World Psychiatry
OFFICIAL JOURNAL OF THE WORLD PSYCHIATRIC ASSOCIATION (WPA)

World Psychiatry. 2013 February; 12(1): 16–21. PMCID: PMC3619172
Published online 2013 March 7. doi: 10.1002/wps.20002

The Breivik case and what psychiatrists can learn from it

Ingrid Melle

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ABSTRACT

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In the afternoon of July 22, 2011, Norwegian Anders Behring Breivik killed 77 persons, many of them children and youths, in two separate events. On August 24, 2012, he was sentenced to 21 years in prison. Breivik went through two forensic evaluations: the first concluded that he had a psychotic disorder, thus being legally unaccountable, whereas the second concluded that he had a personality disorder, thus being legally accountable. This article first describes Breivik's background and his crimes. This is followed by an overview of the two forensic evaluations, their methods, contents and disagreements, and how these issues were handled by the court in the verdict. Finally, the article focuses on some lessons psychiatrists can take from the case.

Keywords: Breivik's case, forensic psychiatry, psychiatric diagnosis, psychiatry and the media

July 22, 2011 was a quiet, gray and humid day in Oslo. As most Fridays in the middle of the Norwegian summer holiday, offices closed early and locals left the city to the tourists. At 15.25, Anders Behring Breivik detonated a 950-kg fertilizer-based car bomb in the downtown government quarter, killing eight persons and injuring nine severely. Only around 200 persons of the usual 1900 were still at work this late in the afternoon, and there was thus a short-lived relief that casualties were lower than initially feared. However, two hours later, reports of gunfire at the summer camp for the Norwegian labor party's youth organization came pouring in. Breivik had traveled directly from the bombsite to the small island of Utøya and gained access to the island ferry masquerading as a police officer. He almost immediately started shooting at the 600 persons trapped on the island and killed 69 persons, 59 of these born in or after 1990. Using hollow-point, expanding ammunition, he also caused many severe and disfiguring injuries. Survivors report that he went back to previous victims, shooting them repeatedly, and that several times he persuaded those hidden to come forward by saying he was a policeman. Survivors also report that he at times was laughing and shouting while shooting.

After 50 minutes, Breivik called the police saying: “Yes, hello, my name is Commander Anders Behring Breivik from the Norwegian anti-communist resistance movement. I'm on Utøya for the moment. I want to give myself up”. Met with the standard follow-up questions of where he was calling from, he broke the connection and went back shooting. Twenty minutes later he surrendered to an armed police force with his arms over his head. In his first interrogation at Utøya, Breivik again presented himself as the commander of the Knights Templars Norway, an organization he claimed held 15–80 “Knights” in Europe in 2008, with himself having a central position in the Norwegian branch. He further told the police that his acts that day were “part of plan B”, and “the unfortunate with what happened was that the people on the island were category C traitors”. In the organization's view, there were category A, B, and C traitors. He had “the right to kill category A and B traitors, but not a mandate to kill category C traitors”.

BACKGROUND

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Breivik was born in Oslo in 1979. Both parents had children from previous relationships. They married shortly before his birth and moved abroad, where his father worked for the Norwegian foreign services. His parents divorced in 1980 and he grew up with his mother and half-sister in Oslo, with limited contact with his father outside holiday visits. His mother asked for help from the Child Welfare Services twice because she found him a difficult child, and in 1983 Breivik was examined by the Child Psychiatric Services. They evaluated his rearing situation as so problematic that he was in danger of developing more severe psychopathology and recommended foster care. However, the Child Welfare Services decided against, and after a short period of home supervision they closed the case in 1984.

Breivik went to schools in his affluent local area, where he was part of a group who later described him as somewhat shy, but sociable and loyal. As a teenager he was preoccupied with his physical appearance, worked out frequently, used anabolic steroids and had cosmetic nose surgery in his early twenties. Albeit intelligent, he dropped out of high school before final exams. He started out several companies, including sale of false diplomas over the Internet. Breivik presented himself as a successful businessman in this period, claiming he earned millions, whereas the police estimate that he was paid 4.5 million NOK (around 600,000 Euros) for false diplomas and sales on the stock exchange.

