

## IMPLICATIONS OF DELUSIONAL DISORDERS AND CRIMINAL BEHAVIOUR FOR CRIMINOLOGY

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A “mind besides itself” (Bennett 2002).

### ABSTRACT

*Delusional disorders within a criminological context are often overlooked, misunderstood or simply dismissed as behavioural characteristics that do not belong within the field of criminology. However, case studies show that there is a need to understand how delusional disorders could lead to the committing of crime. To address this need a historical overview of delusional disorders is presented. Thereafter, the five criteria and seven subtypes of delusional disorders, as defined by the APA/DSM-IV-TR (2000), are discussed to provide a better understanding of these disorders. Five of the seven subtypes are also contextualised within the South African legal framework. Although the APA/DSM-IV-TR (2000) offers a comprehensive definition of these disorders, the limitations of the definition are discussed as well as types of delusional disorders that are not included in the definition. The aim is to explain the importance of delusional disorders within the field of criminology in the context of the APA/DSM-IV-TR (2000). Actual case studies and elements of particular crimes are used to highlight the relationship between delusional disorders and crime. Furthermore, the challenge related to criminal liability and determining whether individuals can be held accountable for their deluded actions, is discussed. Recommendations on how to treat and prevent potentially dangerous individuals from committing crimes while acting under these delusions are also dealt with.*

### INTRODUCTION

Views concerning delusions vary from harmless and humorous to a deliberate attempt to deceive, defraud or cheat (Sims 1995:102). Despite the various views, it is generally accepted that a delusional person does not pose a threat to society, since the delusion is a fantasy that only exists in the mind of the person holding it. However, in some instances delusions elicit behaviour that is harmful to others and is considered criminal in nature. When this occurs the study of delusions becomes important to criminology.

In this contribution a historical overview of delusional disorders is given, the meaning of delusional disorders, including the subtypes, is discussed and the criminal behaviour that could result from the delusional disorders is examined.

### HISTORICAL OVERVIEW

The concept “delusional disorders” derives from the Greek word *paranous* (paranoia). *Para* means besides, while *nous* means mind, or in other words it refers to a “mind besides itself”. The term paranoia was previously used to describe a number of observable phenomena including delirium associated with fever, delusional jealousy and being overly suspicious (Bennett 2002:1).

The concept of paranoia was in use even before the psychiatrist, Emil Kraepelin (1856-1926) was credited for defining it. Kraepelin described paranoia as being a fixed delusional system that does not include hallucinations or personality deterioration. In his definition Kraepelin

included various subtypes of paranoia such as persecutory, grandiose, erotomanic and jealous paranoia. The concept of paranoia, however, lost significance after Eugene Bleuler (1857-1939) put forward a description of schizophrenia. Bleuler believed that paranoia was too rare to be considered a separate disorder. Subsequently, the boundaries of paranoia and other paranoid disorders became blurred (Bennett 2002:2).

It was not until 1987 that the authors of the *American Psychiatric Association Diagnostic and Statistical Manual of Mental Disorders* (DSM-III-R) clarified the situation and presented a new classification category for paranoia and paranoid disorders. In this diagnostic category paranoia was no longer a central feature, instead the presence of non-bizarre delusions were central. The definition, although similar to Kraepelin's definition, was expanded to include other subtypes such as erotomania, grandiose, jealous, persecutory, somatic, mixed and unspecified categories. Unlike Kraepelin's definition it also includes hallucinatory symptoms. This definition has been largely preserved in the DSM-IV (1994) and the DSM-IV-TR (2000) (Bennett 2002:3).

## DEFINITION

A delusion can be defined as a false idea or belief that is unshakeable and not in keeping with the individual's educational, cultural and social background. The individual holds this belief with extraordinary conviction and cannot be convinced that it is a delusion despite evidence to the contrary (Sims 1995:101). Put differently, a delusion is the unshakeable belief in something, which is not based on reality. Even when proof to the contrary is present the person still clings to that belief.

