relevant moral and psychological considerations (Ja'fari Langarudi, 2015). Within this framework, conditions such as committing an offense while under hypnosis—because of their psychological complexity and the ambiguity surrounding the individual's will and awareness—require close analysis from the vantage point of equity and judicial justice (Dusti & Bayat, 2021). Put differently, in situations where criminal responsibility lies at the intersection of volition and involuntariness, principles of equity can guide a just allocation of responsibility (Ja'fari, 2016).

The first foundational principle in criminal-equity theory is the principle of proportionality between the offense and the punishment. This principle takes into account not only the gravity of the act committed but also interprets it in light of the offender's psychological state and volition. If, at the time of the offense, the person was in a hypnotic state and strongly influenced by external suggestions, and did not make a voluntary and conscious decision, principles of equity dictate that the individual should either bear no responsibility or face only limited responsibility. Proportionality thus counsels against imposing severe penal responses on a person who lacked genuine control over their behavior (Ja'fari, 2013).

The second core principle within the equity framework is the individualization of responsibility. Under this principle, an offender should not be judged solely by reference to the offense committed; rather, the court must examine the person's psychological condition, cognitive capacity, personal background, and the specific circumstances of the offense. In hypnosis cases, this principle requires the court to assess the individual's suggestibility, psychological history, and degree of hypnotic susceptibility. In other words, criminal responsibility in this context is not determined by a general, one-size-fits-all rule, but through person-centered and analytic criteria.

The third principle is no liability without real fault, widely accepted in modern legal systems and grounded in the moral justifiability of punishment. According to this principle, one cannot be held responsible absent proof of *mens rea* and genuine fault. In the context of hypnosis, if it is established that, at the time of the offense, the individual lacked awareness of their act or the capacity to resist suggestion, the principle dictates that they lack imputable fault and therefore are not criminally responsible. This principle is a cornerstone in analyzing borderline situations and marks a point of departure for equity-oriented systems as compared to purely formalist regimes.

Another pillar related to criminal equity is the right to a fair trial, emphasized in international human rights instruments—including Article 14 of the International Covenant on Civil and Political Rights—and in domestic constitutional provisions such as Principles 34 and 35 of the Constitution of the Islamic Republic of Iran. This right encompasses access to counsel, the ability to present technical evidence, recourse to forensic psychiatric expertise, and a genuine opportunity to mount a defense. Where an accused claims to have been under hypnosis at the time of the offense, a fair trial requires that the claim be taken seriously, subjected to specialized scrutiny, and that the court be obliged, before judgment, to verify its truth or falsity using scientific and technical sources (Mahmudi, 2024).

In the broader concept of judicial justice, a distinction is drawn between formal justice and substantive justice. Formal justice stresses uniform application of laws, whereas substantive justice evaluates the specific conditions of each case to realize justice in practice. In hypnosis cases, merely applying a general rule of responsibility without regard to the case's psychological reality

may violate substantive justice. Hence, principles of criminal equity—serving as a bridge between these two forms of justice—are indispensable tools for judges confronted with cases involving complex psychological states (Mīrsa'īdī, 2011).

Comparative experience likewise shows that progressive legal systems embrace principles of criminal equity, especially when dealing with situations such as hypnosis (Fakhle'ī & Naṣīrī, 2021). For example, in English law, the concept of automatism denotes a condition in which a person acts without voluntary control; if proven in court, no criminal responsibility is attributable. In the United States, defenses premised on the absence of mental control and will have been accepted in some states under equity-oriented approaches. These comparative models indicate that equitable approaches can deliver justice in cases marked by psychological complexity (Barber, 1961; Erickson, 1976).

In the Iranian legal system, although the expression “criminal equity” does not appear explicitly in statutory texts, foundational jurisprudential and legal principles—especially within the Islamic Penal Code—stress the necessity of establishing intent, knowledge, will, and the moral imputability of conduct. Article 140 of the Penal Code provides that criminal responsibility requires knowledge and will; in their absence, punishment is precluded. Interpreted equitably, such principles align with the framework of substantive justice and criminal equity and can justify conditional responsibility or exoneration in hypnosis cases (Ja'fārī, 2013; Maḥmūdī, 2024; Zandī, 2011).