In 2006, he was declared bankrupt and moved in with his mother. His friends report changes in his behavior from this time onward. He became increasingly withdrawn, used most of his time to play World of Warcraft online, and cut contact with his friends, who worried that he might suffer from gambling addiction. In 2009, he founded a farming company and in the spring of 2011 he rented a farm in a rural area outside Oslo, which made it possible for him to buy large amounts of fertilizers without attracting suspicion. This background information differs from Breivik's description in the document he posted online on July 22, 2011, his so-called Manifesto. There is general agreement that the main parts of its 1500 pages are cut-and-paste from other sources, to some extent extremist groups and right-wing bloggers, but also Karl Marx, Tony Blair, Osama bin Laden, and George W. Bush. In addition to outlining his extreme views on multicultural societies, Islam and Marxism, Breivik here presents an edited version of his own development. However, information from others casts considerable doubt around its accuracy. There is also significant doubt about the existence of the Knights Templars organization Breivik repeatedly claims was the initiator of his attacks. Other right-wing groups allegedly involved denied having any knowledge about it, and investigations by Norwegian and other police forces found no indications that the organization even exists.

BREIVIK'S PSYCHIATRIC EVALUATIONS

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The current Norwegian criminal code has a maximum prison sentence of 21 years, with no additions for multiple victims. In the case of particularly serious acts, the offender can be sentenced to additional protective detention. Offenders found “not legally accountable” are sentenced to compulsory treatment. It is the court's obligation to evaluate if an accused person is legally accountable [1] and two forensic psychiatric experts are usually appointed to conduct a psychiatric evaluation. To what extent the report meets prerequisite formal requirements is evaluated by the Norwegian Board of Forensic Medicine, a part of the Norwegian Civil Affairs Authority. The report is presented to the court, which decides whether it will follow the advice of the appointed experts. Up to its presentation, the report is confidential under the Criminal Procedure Code, and disregard of confidentiality is punishable. Based on a legal tradition going back to Norway's first unified national code of law issued in 1274, the code reflects the view that offenders with severe mental disorders are legally unaccountable for their acts and should not be punished. The current definition of legal insanity, introduced in 1929 and last revised in 2002, states that a person is not criminally accountable if psychotic, unconscious, or severely mentally retarded at the time of the crime. “Psychotic” is here simply defined as “a condition that meets the criteria in the current diagnostic manuals”. Therefore, the Norwegian law does not follow the stricter M'Naghten rule used by many other countries. This rule only accepts legal unaccountability in cases where the person is perceived “from disease of the mind, not to know the nature and quality of the act he was doing; or, if he did know it, that he did not know he was doing what was wrong” [2].

The first pair of court-appointed psychiatrists had 13 interviews covering a total of 36 hours with Breivik, in addition to hearing or viewing all police interrogations and interviewing his mother. They combined unstructured talks with structured diagnostic interviews, including the Mini-International Neuropsychiatric Interview, the Structured Clinical Interview for DSM-IV Axis I Disorders (SCID-I) and the Positive and Negative Syndrome Scale (PANSS). The first interview was done on August 10, while Breivik was still in full isolation. The psychiatrists were initially asked to conduct their interviews through a glass partition, for security reasons, but declined. Because of time-consuming safety precautions seeing Breivik face-to-face, both psychiatrists were present during the interviews, even if separate interviews are recommended.

On November 29, 2011, the psychiatrists reported to the court that Breivik was psychotic while planning and implementing his acts and during the evaluation. As later explained during the trial, this conclusion was based on central contents of Breivik's thought system. He told them in the interviews that he had “precedence as the ideological leader for the Knights Templars organization, with the mandate of being both a military order, a martyr organization, a military tribunal, judge, jury and executioner”. He thought he was a pioneer in a European civil war, and compared his situation to that of Tsar Nicolas of Russia and Queen Isabella of Spain. He believed that it was likely (with somewhat varying degrees of likelihood) that he could be the new regent in Norway following a coup d’état. He said he decided who should live and who should die in Norway. This responsibility was felt as real, but also a heavy burden. He believed that a considerable proportion of the Norwegian population (several hundred thousands) supported his deeds. If he became the new regent, he would take the name Sigurd the Crusader the Second (Sigurd the Crusader was a Norwegian medieval king who reclaimed parts of Portugal from Muslim rule). He claimed that he had given 5 million NOK to the fight. He thought he would be given the responsibility for deporting several hundred thousands of Muslims to North Africa. He believed there was an ongoing ethnic cleansing in Norway and feared for his life. He thought the events he was a part of could start a nuclear third world war. He worked with solutions to improve the Norwegian ethnic genetic pool, make illnesses extinct, and reduce the divorce rate. He thought about reservations for indigenous Norwegians, DNA testing, and factories for mass deliveries of babies. He believed that the house of Glucksburg (current Norwegian royal house) would be removed through revolution in 2020. As an alternative to recruiting a new regent from the leadership of the Knights Templars, one could make DNA tests of the remains of King Olav the Saint (the Viking King who introduced Christianity to Norway) and then choose the one with best genetic likeness to be the new king.