According to the APA/DSM-IV-TR (2000:324), the diagnosis of delusional disorders should meet five criteria. These criteria are as follows:

- **Criterion A:** The essential feature of the delusional disorders is that one or more non-bizarre delusions should be present for a period of at least one month. A non-bizarre delusion is a delusion that is understandable and possible in a real-life situation such as being deceived by one's spouse or having a disease (APA/DSM-IV-TR 2000:324). The distinction between bizarre and non-bizarre behaviour is important when distinguishing a delusional disorder from schizophrenia (Bartol & Bartol 2005:194). Cultural factors (e.g. visits by and talking to the spirits of ancestors) should also be taken into account when determining whether a delusion is bizarre or non-bizarre.
- **Criterion B:** An individual will not be diagnosed with a delusional disorder if that person has ever displayed symptoms that have met Criteria A for schizophrenia. In the case of schizophrenia, auditory or visual hallucinations are prominent, if present. However, in the case of delusional disorders, tactile or olfactory hallucination may be present if they are related to the delusional theme. This may occur, for example, where an individual has delusions of infestations, and has the sensation of being infested with insects (APA/DSM-IV-TR 2000:324).
- **Criterion C:** In an individual suffering from delusional disorders, apart from the delusion itself, their psychosocial functioning is not obviously odd or bizarre (APA/DSM-IV-TR 2000:324).
- **Criterion D:** Where a mood episode occurs concurrently with a delusion, the total duration of the mood episode is relatively brief compared to the total duration of the delusional period (APA/DSM-IV-TR 2000:324).

- **Criterion E:** The delusions that an individual experiences should not be due to the direct physiological effects of a substance for example cocaine, or due to a medical condition such as Alzheimer's disease (APA/DSM-IV-TR 2000:324). Therefore, delusions that are caused by the abuse of medication or drugs will not be regarded as a delusional disorder. This could be because the delusions are caused by external factors (i.e. the drugs). Once the effect of the drugs has worn off, the individual will no longer experience delusions.

## **SUBTYPES OF DELUSIONAL DISORDERS**

According to the APA/DSM-IV-TR (2000:324), there are seven types of delusional disorders, which are specified based on the predominant theme. The types of delusional disorders are as follows:

### **Erotomaniac type**

The central theme of this subtype of delusional disorder is that another person is in love with the individual. The other person is usually of a high status such as a famous person or a sports hero, or could be a complete stranger. The delusion is that the other person and the deluded person have a romantic and spiritual relationship, rather than a sexual relationship. The individual suffering from erotomania may try to contact the object of the delusion by telephone, sending letters, stalking or gifts. Individuals suffering from this subtype of delusional disorder, especially males, may experience some form of confrontation with the law during their efforts to "rescue" the objects of their delusions from some sort of "danger" (APA/DSM-IV-TR 2000:324).

### **Grandiose type**

In this subtype the central theme of the delusion is that the individual believes he or she has an extraordinary talent or has made an important discovery. The individual may also believe that he or she has a special relationship with a prominent person such as being the adviser to the president, or that he or she is the prominent person. In this case the actual person is considered the impostor (APA/DSM-IV-TR 2000:324). In some cases, individuals suffering from grandiose delusions may believe that they are the Saviour or the Virgin Mary about to give birth to baby Jesus (Freedman, Kaplan & Saddock 1963:793).

### **Jealous type**

In this subtype the central theme of the delusion is that the individual's spouse or lover is being unfaithful. The individual's belief is confirmed by drawing incorrect inferences from "evidence" he or she has gathered to support the belief. For example, stains on bed sheets or ruffled clothing may be used as supporting "evidence". The individual may confront his or her spouse or lover with the evidence, restrict the spouse's autonomy, follow the spouse or lover to investigate the belief, or even attack the spouse or lover (APA/DSM-IV-TR 2000:324).

### **Persecutory type**

In this subtype the central theme of the delusion is that the individual is being conspired against, spied on, followed, poisoned, cheated, harassed or obstructed. Individuals who hold these beliefs are either suspicious generally, or may be suspicious of one or more persons. These individuals may often show anger, resentment and violence, and therefore the persecutory type is commonly associated with violent criminal conduct (Bartol & Bartol 2005:195). Individuals suffering from such delusions could also hold the belief that there is some injustice that may need to be remedied by legal action. They may attempt to appeal to a

court and other government agencies repeatedly in order to gain satisfaction and to prove that they are right (APA/DSM-IV-TR 2000:325).

### **Somatic type**

The core theme of the somatic subtype is centred on bodily functions or sensations. In some cases the individuals may believe that they omit a foul odour from their skin, mouth or rectum. Sometimes it is believed that there are internal parasites in the body, or that a certain part of the body is ugly or not functioning properly (APA/DSM-IV-TR 2000:325). Self-mutilation can take place to free the body from the parasites.

