



## Fear And Anxiety. Legal Responsibility and Emotion. Interdisciplinary Approach

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**Abstract:** *The topic of fear and anxiety is extremely important, complex, and interdisciplinary, as these two emotions tend to be confused in the reality of individuals, they have distinct meanings and approaches from both a legal and a psychological point of view. Affective states such as fear and anxiety can influence both the behavior of the individual and the way of interpreting and applying the legal framework in establishing certain crimes. Although at first glance, these notions are considered to belong strictly to the field of psychology, the impact they have on individuals and human behavior has caused the field of legal sciences to give them increased importance. From a legal point of view, fear and anxiety can affect criminal liability, the validity of legal acts, the protection of victims and the evaluation of human behavior.*

**Keywords:** *criminal liability; human rights; human behavior; protection of vulnerable persons*

### 1. Introduction

The criminal act represents the complex manifestation of human behavior, which is determined by legal, psychological and social factors. From a legal point of view, a crime is an act that poses a social danger, committed with guilt and provided for by criminal law, being the only basis for criminal liability. Viewed from both a legal and psychological point of view, it can be stated that a crime represents an external manifestation of a person, respectively of the perpetrator, which materialized through an action or inaction that violates a legal norm.

The emotion behind each criminal act leads us to think of the hierarchical principle between systems and subsystems, since the main element is represented by the

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individual. When this principle cannot be applied, and the individual does not have cerebral control, disorders or dysfunctions appear in its balance, which most often lead to the commission of a crime.

The crime is committed due to a strong emotion, the latter exciting the lower levels of the brain and inhibiting the rational activity of the cortex. This phenomenon, also known as negative induction, overturns the functional balance of the individual, thus producing the short-circuit act from which the commission of a crime can result.

According to Dr. James Brussel, “even the acts of a madman have some kind of logic”, reinforcing the statement according to which no one acts without motivation.

In this paper I will refer to emotions such as fear and anxiety, strong emotions that can profoundly affect a person's behavior, sometimes leading to dramatic consequences such as committing crimes or increasing vulnerability to becoming victims. Both fear and anxiety are critical factors in criminal behavior and vulnerability to crime. Understanding these psychological mechanisms can help prevent and manage such situations, by developing appropriate intervention strategies and psychological support.

## **2. Fear and Anxiety from a Psychological Perspective**

Fear and anxiety are powerful emotions that can profoundly affect a person's behavior, sometimes leading to dramatic consequences such as committing crimes or becoming more vulnerable to becoming a victim.

First, fear can trigger impulsive reactions that push an individual to act illegally as a means of self-protection. For example, a person who fears for their personal safety might commit violent acts to neutralize a perceived threat. Intense fear can diminish an individual's ability to make rational decisions, leading to defensive, aggressive, or even illegal behaviors. Fear is a primary, instinctual emotion that arises from awareness of an immediate, real, and identifiable danger.

Fear is an emotion that ensures our survival. With its help, we are prepared to face dangerous situations or to avoid such situations. However, when fear causes us to be dysfunctional, that is, when the level of fear felt is much higher compared to the presumed situation we fear, it generates more harm than good (Svendsen, 2008, p. 21).

Regarding its characteristics, the following stand out:

- Short duration: disappears when the danger is removed;
- Intense physiological activation characterized by increased pulse, blood pressure, dilated pupils, sweating;

- Activation of the sympathetic nervous system characterized by the psychological response "fight or flight".

Chronic anxiety can lead to despair and vulnerability, leading people to engage in risky, illegal behaviors, such as stealing or using illegal substances to relieve their symptoms. Anxious people may perceive everyday situations as major threats, which can push them to make impulsive or bad decisions, such as engaging in financial crimes out of fear that they will not survive economically. Individuals deeply marked by fear or anxiety also often become victims of crime because they can be easily manipulated or exploited. Fear of abandonment, loneliness, or rejection can make a person vulnerable to aggressors who use emotional manipulation. For example, anxious people may be more easily influenced by emotional blackmail or may be victims of scams due to their inability to manage stress and fear effectively.

Viewed as emotions, fear and anxiety represent complex psychophysiological reactions to internal or external stimuli, having an adaptive but also potentially maladaptive role. From a criminal point of view, intense emotions can affect the ability to self-control, distort the perception of reality and diminish the functioning of higher cognitive processes, such as logical reasoning or anticipation of consequences.

Thus, emotion is the basis of certain crimes, such as:

- Violent crimes (physical aggression, homicide, beatings and bodily harm): intense fear can cause impulsive, exaggerated reactions in situations perceived as dangerous or threatening, the perpetrator acting under the pressure of the feeling of threat.
- Theft and property crimes: an anxious person, in a precarious financial situation and marked by the fear of losing their means of livelihood, may commit theft or financial fraud to eliminate the feeling of insecurity.
- Traffic offenses (accidents, fleeing the scene of an accident): fear and anxiety after committing an accident can push the person involved to flee the scene due to fear of legal or social consequences.
- Exaggerated self-defense (crimes in excessive self-defense): severe anxiety and acute fear in a dangerous situation can cause a person to act excessively and disproportionately to the real threat.