The psychiatrists saw these as grandiose delusions with bizarre and paranoid qualities that went far beyond conspiracy notions about an Islamist take-over of Europe. Thus, they did not consider him psychotic by mistaking his extremist, racist, right-wing views as delusional, but because they thought he had grandiose delusions regarding *his own role* in this extremist universe. Although his political opinions unfortunately are shared by others, he stood alone in his claims of an exalted role in the alleged Knights Templars organization, or even in the claims of this organization's existence. In addition, Breivik claimed he had exceptional personal abilities, for instance knowing what other people — including his evaluators — thought, without fully explaining them how.

The two psychiatrists perceived his language as stilted and technical, using common words in new contexts mixed with unusual words, which he said he had made himself and that the psychiatrists perceived as neologisms. There were otherwise no signs of grossly disorganized speech or actions. He usually displayed restricted, but sometimes also inappropriate affect when talking about his killings, which he called “the executions of traitors”. He got animated when talking about his shooting rampage and about his Manifesto. The psychiatrists saw this as an example of affective flattening with incidents of incongruent affect. There were no outward signs of depression, mania, auditory hallucinations or ideas of reference, influence phenomena or ideas of thought insertion. He had taken anabolic steroids in several periods up to July 22, combined with large doses of ephedrine, caffeine, and aspirin on the actual day. Blood samples taken at his arrest showed these substances in amounts that most likely could exacerbate, but not directly cause, mental symptoms. Based on Breivik's symptomatology, in particular the presence of bizarre grandiose delusions, the psychiatrists concluded that he had schizophrenia, paranoid type.

However, they had to wait more than 6 months before they could explain the basis for this conclusion. Meanwhile, the notion that Breivik might not be legally accountable for his acts caused extensive public discussion [3]. Parts of the public were angry because they felt cheated from punishing him and worried that he might be freed too early. Many had difficulties understanding the concept of legal unaccountability — how could he be “not guilty”? Shortly, the report was leaked by one of the supportive councilors for the victims and the summary made accessible on the web by Norwegian newspapers, causing a new wave of discussions. Although several in the field of psychiatry saw the report as confidential and declined commenting it before trial, others started analyzing and criticizing excerpts of the report. Professionals were cited stating that a diagnosis of schizophrenia could be refuted based on the absence of pathognomonic symptoms, in this case particularly the lack of clear-cut Schneiderian first-rank delusions or auditory hallucinations. Breivik's lack of severe disorganization and his good planning abilities were also raised as counterarguments for a diagnosis of schizophrenia [4].

The discussion was fueled by intense media coverage, with repeated requests for a new evaluation by major newspapers and politicians, including the head of the Parliament's Standing Committee on Justice. The dispute was not appeased by the report's formal approval by the Norwegian Board of Forensic Medicine. Instead, this caused a flurry of conspiratory theories, from notions about collegial “cover-up” to outright suggestions that the Norwegian authorities had an interest in keeping the public in dark about the presence of right-wing extremists in their country. While Breivik's defense lawyer initially stated that the conclusion of the first evaluation did not surprise him, the most adamant protests came from Breivik himself. He did not want an “insanity defense” and would not evade responsibility or avoid trial. On the contrary, the mass murders were done with the explicit *intent* of achieving a heavily media-covered trial. The preparations for the trial thus turned into an effort for him to be

declared sane, stating he would prefer death penalty to compulsory treatment 5.

In January 2013, the Oslo district court appointed a second pair of psychiatrists for a re-evaluation. This was performed in late February to early March, that is, 6 months after the first. By that time, Breivik had undergone weekly consultations with the prison's psychiatric treatment team since September. He was no longer in isolation and had access to the first psychiatric report and to details of the media discussions about his mental health. The main part of the new evaluation was based on the same format and the same instruments as the first, with the exception of the psychiatrists meeting Breivik separately. An inpatient observation was also performed in the prison by trained psychiatric personnel.

As in the first evaluation, neither the new pair of evaluators nor the observation staff saw any signs of gross disorganization or outward signs of auditory hallucinations. They also agreed with the first in that they were seeing a man with pathological self-aggrandizement. The main difference was that Breivik this time toned down the importance of the Knights Templars, described himself as a “foot-soldier” doing his duty and suggested that he earlier on had exaggerated his own role. The psychiatrists stated that he had “ideas of heightened self-worth, power and knowledge that may be reminiscent of what is observed in the case of delusional disorders”. “Not least the ideas concerning the Knights Templars appear peculiar. He has however rationalized this and has explained that it is a *willed idea*”. Regarding negative symptoms, they focused mainly on his social withdrawal, interpreted as a natural consequence of planning a terrorist attack. To what extent Breivik's apparent indifference to his victims and sometimes incomprehensible affective displays could be a sign of affective disturbance was not discussed. Based on this, the psychiatrists concluded that Breivik's symptoms were due to a severe narcissistic personality disorder combined with pseudologia fantastica (pathological lying) 6, and that he was psychotic neither during their interviews nor at the time of his crimes, thus being legally accountable.