### **Mixed type**

In this subtype no delusional theme is predominant (APA/DSM-IV-TR 2000:325). There could be a combination of delusional themes, for example, having delusions of love as well as delusions of jealousy. Guenter Parche, a 38-year-old man, stabbed the tennis star Monica Seles with a serrated steak knife with a five-inch blade, not because he hated her enough to kill her but rather because he was a fan of the number two-ranked Steffi Graf. He was obsessed and jealous to such a degree that he wanted to put the number one-ranked Seles out of action. By stabbing Seles he paid heed to his delusion of love and jealousy. He was convicted of causing Seles grievous bodily harm, which usually carries a hefty sentence in prison, but because of diminished responsibility, he only received a two-year suspended sentence (Lowitt 1999).

### **Unspecified type**

Where a dominant delusional belief cannot be clearly determined or does not fall within the description of the other subtypes, it is classified as an unspecified type of delusional disorder. For example, this would be where an individual has delusions of reference but there is no predominant persecutory component (APA/DSM-IV-TR 2000:325). In this case the person believes that others' actions, or specific occurrences, refer to him or her. Such a person may believe that a group of friends who are innocently talking to each other about sports may be referring to him or her. The person with the delusion of reference may feel threatened and it is possible that he or she may react on the basis of the unsubstantiated belief. Although the person is out of hearing range and cannot follow the conversation, there might be an attack if he or she is convinced that they are mocking him or her.

## **LIMITATIONS OF CRITERIA AND SUBTYPES IN DSM-IV-TR**

There are many limitations to the presentation of delusional disorders in the APA/DSM-IV-TR (2000). For example, it only makes reference to seven types of delusional disorders, although there are other subtypes of delusions that may have a central theme other than those mentioned in the APA/DSM-IV-TR, of which the delusion of control is an example. The criteria in the APA/DSM-IV-TR (2000:324) also does not include delusions where an individual is under the influence of certain drugs that may cause hallucinations years after its use.

For example, LSD (lysergic acid diethylamide) is one of the major drugs in the hallucinogen class of drugs. Hallucinogens cause hallucinations, which are profound distortions in a person's perception of reality by disrupting the interaction of nerve cells and the neurotransmitter serotonin. Distributed throughout the brain and spinal cord, serotonin is involved in the control of behavioural, perceptual, and regulatory systems, including mood, hunger, body temperature, sexual behaviour, muscle control, and sensory perception. Under the influence of hallucinogens, people see images, hear sounds, and experience sensations that

seem real but do not exist. Some hallucinogens also produce rapid, intense emotional swings. LSD is one of the most potent mood-changing chemicals and aggressive behaviour and violent attacks have been linked to the delusions caused by LSD. Prolonged use of LSD could cause a person to suffer delusions even after the effects of the drug have worn off. When the flashback and subsequent delusion occurs the drug-dependant person goes through experiences (often of a negative nature) similar to the ones that occurred when the drug was taken prior to the occurrence (Bezuidenhout 1997:4). Therefore, if a person were to commit a crime while acting under delusions caused by drugs such as LSD, 15 years after the use of the drug, a dilemma will develop regarding the treatment and handling of such a person; such behaviour would be regarded as constituting criminal behaviour as the APA/DSM-IV-TR (2000) would not consider them to be acting under the influence of a delusional disorder.

### **TYPES OF DELUSIONAL DISORDERS NOT INCLUDED IN THE DSM-IV-TR**

In addition to the delusions that are presented in the APA/DSM-IV-TR, the following delusions have been identified:

#### **Delusions of control**

The central theme of this delusion is the belief that others control you (Freedman et al 1963:823). The individual may believe that his or her thoughts are being controlled or influenced from outside him or her. These delusions are often accompanied by delusions of description of how the individual's thoughts are being controlled by means of, for example, electronic devices, computers or telepathy (Sims 1995:149).

#### **Delusions of reference**

The predominant delusional theme is the false belief that others are talking about one. It could also refer to instances where an individual falsely believes that the behaviour of others refers to him or her (Freedman et al 1963:823). A person acting under this delusional theme could be considered dangerous, for example if the individual tries to "defend" himself or herself against another individual who he or she believes is referring to them. In this case, the deluded individual will not be acting in self defence but would be committing a crime.