Criminal legislation recognizes the importance of the emotional state in certain situations, without excluding, however, the existence of guilt, emotion does not exonerate criminal liability, but it can constitute a circumstantial element in assessing the degree of social danger and in individualizing the punishment.

In addition to these emotions that underlie the criminal act, the personality of the person is also of major importance.

A strictly psychological analysis of the criminal act consists of analyzing the way in which the preparation, the commission and the post-criminal attitude manifest themselves in the psyche of the perpetrator, in relation to his intelligence, affectivity and will.

In the opinion of Professor Tudorel Butoi, such analysis is indispensable for establishing responsibility and culpability in its current forms of manifestation, since the accuracy of the conclusions will be able to form the basis for avoiding judicial errors that could be placed in the sphere of irreparable.

Deviant behavior is researched from a psychological point of view since the focus is on the personality of the individual or the offender, as the case may be, in relation to the use of various psychological tests.

Also, personality is our global being, it includes everything that constitutes our biological endowment (heredity), but also the multiple traces left by learning, by our individual history. (Bogdan & Sântea, 2010, p. 111).

### **3. Fear and Anxiety in Criminal Law**

Emotions such as fear and anxiety, viewed from the perspective of criminal law, represent an important element, as they are analyzed both from the perspective of the psychology of the criminal act and as factors that can influence criminal liability.

We view these emotions as elements that can influence the discernment capacity of individuals, as well as the psychological attitude of the perpetrator in relation to the act he committed.

Art. 19 of the Criminal Code regulates self-defense as a "justifying cause". According to para. (1) "The act provided for by the criminal law committed in self-defense is justified." Para. (2) of art. 19 establishes the conditions of self-defense. According to the legal text, the person who commits the act to remove a material, direct, immediate and unjust attack, which endangers his person, another person, their rights or a general interest, is in self-defense, if the defense is proportional to the attack. Para. (3) of the same article regulates presumed self-defense, emphasizing that it is presumed to be in self-defense that the person who commits, under the conditions of art. 19 para. (2), acts to repel the entry of a person into a dwelling, room, outbuilding or enclosed place belonging to it, without right, by violence, cunning, burglary or other such means or at night.

From the theoretical analysis of art. 19 of the Criminal Code it emerges that to be an incident of the institution of self-defense, several conditions must be met cumulatively, namely the attack must be:

- Material: "it is presumed that he is in self-defense who commits the act to repel the unlawful entry of a person by violence, cunning, burglary or other such means, into a dwelling, room, outbuilding or enclosed place belonging to them."<sup>1</sup>
- Direct: for the direct nature of the attack to exist, there must be no obstacle between the attacker and the victim. Such an obstacle can be a closed door in front of an attacker who tries to hit the victim (Basarab, et.alli., 2008, p. 276).
- Immediate: the actuality of the attack must be almost imperceptible in time in the attack-danger ratio. is not in a state of self-defense, within the meaning of art. 19 C. pen., the person who commits the act provided for by the criminal law after a period has elapsed since the attack, while the victim was fleeing, since the attack was neither imminent nor actual.<sup>2</sup>
- Unjust: The unjust nature of the attack results when it has no legal legitimacy.

Thus, we note that the person who commits an act provided for by the criminal law, such as a violent retaliation, in order to defend himself, if it occurred due to disorder or fear, can be considered legitimate defense, if it is found that all the elements provided for by the provisions of Article 19 of the Criminal Code are met.

Art. 28 Criminal Code:

"The act provided for by the criminal law committed by a person who, at the time of its commission, could not be aware of his actions or inactions or could not control them, either due to a mental illness or other causes, is not imputable".

We note that irresponsibility is viewed as a state of mental incapacity of a person, who, due to a mental illness or other causes, cannot be aware of the actions he takes, whether we are talking about moral, social or legal actions.

The incidence of the cause of non-imputability of irresponsibility presupposes, according to art. 28 C. pen., the absence of discernment at the time of committing the act provided for by the criminal law. If, based on the forensic medical expertise, the existence of diminished discernment due to a mental illness is established, and not

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<sup>1</sup> C.S.J., compl. 9 jud., dec. nr. 429 din 3 noiembrie 2003/ C.S.J., compl. 9 jud., dec. no. 429 of November 3, 2003, available at <https://www.scj.ro/1093/Detailii-jurisprudenta?customQuery%5B0%5D.Key=id&customQuery%5B0%5D.Value=85570>

<sup>2</sup> Î.C.C.J., S. pen., dec. nr. 945 din 17 martie 2009/ Î.C.C.J., S. pen., dec. no. 945 of March 17, 2009, available at <https://www.scj.ro/1093/Detailii-jurisprudenta?customQuery%5B0%5D.Key=id&customQuery%5B0%5D.Value=83970>

the absence of discernment, the provisions of art. 28 C. pen. regarding irresponsibility are not incident<sup>1</sup>.