Thus, the main difference between the two evaluations is that 9 months after the attacks Breivik appeared more open to alternative explanations concerning his own role, which made the reality testing regarding his grandiose notions appear less impaired.

THE COURT TRIAL AND THE VERDICT

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The trial in Oslo District Court took place from April 16 to June 22, 2012. Many TV stations and newspapers used “expert commentators” focusing on Breivik's state of mind throughout the trial, sometimes attempting to discern a diagnosis based on his appearance in court. In addition to the court-appointed psychiatrists, other psychiatrists and psychologists were called by Breivik's defense team or by the coordinating councils for the victims to testify. These included Breivik's prison psychiatrist and several of the most active media critics of the first evaluation report. The trial ended with the prosecution recommending that Breivik should be confined to psychiatric care, and the defense arguing that Breivik should be considered sane but acquitted as his actions were in self-defense.

The verdict was given on August 24, and, rather extra-ordinarily for a first-level court verdict, was not appealed. The court found Breivik accountable, and sentenced him to 21 years in preventive custody with a minimum time of 10 years. The court took as the basis for its verdict the second psychiatric report and the evaluations of other mental health professionals, including witnesses called by Breivik. The ruling starts out debating Breivik's possible diagnoses. As the diagnosis of schizophrenia in the first evaluation was based on the presence of bizarre delusions, the discussion focuses on that concept. The court here follows the ICD-10 definition (“persistent delusions of other kinds that are culturally inappropriate and completely impossible, e.g. being able to control the weather, or being in communication with aliens from another world”) and refers to the concrete characterization of bizarreness given by the second pair of psychiatrists (“delusions involving phenomena which lie outside the realm of natural science”). Thus, they conclude that Breivik's absurd grandiose notions are non-bizarre and state that experts on right-wing ideologies should have been consulted before deciding that his perceptions of grandeur were culturally implausible. The court follows up with a series of commonsense alternative explanations of Breivik's statements and behaviors. His claim that he knew what other people were thinking could as likely be based on his experience as a telephone salesman; his withdrawal and suspiciousness could be a consequence of his terrorist plans; his odd choice of words could be explained as part of an online war-games/right-wing cultural sphere. The ruling recognizes Breivik's emotional bluntness but argues that his affective outbursts, such as crying over his own propaganda film in court, counts against an affective disturbance, in disregard of the clinical knowledge that flat and inappropriate affect are not mutually exclusive. It thereby concludes that Breivik does not meet (ICD-10) criteria for schizophrenia, apparently unaware that he still would meet the DSM-IV criteria.

In the next step discussing delusional disorder, the court follows the second evaluation which states that Breivik's ability to argue, present nuanced statements and be corrected, combined with an ability to keep plans concealed, rules out delusional disorder. The basis for this, in the court's view, is that persons with ideas of a psychotic nature will have a prominent urge to assert perceived injustice and would not be able to keep up good impulse control during the interviews. It is also unlikely that a person with a psychotic disorder would be able to dissimulate over time. The court finds support for the notion that Breivik is not psychotic from the reports of his treating psychiatrist and the psychiatric councilor to the prison governor, who both view his statements as expressions of a personality disorder with the more peculiar grandiose beliefs as primitive defense mechanisms. The court particularly emphasizes the 3-week round-the-clock observation by the hospital staff, engaging Breivik in small talk, preparing meals or playing jig-saw puzzles. However, the observers never challenged Breivik on his grandiose views or the existence of the Knights Templars organization, a task they considered part of the police work.

The court does not discuss in detail the second pair of psychiatrists' main diagnosis of a narcissistic personality disorder. However, its comments on the lack of necessity for also evaluating the DSM-IV general duration and severity criteria indicate that it may have missed the point that personality disorders are not cross-sectional diagnoses.

WHAT CAN PSYCHIATRISTS LEARN FROM THE BREIVIK CASE?

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The Breivik case has received considerable international attention 7,8, and several aspects have relevance for psychiatrists.