#### **Delusions of self-accusation**

This delusion is associated with intense feelings of guilt and remorse, and could be regarded as the extreme opposite of the grandiose delusion, where the individual replaces feelings of saving the world with the delusional belief that the world is coming to an end. The depressed individual could feel that the salvation of the world depends on his or her own death, and may mutilate himself or herself or have suicidal tendencies (Freedman et al 1963:794). The "end of the world" fantasy could also be considered to be an extreme form of delusions of grandiosity as the individual considers himself or herself so important that he or she could cause the end of the world.

In the next section the nature and extent of delusional disorders will be discussed. These are important in determining whether delusional disorders are a serious problem that is worth recognition in the field of criminology.

### **NATURE AND EXTENT OF DELUSIONAL DISORDERS**

Delusional disorders generally affect individuals in middle or late adulthood. The age of onset ranges from 18 to 90 years, with 40 years being the average age of onset. The presence of delusions is higher amongst individuals who are married, employed and from a lower socio-

economic status (Bennett 2002:3). However, in these studies uncertainties exist as to the severity of the delusional disorder, and what type of delusional disorder exists.

Symptoms of delusional disorders may arise from a pre-existing personality disorder. Early symptoms may include a pre-occupation with loyalty and trustworthiness of friends, bearing grudges and interpreting remarks and events as threatening, even though they might not have been. When individuals come in contact with a clinical psychiatrist they often exhibit signs of irritability, evasiveness, hostility, secretiveness, hypersensitiveness or defensiveness (Bennett 2002:4).

Delusional disorders often accompany other disorders such as schizophrenia, organic mental disorders, paranoid personality disorders and depression (Bartol & Bartol 2005:194). Research (Bennett 2002:4) has shown that 25 percent of patients who have been diagnosed with delusional disorders are later re-diagnosed with schizophrenia.

The psychosocial functioning of individuals with delusional disorders may vary, depending on the degree of severity of the delusion. Some individuals may become socially isolated and absent from their occupations. This could occur, for example, if the individual believes that members of the National Intelligence Agency (NIA) are trying to kill him or her. In this case the individual may quit his or her job and become afraid to leave his or her home (APA/DSM-IV-TR 2000:324). In other cases the individual may appear to be relatively unimpaired in their interpersonal and occupational roles. Their cognition and memory may remain intact and their insight and judgement may only be impaired to the degree that the delusions influence their thoughts. It is important that individuals who could become violent towards themselves and others be hospitalised and treated (Bennett 2002:7).

According to the APA/DSM-IV-TR (2000:326), most studies have shown that delusional disorders only account for one to two percent of the admission of patients to mental facilities. Although it is unknown as to exactly what percentage of the population suffers from delusional disorders, according to the APA/DSM-IV-TR (2000:326), approximately 0.03 percent of the population has delusional disorders. Barlow and Durand (1995: 565) are of the opinion that 24 to 30 people out of every 100 000 of the general population are affected by delusions. Munro (1999:3), however, is of the opinion that delusional disorders are not as rare as believed. The reason for this could be that many delusional disorders remain unrecognised in the community because they may vary in their degree of severity. Psychiatrists only deal with severe cases of delusional disorders, therefore a large number of the less severe cases are not acknowledged. An important aspect that should be considered when determining the extent of delusional disorders is that in certain cases the individuals concerned may appear to be relatively unimpaired both in their interpersonal and occupational roles (APA/DSM-IV-TR 2000:326). In view of this it may become difficult to determine the exact extent of delusional disorders.

There is no major gender differentiation in the frequency of delusional disorders although there may be a difference in the content of the delusions, for example delusions of jealousy are more common in men (APA/DSM-IV-TR 2000:326).

It is important to determine the nature and extent of delusional disorders in order to understand how these delusional disorders present themselves in individuals and how individuals are able to function with these delusional disorders. This could contribute towards a better understanding of the individual's criminal behaviour and what crimes an individual is likely to commit while suffering from delusional disorders. It is clear that delusional disorders cannot be regarded as a general aspect of abnormal or criminal behaviour, but could cause criminal behaviour in certain circumstances.

## **EFFECT OF DELUSIONAL DISORDERS ON CRIMINAL BEHAVIOUR**

People suffering from a delusional disorder are usually treated as if they are going to commit serious crimes. Only a small percentage of individuals with such disorders should, however, be deemed dangerous and/or serious offenders. Therefore criminologists should take specific note of delusional disorders within the field of criminology. In other words, if the delusions are acted upon, and in cases where a crime has been committed, it becomes of specific importance to a criminologist. The study of delusional disorders is also of importance when determining why an offender has committed a crime, as well as what effect such a disorder has on the offender's criminal liability.