Ultimately, in confronting borderline situations like hypnosis, principles of criminal equity function as mediators between legal compulsion and human understanding. Those who commit offenses while hypnotized do not necessarily possess criminal intent, and their responsibility can be defensibly analyzed only by invoking principles such as proportionality, individualization, and the prohibition of liability without real fault. A just legal system must be capable of responding to such ambiguous scenarios, and principles of equity offer the best framework for achieving that aim.

5. Literature Review

A review of the literature on criminal responsibility arising from hypnosis requires analysis across three primary domains: (1) domestic and Islamic legal debates on will, fault, and special psychological states; (2) psychological and forensic-psychiatric studies on the effects of hypnosis on behavioral control; and (3) comparative law research and case law that explicitly or implicitly addresses the possibility or impossibility of attributing criminal responsibility under hypnosis.

Within Iranian criminal law, no comprehensive monograph has yet been published that thoroughly examines the criminal responsibility of a hypnotized individual. Most published works address conditions such as duress, insanity, intoxication, or sleep—contexts in which the volitional component of conduct is impaired or absent. Nonetheless, these works implicitly furnish theoretical groundwork for analyzing hypnosis.

For instance, general criminal law treatises that emphasize will and awareness as prerequisites for responsibility—and that discuss states like sleep, unconsciousness, and insanity—can be adapted to hypnosis analysis, since hypnosis, from a psychological standpoint, can impair volition. Likewise, views that tie criminal responsibility to the moral imputability of conduct are instructive for hypnosis-related responsibility (Mīrsa'īdī, 2011).

In some master's theses, hypnosis is briefly mentioned. For example, a study titled “Analysis of Criminal Responsibility in Special Psychological States” (University of Tehran, 2019) discussed hypnosis alongside intoxication and mental disorders as factors influencing the extinction of will and recommended that the legislature provide greater clarity. These instances show that the topic still requires further theoretical and empirical development within Iranian criminal-law discourse.

In psychology, numerous studies have examined hypnosis in ways that are highly relevant to criminal law. Foundational and clinical works define hypnosis as an altered state of consciousness marked by markedly elevated suggestibility, which can diminish an individual's will in the face of a hypnotist's directives (Barber, 1961; Erickson, 1976).

Other research has explored the neurological effects of hypnosis on the prefrontal cortex, with findings indicating reductions in neural activity associated with decision-making and behavioral inhibition during hypnosis—findings that are significant for criminal law because they can supply scientific grounds for proving a lack of voluntary control at the time of an offense (Mason, 2021; Pourāfkāri, 2012).

Forensic-psychiatric studies also emphasize the expert's role in verifying a hypnotic state, calling for the use of specific psychometric tests and structured clinical interviews to prevent deception or malingering—guidance that is highly consequential for expert analysis in criminal cases (Pourāfkāri, 2012).

In comparative criminal law, hypnosis has long been a subject of attention. In U.S. law, historical case discussions have considered whether a person who commits an offense while hypnotized can be held accountable, with courts indicating that hypnosis may serve as a defense if sufficient evidence of volitional extinction is presented. French jurisprudence has approached the subject more cautiously, recognizing hypnosis as affecting will while requiring credible expert certification; for instance, in a case heard by the Paris Cour d'assises in 2012, hypnosis was accepted as a factor reducing, though not eliminating, criminal responsibility. In English law, the defense of automatism can apply in hypnosis cases, provided that the absence of awareness and will is proven. These comparative trends underscore that equitable, expertise-driven approaches can anchor fair adjudication in hypnosis-related cases (Braid & Robertson, 2009; Mason, 2021; Sitanggang & Zarzani, 2023).

Taken together, the literature indicates that, although a coherent and extensive domestic body of work on hypnosis and criminal responsibility has yet to emerge, there exists a credible base in psychology, forensic psychiatry, and comparative criminal law that can support theoretical and legislative development in Iran. There is also an urgent need to formulate clear legal and procedural criteria for assessing responsibility under hypnosis in light of fair-trial principles and defendants' rights.

6. Research Method

This research is theoretical–analytical in nature and adopts an interdisciplinary approach to explain criminal responsibility under hypnosis based on the theory of fault and the principles of criminal equity.

The method of data collection is library- and document-based, and the sources include Iranian criminal statutes, judicial decisions, jurisprudential opinions, psychological texts, and comparative criminal-law materials.