The most baffling aspect of the verdict is the neglect of Breivik's role in shaping others' impressions. The witness reports taken as support for Breivik being nonpsychotic are rather disconcerting, in their repeated descriptions of his politeness, his consideration, his skills in playing jig-saw puzzles, and his use of laughter as a “way of coping”. Together with the commonsensical explanations for Breivik's unusual behavior, the verdict conveys a picture that is very difficult to match with the descriptions given in the first evaluation. Moreover, the picture is very difficult to match with the survivors' description of a laughing killer of youths, regardless whether his motives were based on delusions, narcissistic rage, or evil.

The court reports clearly illustrate the odd effect Breivik seems to have had on all his evaluators, including the first, in generating reluctance to explore what might lie behind some of his strange utterances. As an illustration, when asked if he ever was in doubt about Breivik's sanity, one of the witnesses stated that he was that once, when Breivik in a discussion suggested that in the future people's brains could be directly linked to a computer, thus circumventing the need for expensive schooling. Instead of asking Breivik to extrapolate, the witness stated that he “rapidly *said to*

himself that this was not a psychotic notion but rather a vision of the future".

The Breivik case shows the importance of the context in which psychiatric evaluations are made. In fact, the court interpreted diagnostic disagreement, in particular regarding the presence of bizarre delusions, as "differing interpretations of similar observations", ignoring the time difference between the two observations and the different situations in which they took place. It also highlights that a source of confusion may be represented by some subtle, but relevant, differences between the ICD-10 and the DSM-IV, and the fact that the ICD-10 is often adopted as a diagnostic system while the SCID, based on the DSM-IV, is sometimes used for diagnostic assessments. Moreover, it underscores that diagnostic criteria should not be regarded as rules of law, but as pragmatic definitions meant to capture symptoms and syndromes central to an illness, and that their use requires knowledge about the illness in question, and an understanding of the underlying clinical phenomena 9.

An important lesson from the Breivik case is that the complexity of forensic evaluations should lead professionals to be cautious about how they express themselves when taking position publicly. In the current case, diagnostic disagreement was front-page news. This conflict added momentum to the newspapers' claims about psychiatric failure, actively supported by persons or groups holding general antiexpert or specific antipsychiatry views. However, a poll indicated that the Breivik case has not changed the Norwegian public's view on forensic psychiatry, probably reflecting their acceptance of the implicit difficulties in forensic evaluations. The question on the front of most people's mind has not been diagnostic details, but what it "really means to be not accountable due to a mental disorder". This question cuts to the core of a dilemma that has occupied lawyers, philosophers, and psychiatrists for a long time, and to which there are no simple solutions. The evaluation of what went on in a person's mind while committing a crime will, despite technical innovations, in the end continue to rely on personal evaluations and interpretations.

Psychiatrists involved in high-profile cases should expect significant public interest and media pressure. All psychiatrists involved in the Breivik case were followed by the media to a problematic extent, ranging from telephones around the clock to journalists contacting their families or listening in on closed meetings. As several of the larger Norwegian newspapers and the Norwegian public broadcasting company were extremely critical to the content and acceptance of the first report, those held responsible were exposed to harsh critique, including claims of incompetence, bias, and paranoia. However, despite claims made by the media, Norwegian psychiatrists were not unanimously critical to the first evaluation report. Based on the number of professionals refusing to comment on the evaluation report before the trial, it is obvious that many felt restricted by confidentiality issues. Also, although the main critics were not actively engaged in treatment or research on psychotic disorders, the main support to the first evaluation came from professionals working with psychotic disorders, familiar with the difficulties in evaluating uncooperative patients, and the diversity and fluctuations of clinical presentations. Especially researchers, familiar with using both the ICD-10 and the DSM-IV, were rather surprised by the heavy emphasis put on ICD-10 descriptions for reports otherwise relying on SCID as the main diagnostic instrument.

Another important lesson from the Breivik case is that psychiatrists, when engaging in public debates about mental disorders, should remember that these debates hold considerable interest for persons diagnosed with these disorders. One of the most problematic aspects of the Breivik case has been the notions about schizophrenia conveyed by the participating professionals. For instance, claiming that Breivik cannot be psychotic because he has no behavioral signs suggests that psychiatrists think that having schizophrenia always will be discernible from the person's behavior. Even more provoking for well-functioning persons with the disorder, some holding complicated jobs, are professionals' repeated claims that Breivik cannot suffer from schizophrenia as he shows good cognitive abilities.

The impact on Norwegian society of Breivik's acts has been substantial. The camp was a meeting place for youth from all over the country and everybody knows someone affected by the events. All Norwegians are thus glad that the case was not appealed and the victims are spared for another round with having Breivik's face displayed on all bulletin boards, giving him even more of the publicity he craved. However, the case will surely be followed by a re-evaluation of parts of the Norwegian criminal code, and we might hope that those involved will remember that "great cases like hard cases make bad laws".

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