### **DELUSIONAL DISORDERS AND CRIME**

In order to explain the importance of delusional disorders within a criminological context, the five main subtypes of delusional disorders as set out in the APA/DSM-IV-TR (2000), will be applied to crimes that are likely to be committed when acting under these delusions. The remaining two subtypes (the mixed subtype & the unspecified subtype), will not be discussed within the context of a crime that has meaning in the South African legal framework.

In the case of the mixed subtype the dominant delusional theme would be a combination of the other subtypes of delusional disorders. Therefore, if a crime were to be committed under the influence of a disorder falling under this subtype, it would be a combination of the crimes discussed under the first five subtypes. In the unspecified subtype a dominant delusional belief cannot be clearly determined or does not fall within the description of the other subtypes and therefore it is classified as an unspecified type of delusional disorder. Consequently it would be extremely difficult to discuss this subtype within the context of a crime.

#### **Erotomaniac types and stalking**

Stalkers who suffer from this subtype of delusional disorders, that is the erotomaniac type, are often referred to as celebrity stalkers or erotomaniac stalkers. These stalkers are usually mentally ill and suffer from delusions of erotomania, the delusional belief that the victim is in love with them. The victim is usually a person with a high status, such as a famous pop star, sports star or public figure. The erotomaniac stalker may perceive the slightest acknowledgment by the victim as a personal invitation. This could occur, for example, where a celebrity sends autographed photographs of themselves to fans. The stalker may phone the celebrity victim repeatedly, send letters, show up at the victim's work place, and in extreme cases, could kill the victim (Pistorius 2004:288). A woman who believed that she was his wife stalked an American talk-show host, David Letterman, for a number of years. She frequently trespassed on his property, hid in his home and even took his car without consent to go grocery shopping. She could be categorised as an erotomaniac stalker. The woman in question eventually committed suicide (Bartol & Bartol 2005:30).

In current South African law, the Domestic Violence Act 116 of 1998 is the only law that prohibits stalking. However, in terms of this Act, stalking will only be recognised where there has been a previous intimate relationship between the stalker and the victim. This would exclude a professional relationship as in the South African case study of Nina Olivier. Olivier had hired George Kellerman, a prominent Cape Town attorney, to represent her in her divorce proceedings. The relationship was strictly professional, at least from Kellerman's side. Olivier began to stalk Kellerman and often bragged of their "relationship". After numerous interdicts and charges of assault, Olivier eventually murdered Kellerman. Before Olivier was sentenced for the murder she hanged herself in her prison cell in Pollsmoor prison (Pistorius 2004:292).

Stalking is not that uncommon in South Africa and occurs on a daily basis. The South African Law Reform Commission began to examine the possibility of promulgating legislation dealing with stalking laws, but so far no new legislation has been drafted (Pistorius 2004:293). Although there are no effective stalking laws under current South African legislation, a crime of harassment could be committed, which would also cover stalking and would include a professional relationship. In the case of a stalker who suffers from erotomania this is considered a delusional disorder. He or she would not be held criminally liable for his or her actions. The stalker would be considered to be mentally ill and dealt with in terms of sections 77, 78 and 79 of the Criminal Procedure Act 51 of 1977, which will be discussed in greater detail later in the article in the section on criminal liability.

### **Grandiose type, defamation and forgery**

Individuals with delusions of grandeur have an inflated self-worth and believe that they have special powers or identity, or have a relationship with a famous person (Pistorius 2004:286). In some cases, the individual may believe that he or she is the prominent person and that the prominent person is an impostor. The individual could spread rumours or publish information about the “impostor” which is untrue, which constitutes a crime of defamation. Defamation can be defined as the unlawful and intentional publication of matters concerning another with the intention of injuring that person’s reputation (Snyman 2002:459).

Forgery could also be committed by an individual acting under these delusional disorders, and is the unlawful and intentional making of a false document to the actual or potential prejudice of another (Snyman 2002:530). This could occur when an individual believes that he or she has an extraordinary talent. For example, they may put their signature on a work painted by someone else, or if they claim to be a prominent person they may sign a cheque or a receipt under such person’s name, i.e. use a false signature.