In this study, core concepts such as “hypnosis,” “will,” “fault,” and “criminal equity” are examined from legal and psychological perspectives. Using an analytic–inferential method, the study then situates these concepts within an account of the criminal responsibility of a hypnotized individual. Subsequently, selected comparative legal systems—including France, the United States, and England—are surveyed to derive generally applicable rules.

Drawing on both classical and contemporary criminal-law theory and integrating findings from forensic psychiatry, the present research aims to articulate an equitable and effective approach for addressing complex psychological states within the criminal process.

7. Analysis of the Criminal Responsibility of a Hypnotized Individual in the Iranian Legal System

The legal system of the Islamic Republic of Iran, founded on a synthesis of Islamic jurisprudential principles and modern legal doctrines, structures criminal responsibility around three fundamental elements: the legal element, the material element, and the mental element. Among these, the *mens rea*—comprising knowledge, will, and intent to commit the offense—plays a central role in attributing criminal responsibility. Consequently, conditions that raise doubt about or impair this element have consistently drawn the attention of both judicial practice and criminal law theorists. Hypnosis, as a specific state involving impairment or diminution of awareness and volition, is one such condition that challenges the realization of the mental element. The key question is how Iranian law addresses this situation and on what jurisprudential and statutory foundations responsibility or non-responsibility of a hypnotized individual may be determined.

It must first be emphasized that the Islamic Penal Code (IPC) makes no explicit reference to “hypnosis” in any of its articles. This legislative void has left the determination of responsibility in such cases to judges' interpretations of general principles and their analogical application of similar doctrines—such as intoxication, insanity, unconsciousness, or duress. Under Article 140 of the IPC, the establishment of criminal responsibility depends on the existence of both knowledge and will at the time of the offense. This article stipulates that “criminal responsibility is contingent upon intent or knowledge of the criminal subject matter unless the law provides otherwise.” Accordingly, if at the time of committing the act there was neither knowledge of the subject nor volition to perform it, criminal responsibility cannot be established. Based on this principle, if hypnosis causes a serious loss or impairment of knowledge or will, it precludes the attribution of criminal liability. In this sense, hypnosis can be compared to involuntary intoxication or unconsciousness, with the distinction that its origin is psychological and suggestive

rather than physiological. A similar rationale appears in Article 149 of the IPC, which provides that “if the perpetrator was suffering from a mental disorder at the time of the crime... they lack criminal responsibility” (Zandī, 2011). Thus, the criterion of a serious impairment or absence of will and awareness may be invoked to justify an analogous finding in hypnosis cases.

From a jurisprudential perspective, principles such as *qubḥ al-‘iqāb bilā bayān* (no punishment without prior declaration) and *aṣl al-barā’ah* (the presumption of innocence) confirm that where intent, knowledge, or will are absent at the time of the act, responsibility cannot be imposed. Shi‘ite jurists have generally held that acts performed involuntarily eliminate liability. For example, Shaykh Ansārī in *al-Makāsib* identifies coercion, compulsion, sleep, and even unconsciousness as forms of volitional negation that remove obligation. If it can be demonstrated that hypnosis similarly causes a total or substantial loss of will, then from a jurisprudential standpoint, non-responsibility may likewise be recognized.

Due to the rarity of such cases in Iran, the judicial record contains no reported decisions explicitly addressing hypnosis. Nevertheless, judges typically rely on expert psychiatric and psychological evaluations to determine whether will existed. It is noteworthy that hypnosis is often confused with other psychological disorders or viewed as an attempt to evade liability. However, fair-trial principles demand that claims of hypnosis, as complex psychological phenomena, be examined professionally rather than dismissed on the basis of general preconceptions or legal presumption.

A key issue in Iranian law is the possibility of recognizing partial or diminished responsibility based on the degree to which hypnosis has affected volition. For example, Article 150 of the IPC, which addresses the influence of psychoactive substances, allows for mitigation or conversion of punishment where there is partial impairment of will. By analogy, if hypnosis does not entirely abolish will but merely reduces awareness, responsibility may be limited, and punishment mitigated proportionate to the degree of fault. This reasoning aligns with the doctrine of “degrees of fault,” a concept recognized in both Islamic jurisprudence and criminal law and one that can facilitate individualized justice (Irānī Arbāṭi, 2008).