Article 75 of the Criminal Code regulates the legal mitigating circumstances, which diminish criminal liability by reducing the limits of punishment. These include: committing the act under the influence of a strong disturbance/emotion (provocation), exceeding the limits of legitimate defense, exceeding the state of necessity and covering the damage.

The following constitute mitigating circumstances, under the jurisdiction of art. 75 paragraph (1):

- the commission of the crime under the influence of a strong disturbance or emotion, determined by a provocation from the injured person, produced by violence, by a serious violation of the dignity of the person or by another serious illicit action;
- exceeding the limits of legitimate defense;
- exceeding the limits of the state of necessity.

Mitigating or aggravating circumstances are those states, situations, events, qualities or other data of reality that are outside the content of the crime, but which precede, accompany or succeed the criminal activity and which concern either the performance of the act provided for by the criminal law, or the person of the perpetrator, characterizing it in terms of social dangerousness.

It is important to remember that mitigating or aggravating circumstances do not represent constitutive elements of the crime, but rather elements that define the act as a crime, being considered accessory elements to the crime.

## 4. Relevant Studies

### 4.1. Fear of Crime and Mental Health in Women

A Swedish study of 3,002 women found that fear of becoming a victim of crime was associated with poor mental health and increased levels of anxiety, particularly among women with low levels of education. These women were more likely to report poor health and anxiety symptoms than those with higher levels of education<sup>2</sup>.

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<sup>1</sup> Î.C.C.J. S. pen. dec. nr. 191/A din 29 mai 2019/ Î.C.C.J. S. pen. dec. no. 191/A of 29 May 2019, available at <https://www.scj.ro/1093/Detailii-jurisprudenta?customQuery%5B0%5D.Key=id&customQuery%5B0%5D.Value=153792#highlight=##%20iresponsabilitate>

<sup>2</sup> <https://pubmed.ncbi.nlm.nih.gov/37218875/>

## 4.2. The Relationship Between Fear and Mental Health

A study of a sample of 2,329 adolescents from the Chicago Neighborhood Human Development Project was analyzed to assess the effect of fear of neighborhood violent crime on anxiety/depression, as well as the relationship between fear and mental health, accounting for potential endogeneity<sup>1</sup>.

## 5. Conclusions

In summary, understanding how fear and anxiety influence criminal behavior and victim vulnerability can significantly contribute to the development of effective prevention and intervention strategies, both at the individual and societal levels. Education, psychological support, and public awareness are essential to combat this phenomenon. Fear and anxiety are more than natural human emotions: they influence legal acts, the ability to testify, and even criminal liability. Understanding and assessing these emotional states requires an interdisciplinary approach that combines legal rigor with the finesse of psychological analysis. Only through such a dialogue between sciences can we ensure a truly humane justice, sensitive to the real vulnerabilities of the individual.

## 6. References

- Bogdan, T. & Sântea, I. (2010). *Psihologie judiciară/ Forensic psychology*. Bucharest: Themis Cart. C.S.J., compl. 9 jud., dec. nr. 429 din 3 noiembrie 2003/ C.S.J., compl. 9 jud., dec. no. 429 of November 3, 2003, accessed on <https://www.scj.ro/1093/Detailii-jurisprudenta?customQuery%5B0%5D.Key=id&customQuery%5B0%5D.Value=85570>
- Basarab, Matei; Pasca, Viorel; Butiuc, Constantin; Mateut, Gheorghita (2007). *Codul penal comentat. Vol. 1. Partea generală/ The commented penal code. Vol. 1. General part*. Bucharest: Hamangiu.
- Î.C.C.J., S. pen., dec. nr. 945 din 17 martie 2009/ Î.C.C.J., S. pen., dec. no. 945 of March 17, 2009, accessible at <https://www.scj.ro/1093/Detailii-jurisprudenta?customQuery%5B0%5D.Key=id&customQuery%5B0%5D.Value=83970>
- Î.C.C.J. S. pen. dec. nr. 191/A din 29 mai 2019 / Î.C.C.J. S. pen. dec. no. 191/A of 29 May 2019 accessible <https://www.scj.ro/1093/Detailii-jurisprudenta?customQuery%5B0%5D.Key=id&customQuery%5B0%5D.Value=153792#highlight=##%20iresponsabilitate>
- <https://pubmed.ncbi.nlm.nih.gov/37218875/>
- <https://www.sciencedirect.com/science/article/abs/pii/S2212657017300375>

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