### **Jealous type and domestic violence**

The predominant delusional theme is the false belief that one’s spouse or lover is being unfaithful (APA/DSM-IV-TR 2000:325). In order for the individual to gather “evidence” of the affair he or she may follow the spouse or lover. This could amount to stalking, which is the repeated watching of the spouse or lover at their residence, place of work or study (Domestic Violence Act 116 of 1998). The behaviour of the jealous spouse or lover could amount to emotional and psychological abuse, which is characterised as being overly obsessive, possessive or jealous, and could cause serious invasion of the victim’s privacy, liberty, integrity and security (Domestic Violence Act 116 of 1998). The spouse or lover may become suicidal and attempt suicide as a last resort. In some cases confrontation could occur between the deluded individual and their spouse or lover, which could lead to physical violence. In other cases the deluded individual may murder the spouse or lover and then commit suicide (Munro 1999:114).

### **Persecutory type and violence**

The persecutory type of delusional disorder is most often associated with violent criminal conduct. Individuals acting under these delusions believe that they are being followed, poisoned or cheated by another. Such individuals are often resentful and angry and may try to kill or harm their “persecutors” (Bartol & Bartol 2005:195). An individual may even infringe on other’s Constitutional rights in the form of hate speech. This occurs when negative remarks are made to others based on their race, ethnicity, gender or religion that could cause incitement to do harm. This was the case where an 38-year-old man was arrested by the police after he held up a local radio station demanding that his message be transmitted over the air,



namely that there was a world-wide plot run by Jews to infect certain people in the population. He believed that this would lead to deaths world-wide (Munro 1999:47).

Persecutory delusional disorder is often accompanied by querulous paranoia. This occurs when the deluded individual repeatedly engages in legal litigation against the courts or government agencies. The unnecessary and delusional litigation could amount to defeating the course or administration of justice where police or prosecuting authorities are made to waste time and energy investigating false charges or charges against fictitious people (Snyman 2002:339). This is considered a serious crime in South Africa due to the lack of manpower and already overburdened resources.

### **Somatic type and violent crime**

Although persecutory types and jealous types are most often associated with violent crimes, individuals suffering from somatic delusions are also capable of aggression and violence (Dr Micki Pistorius, clinical psychologist, personal communication, 28 July 2005). This was the case when Dimitri Tsafendas, an uneducated parliamentary messenger, assassinated Hendrik Verwoerd, the then Prime Minister of South Africa on 26 September 1966. He stabbed Verwoerd four times in the chest with a dagger. Although some may have believed that it was for political reasons, it was later found that Tsafendas suffered from somatic delusional disorders. Tsafendas was under the delusion that he had a giant tapeworm in his stomach, and that this tapeworm had ordered him to assassinate Verwoerd. He was found unfit to stand trial and committed to a mental institution. He died of pneumonia on 7 October 1999 at the age of 81 (Morrison 2005:1). The belief that the body has been infested with a parasite, in this case a tapeworm, is typical to somatic delusions and may also be accompanied by the sensation of a parasite in the body.

## **CRIMINAL LIABILITY AND DELUSIONAL DISORDERS**

Since 1977 the defence of mental illness or insanity has been governed by statute, namely the provisions of sections 77, 78 and 79 of the Criminal Procedure Act 51 of 1977. These provisions replaced the M'Naghten Rule, which was based on English law (Snyman 2002:169).

In order to determine whether an accused is criminally liable, it first has to be determined whether the accused has criminal capacity. If a defence of mental illness is used, as in the case of delusional disorders, the test to determine the accused's criminal liability is set out in section 78(1) of the Criminal Procedure Act 51 of 1977. In terms of this provision, an accused will not be criminally liable where, at the time of the commission of the crime he or she suffered from a mental illness or mental defect which made him or her incapable of understanding the wrongfulness of the act, and where he or she, due to the mental illness or defect, is unable to act in accordance with such appreciation of wrongfulness. In order for an accused suffering from a delusional disorder to be found not to have criminal capacity, both the requirements in section 78 should be met (Snyman 2002:169; Visser & Vorster 1987:257).

The duration of the mental illness is irrelevant and it may be of a permanent or a temporary nature. Whether the mental illness is curable or incurable is also irrelevant. However, if the accused was mentally ill before and after the act, and he or she committed the crime during a *lucidum intervallum* (sane interval), he or she is criminally responsible for the act (Snyman 2002:169). This implies that if the accused suffered from a delusional disorder but at the time of committing the crime was not acting out a delusion, he or she could be criminally responsible. A *lucidum intervallum* would have to be determined with the aid of psychiatric evidence.