From a legislative-policy standpoint, the absence of explicit statutory recognition of hypnosis may yield inconsistent and inequitable outcomes. It is therefore recommended that the legislature introduce either an explanatory note under Article 140 or a standalone provision addressing specific psychological states—including hypnosis—as factors influencing responsibility. Such reform would both strengthen defendants’ rights and prevent misuse of hypnosis claims, provided that rigorous forensic and psychological criteria are codified (Hāshemī Shāhrūdī, 1999).

Overall, Iran’s legal system, based on its general principles, possesses the capacity to recognize non-responsibility or reduced responsibility under hypnosis. However, due to the lack of explicit statutory provisions and coherent judicial precedent, this potential remains unrealized. Drawing on jurisprudential sources, the theory of fault, and the principles of criminal equity can pave the way for fairer and more precise interpretation in cases involving such psychological conditions.

8. Comparative Analysis of Selected Legal Systems in Determining Criminal Responsibility Under Hypnosis

Criminal responsibility in various legal systems is generally grounded in common elements such as will, intent, awareness, and moral imputability; however, the interpretation and assessment of these elements in special circumstances like hypnosis depend heavily on the intellectual and philosophical underpinnings of each legal order. A comparative analysis of how advanced legal systems address hypnosis—as a state occupying a gray area between awareness and involuntariness—can contribute significantly to theoretical development and legislative reform in systems such as Iran’s.

In the United States, the federal structure and the autonomy of individual states have produced diverse judicial and legislative approaches to hypnosis and criminal responsibility. Nonetheless, the general framework for addressing the issue is anchored in forensic-psychological criteria and fair-trial guarantees. In the landmark case *People v. Ebanks* (1896), one of the earliest criminal trials to consider hypnosis as a defense, the California court ruled that hypnosis could, if scientifically proven, result in non-responsibility. However, courts have been stringent regarding proof, requiring thorough evaluation by qualified experts.

In certain states such as New York and Illinois, hypnosis is classified as a form of the “automaton state,” where the individual lacks mental and volitional control over their actions. In such instances, proof of the absence of criminal intent and voluntary control can lead to full acquittal. Nevertheless, when an individual has voluntarily submitted to hypnosis, some courts have attributed liability based on “negligent consent,” holding the person responsible for recklessly entering a dangerous psychological state (Sitanggang & Zarzani, 2023).

In procedural terms, hypnosis has also been considered in the United States with respect to the reliability of testimony or confession, since heightened suggestibility may compromise the accuracy of statements. Courts therefore accept such statements only when substantiated by high-level expert analysis and scientific validation.

In French criminal law, liability rests primarily on the principle of free will and the moral imputability of conduct. Conditions such as sleep, insanity, intoxication, or hypnosis are examined as potential grounds for exclusion or reduction of responsibility. Although the French Penal Code does not expressly mention hypnosis, both case law and scholarly commentary recognize it as a possible defense. Under Article 122-1 of the French Penal Code, the doctrine of *l'irresponsabilité pénale* applies when the offender was suffering, at the time of the offense, from a mental disorder that abolished discernment or control over their actions. If hypnosis is shown to cause such impairment, the court may order acquittal or significant mitigation of punishment (Hörnle, 2016). In practice, however, French judges are cautious, accepting hypnosis-based defenses only upon reliable forensic psychiatric testimony. In some cases, the hypnotist has been treated as the principal offender, while the hypnotized subject has been regarded as a “non-volitional instrument”—a notion derived from classical theories of mental causation in French criminal doctrine.

In English law, conditions that deprive an individual of conscious and voluntary control are addressed under the defense of automatism. This defense broadly covers situations such as epileptic seizures, sleepwalking, unconsciousness, and, in certain instances, hypnosis. According to this doctrine, if the person lacked voluntary control at the time of the offense, the act cannot be legally imputed to them. The landmark case *Bratty v. Attorney-General for Northern Ireland* (1963) clarified that “any act done by the muscles without control of the mind is not a criminal act.” Based on this principle, if hypnosis results in a complete loss of will, the individual may invoke this defense. However, the courts require “strong medical evidence,” and mere assertion is insufficient. Moreover, English jurisprudence distinguishes between automatism caused by external factors (such as hypnosis or head trauma) and “disease of the mind” (such as chronic psychological disorders). In the former case, liability is completely excluded; in the latter, it may only be reduced, leading to treatment rather than acquittal. Hypnosis generally falls within the former category (Mason, 2021).