To determine whether the accused was not criminally liable in terms of section 78 of the Act, the court must direct that there be a psychiatric enquiry into the matter as prescribed by section 79 of the Criminal Procedure Act 51 of 1977. However, before an accused is sent for observation in terms of section 79, the court must be satisfied that there is some form of factual or medical basis for the allegations. The accused will be sent to a mental institution for a period of 30 days for observation, during which period at least three psychiatrists should participate in the observation. One should be the medical superintendent of a psychiatric hospital designated by the court, the second should be a psychiatrist appointed by the court who is not in full-time service of the state, and the third should be another psychiatrist appointed by the accused. A report should be compiled by these psychiatrists and submitted to the court (Snyman 2002:170; Du Toit et al 1996:8). The court is, however, under no obligation to accept the findings in the report and it is merely a recommendation. To complicate matters, as Kaliski (2006:94) stated, "regrettably, very few defendants that are sent for a psychiatric observation actually know why they have been referred, or understand what the assessment encompasses." Since a deluded person frames everything in the context of the delusion that plagues them, they find it difficult to formulate a rational understanding of the charge against them (Africa 2005:391). It is therefore important that scholars in criminology have knowledge of the challenges that face them when they deal with cases that involve deluded persons. It is only with comprehensive knowledge that one will be able to write a satisfactory court report or act as a specialist witness in such cases.

## **PROBLEMS WHEN DETERMINING CRIMINAL LIABILITY**

If the defence of mental illness is successful, the accused should be found to be suffering from a mental illness, in this case a delusional disorder, and not be criminally liable. However, certain problems could arise when determining whether the accused does indeed suffer from such an illness, for example, difficulty in diagnosing the delusional disorder, as well as cultural factors and substance abuse. These difficulties should therefore be taken into account.

### **Difficulty when diagnosing delusional disorders**

It is often difficult to diagnose delusional disorders as the symptoms may overlap with other disorders. This could occur, for example, in the case of schizophrenia, which can be categorised as prominent auditory or visual hallucinations, bizarre delusions, catatonic behaviour and negative symptoms. The distinctions between delusional disorders and schizophrenia is that people with delusional disorders show less impairment in their occupational and social roles (APA/DSM-IV-TR 2000:327). It is also difficult to differentiate mood disorders with psychotic features from delusional disorders as they are often similar. Both involve non-bizarre delusions without prominent hallucination. However, delusional disorders are diagnosed where the total duration of the delusional disorder exceeds the total duration of all mood episodes (APA/DSM-IV-TR 2000:327).

The boundaries between obsessive-compulsive disorders and delusional disorders are sometimes difficult to distinguish. This could occur, for example, where the obsession becomes excessive and unreasonable, and could even reach delusional proportions. If the obsession becomes a delusional belief, an additional diagnosis of delusional disorder could be included (APA/DSM-IV-TR 2000:328). It is important that the diagnoses of delusional disorders are made accurately, since incorrect diagnoses could influence the offender's criminal liability.

### **Cultural factors**

South Africa is characterised by many different cultures. Culture is therefore of importance when determining delusional disorders, since many cultural beliefs may be considered delusional to those not belonging to that culture (APA/DSM-IV-TR 2000:326). This could

occur, for example, in a non-western culture, where individuals who experience feelings of unhappiness, guilt, anger or helplessness may refer to themselves as being “bewitched” or “possessed by spirits” (Helman 1984:143). In South Africa the “tokoloshe” refers to a dwarf zombie with special powers. If for example an employee from a traditional South African ethnic group blames the “tokoloshe” for a crime they have committed at work (e.g. theft), a person from a western culture might find this statement illogical and could even consider the employee delusional instead of recognising the cultural context of the situation. It is important to determine whether the individual is indeed suffering from a delusional disorder or is merely acting in accordance with his or her culture after a crime has been committed, as this could affect the criminal liability of such an offender.