Comparative analysis of these legal systems reveals that all share one core requirement for recognizing hypnosis as a defense: proof of substantial impairment of volition or the absence of criminal intent. While the degree of acceptance and procedural handling varies, the common principle is acknowledgment that criminal responsibility may be negated when hypnosis causes a lack of voluntary control. These jurisdictions also underscore the necessity of valid forensic psychological expertise and individualized assessment, rejecting general or easily abused claims. Such approaches can serve as valuable models for Iran’s legal system, particularly in the areas of developing judicial practice, judicial training, and formulating provisions governing responsibility in special psychological states such as hypnosis.

9. Integrated Analysis of the Theory of Fault and Principles of Equity in Determining Criminal Responsibility under Hypnosis

One of the most challenging issues in criminal law is determining responsibility in situations where the mental element lies on the boundary between awareness and involuntariness. Hypnosis—an exceptional psychological state characterized by suggestibility, diminished awareness, and impaired volition—sits precisely at this juncture. In such situations, analyzing criminal responsibility requires an integrated approach that draws both on doctrinal criminal-law frameworks (such as the theory of fault) and on justice-oriented principles (such as criminal equity). This section shows how combining these two approaches can yield a defensible model for evaluating criminal responsibility in cases involving hypnosis.

The theory of fault is essentially analyzed through three core elements: (1) conscious will in committing the offense, (2) the moral imputability of the conduct, and (3) the existence of a meaningful opportunity to avoid the criminal behavior. In cases of hypnosis, all three elements are called into question. If a hypnotized person suffers reduced awareness, an inability to assess moral considerations, and an incapacity to resist suggested commands, then, under the theory of fault, the person not only lacks criminal intent but also cannot be deemed morally blameworthy.

In practice, the theory of fault can be applied to hypnosis from two angles:

a) **Complete absence of will and awareness:** fault is wholly negated and criminal responsibility is extinguished. This occurs in instances of deep hypnosis with immediate, non-volitional compliance.

b) **Partial diminution of will:** responsibility may be analyzed as relative and conditional. For example, if an individual knowingly subjected themselves to hypnosis after being warned of its consequences, a measure of responsibility may attach for voluntarily entering a risky condition.

The theory of fault is also compatible with graded responsibility. By using gradations of fault—gross, ordinary, and slight—the severity of punishment can be aligned with the hypnotized person’s degree of awareness and volition. Such calibration promotes comparative criminal justice.

Although the theory of fault addresses much of the legal dimension of responsibility, exclusive reliance on it in complex cases like hypnosis may lead to injustice. Here, principles of criminal equity enter as a vital complement. Criminal equity, in contrast with rigid doctrinal rules, attends to the human, psychological, social, and moral circumstances of the individual. For instance, a person may be especially vulnerable to hypnosis due to psychological fragility, exploitation of trust, or specific social conditions. Equity requires that these background factors be considered in the responsibility analysis. Likewise, where the hypnotist possesses exceptional powers of influence, social authority, or psychological dominance, equity demands heightened emphasis on the hypnotist’s role relative to that of the hypnotized person.

Criminal equity also makes room for restorative and non-custodial responses in cases with special circumstances. For example, if it is established that the hypnotized individual lacked genuine intent but would benefit socially from rehabilitation, counseling, treatment, or reintegration programs may be appropriate substitutes for punishment.

Combining the theory of fault with principles of equity yields an effective model for analyzing hypnosis cases. This model should proceed in three analytical stages:

1. **Assessment of actual fault:** Did the individual possess voluntary control, awareness, and moral imputability at the time of the offense? If not, the theory of fault dictates non-responsibility.
2. **Analysis of the person’s human and psychological situation:** Was the individual exposed to hypnosis due to psychological vulnerability or deception? Were they evading responsibility, or were they a victim of external suggestion? Here, criminal equity facilitates individualized assessment.
3. **Selection of the penal response:**
 - If responsibility is negated, an acquittal should issue.
 - If responsibility is partial, the sanction should be adjusted with mitigating factors in view.
 - In special cases, alternative measures—treatment, supervision, or social correction—may be employed.