### Substance abuse

According to the APA/DSM-IV-TR (2000:329), a diagnosis of a delusional disorder will not be made where a delusion is the direct result of a substance such as a drug or medication. Many substance-induced psychotic disorders resulting from stimulants such as amphetamines or cocaine may show symptoms that are similar to delusional disorders (APA/DSM-IV-TR 2000:327). For example, many individuals who use Phencyclidine (PCP) have delusions of super human strengths, persecution and grandeur (Bartol & Bartol 2005:494). If the accused is found to be under the influence of a substance, he or she cannot rely on the defence of mental illness and will be found to be criminally liable, due to the doctrine of “antecedent liability”, which means that if the accused could have foreseen or avoided the mental state which led up to the commission of the crime, he or she would be criminally liable (Snyman 2002:58; Du Toit et al 1996:8). The same principle is applied in section 1 of the Criminal Law Amendment Act 1 of 1988, which states that if a crime has been committed where the accused has consumed a substance which impairs his or her ability to distinguish between right and wrong, and the accused knows that such a substance could impair his or her faculties, the accused remains criminally liable. However, in certain cases where alcohol consumption has been continuous and a person is prevented from consuming alcohol, withdrawal delirium can be exhibited. The condition is known as *delirium tremens*, which is acknowledged as a form of mental illness and the accused could rely on the defence of mental illness (Snyman 2002:169). *Delirium tremens* is often accompanied by delusions, frightening hallucinations and body tremors (Barlow & Durand 1995: 474).

Another substance considered by some to be a drug, is Peyote, the root of a cactus. It is used by almost 40 American Indian tribes in the United States of America and western Canada in religious ceremonies. Peyote may be eaten or ingested in liquid form. The effect of the substance is that it causes delusions that may be either frightening or humorous. It could also make the person believe that they can see into the future. The effect of the peyote lasts for two to three days. Peyote is commonly used by the Indians of Chichimeca, as it is believed to protect them against danger and to give them the courage to fight (Schultes & Hoffman 1992:2). Although the use of the substance may be a cultural tradition amongst American Indians, if a crime were to be committed while under the influence of the substance, and the person was suffering from delusions as a result of the substance, such person would still be held accountable for his or her actions as they would not be suffering from a mental illness per se.

### RECOMMENDATIONS

It is important that when a person is diagnosed with a delusional disorder, treatment be sought immediately. Treatment such as psychotherapy is often successful and the therapist helps the individual to cope with problems stemming from the delusion in a socially acceptable manner (Bennett 2002:20). Medication, such as pimozide and haloperidol, has also proven to be successful and may have therapeutic advantages (Munro 1999:236). Pimozide is widely used

in psychiatry for chronic psychoses, schizophrenia, and the syndrome of Gilles de la Tourette (Van Vloten 2003). It is imperative that steps should be taken to ensure that patients receive medication as prescribed and take the correct dosage. Where an individual is considered to be potentially harmful or violent, hospitalisation should occur immediately, and the necessary treatment should be administered accordingly. If an individual has committed a crime under a delusion, criminal liability should be determined in accordance with the procedures prescribed by the Criminal Procedure Act 51 of 1977.

Law enforcement agencies should also be sensitized with regard to delusional disorders. According to Bartol and Bartol (2005:200), the police are more inclined to arrest a person showing bizarre behaviour on a scene than a normal person. Several studies have also documented higher arrest rates for discharged mental patients than for the general public, especially if they display aggressive behaviour. The manuals used for in-service training and recruitment training of Criminal Justice personnel should include information on delusional disorders. A specific police officer can be identified at each police station to undergo specialist training to deal with these sensitive cases. Special courts could also be established to divert these individuals to shelters and treatment. In most cases, delusional individuals are in need of help and keeping them in jail often aggravates the situation.

Criminologists should have adequate knowledge of this poorly understood phenomenon, as their knowledge could be invaluable in a court case where a deluded person stands trial. Allan (cf Africa 2005), insists that “the general rule is that experts should be objective consultants of the court”. Although it is impossible to be 100 percent objective, thorough knowledge of the relevant phenomenon should ensure that criminologists are used more often as expert consultants with regard to bizarre behaviour. In addition, if criminologists have an advanced understanding of mental disorders and more specifically delusional disorders, they can form part of a multidisciplinary team that assesses people who have been committed to a psychiatric hospital for observation. Research is the key to understanding these disorders and criminologists should conduct much more research in order to contribute to the dearth of knowledge that exists about delusional disorders.

## **CONCLUSION**

Delusional disorders may be uncommon but they are a reality. Those suffering from delusional disorders may seem harmless or eccentric until they commit a crime. It is for this reason that knowledge about delusional disorders is of importance within the field of criminology. It is further also important that those qualified to make such diagnoses in order to determine the criminal liability of the accused, should correctly diagnose the specific delusional disorder. Criminologists should have enough knowledge of the phenomenon to assist clinical staff in the preparation of a court report should an accused commit a crime “under the influence” of a delusion. In this way it can be ensured that those who are in need of treatment are treated, and that those who are criminally liable, are punished accordingly.

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