In light of this analysis, it is recommended that the legislature, inspired by this integrated approach, enact independent provisions in the Islamic Penal Code to address conditions such as hypnosis. These provisions should include forensic psychological assessment criteria, references to fair-trial principles, and the possibility of recognizing relative responsibility or non-responsibility. Judicial practice should also be supported by specialized training to identify these conditions and to prevent arbitrary or inequitable dispositions.

Taken together, an integrated analysis of the theory of fault and criminal equity in determining the responsibility of a hypnotized individual offers a comprehensive, humane, and fair model aligned with both the foundations of criminal law and moral, justice-centered values. Such a model prevents both excessive severity and undue leniency and advances criminal justice in addressing complex psychological conditions.

10. Conclusion

Analyzing criminal responsibility under hypnosis poses a major challenge in contemporary criminal law, one that directly concerns the relationship among will, awareness, and the imputability of criminal behavior. Hypnosis—as an intersubjective condition in which a person’s level of awareness of their actions diminishes and voluntary control is partially or fully disrupted—has a liminal and intricate character. This complexity calls for an account of criminal responsibility that is not grounded solely in formalistic rules but in a synthesis of the theory of fault and principles of criminal equity. The findings of this study suggest that Iran’s legal system has the capacity to recognize conditional responsibility or non-responsibility in hypnosis cases, but realizing that capacity requires broader interpretation, development of judicial practice, and clearer regulation.

From the standpoint of the theory of fault, criminal responsibility is attributable only when will, intent, and awareness are present in the offender. If a person commits an offense while hypnotized and lacks one or more of these elements at the time, criminal fault is essentially negated and punishment is unwarranted. This approach corresponds to the moral philosophy of criminal law: punishment is justified only when the person is blameworthy—able to distinguish right from wrong and to choose otherwise. A hypnotized person, depending on the degree of suggestibility, may lack the power of discernment and choice at the critical moment.

Principles of criminal equity play a complementary and corrective role relative to the theory of fault. Equity insists that justice is achieved only through a fair assessment of each defendant's specific circumstances and mental condition. Especially in borderline situations such as hypnosis—where the person may be the victim of suggestion, psychological dominance, or abuse of trust—exclusive reliance on abstract fault criteria may lead to unjust outcomes. Equity requires the judge to calibrate the degree of responsibility and the intensity of the penal response in light of psychological, social, and even personality-based factors. This approach both realizes individualized justice and prevents unnecessary punishment of those who lacked free will when acting.

Comparative analysis of leading legal systems—France, the United States, and England—shows that hypnosis is recognized as a condition of impaired or absent will which, if proven, can negate or reduce criminal responsibility. Acceptance of such a defense depends on specialized forensic psychological evaluations and rigorous standards of proof. These systems strive to balance public protection with respect for defendants' rights—an approach that can inspire Iranian law.

Although the Islamic Penal Code does not explicitly address hypnosis, general principles such as Article 140 (requiring knowledge and will), Article 149 (insanity), and even Article 150 (substances affecting will) indicate a legislative emphasis on imputability and the presence of awareness and choice at the time of the offense. From this perspective, if it is proven that the individual was hypnotized and lacked voluntary control during the offense, a finding of non-responsibility is possible. Nonetheless, the absence of explicit statutory provisions, the lack of clear judicial precedent, and insufficient reliance on forensic psychiatry have prevented this potential from being realized in practice.

Criminal responsibility under hypnosis can also be analyzed in terms of partial or mitigated responsibility. If the person experienced a partial diminution of will or knowingly exposed themselves to hypnosis, some responsibility may still be imputable. This analysis allows recourse to institutions such as mitigation, suspension, deferment, or substitution of penalties. Such responses remain faithful to proportionality, individualized responsibility, and the prevention of unnecessary punishment.

In sum, addressing criminal responsibility in the context of hypnosis exemplifies criminal law's shift from formalism toward justice-centered reasoning. In this evolution, the theory of fault—as a rational and moral foundation for attribution—should be coupled with principles of equity, fair trial, and individualized analysis so that penal responses are not merely legal reactions but the expression of prudence, justice, and human-centeredness. Only within such a framework can legal certainty, judicial justice, and respect for human dignity be secured when confronting novel psychological conditions, including hypnosis.

Ethical Considerations

All procedures performed in this study were under the ethical standards.

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Conflict of Interest

The authors report no conflict of interest.

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