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FORENSIC PSYCHIATRIC EXPERTISE IN MENTAL AND BEHAVIOURAL DISORDERS CAUSED BY ALCOHOL USE

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ABSTRACT:

Psychiatry raised more medical, ethical and legal controversy than any other medical field. Forensic psychiatry is a specific tool for the active intervention of judicial or legal psychiatry. Forensic psychiatric expertise is designed to provide medical elements able to show the psychopathological personality of the person who committed a crime or to certify mental health in civil cases. The main objective consists in solving the paradigm of judicial irresponsibility whenever the committed act appears as a symptom of derangement. It is appreciated the judgment of the people with special regard to their mental state at the time of the offense. It constitutes a self-contained evidence to which the law gives individuality. Forensic psychiatric research can make a significant contribution in the field of clinical criminology. There should also be presented a number of other complex medical criteria such as: the relationship between consciousness and mental disorders of the perpetrator, the causal link between psychiatric disorders and the antisocial act.

The forensic expertise has a probative value, of control and social protection. It represents an act equally of healthcare, scientific dignity and real competence. Substances of abuse are usually associated with legal issues. Alcohol dependence has an unpleasant social impact, and in some cases can have legal implications. It will underline, where they exist, traits and symptoms as hallucinations, delusions, ideas of persecution or pathological drunkenness to determine the degree of discernment of the perpetrator.

Keywords: psychiatric expertise, mental illness, alcohol, discernment.

REZUMAT

Psihiatria a ridicat mai multe controverse medicale, etice și juridice decât oricare alt domeniu medical. Expertiza medico-legală psihiatrică este un instrument specific de intervenție activă al psihiatriei judiciare sau legale. Expertiza psihiatrică medico-legală are rolul de a furniza elemente medicale în măsură să prezinte personalitatea psihopatologică a persoanei care a săvârșit o infracțiune sau să ateste sănătatea mintală în unele cazuri civile. Obiectivul principal constă în rezolvarea paradigmei judiciare a iresponsabilității ori de câte ori fapta comisă apare ca un simptom de alienație mintală. Apreciază discernământul persoanelor cu referire specială la starea psihică în momentul comiterii faptei. Constituie un mijloc de probă de sine stătător, căreia legea îi acordă individualitate. Cercetarea medico-legală psihiatrică poate aduce un aport considerabil în domeniul criminologiei clinice. Trebuie avute în vedere și o serie de alte criterii medicale mai complexe, cum ar fi: raportul între conștiință și tulburările psihice ale făptuitorului; legătura de cauzalitate între tulburările psihice și actul antisocial. Expertiza medico-legală are valoare probatorie, de control și protecție socială. Reprezintă un act, deopotrivă, de asistență medicală, de demnitate științifică și de reală competență. Substanțele de abuz sunt, de obicei, asociate cu probleme juridice. Dependența de alcool are și un impact social neplăcut, în unele cazuri, putând avea și implicații legale. Se vor scoate în evidență atunci când există, trăsături și simptomatologie ca halucinații, delir, idei de persecuție sau beția patologică pentru a putea stabili gradul de discernământ al făptuitorului.

Cuvinte-cheie: expertiza psihiatrică, boala psihică, alcoolul, discernământul

Introduction

In civil law, forensic medicine helps establishing mental incompetence, thus forensic medicine is closely linked not only to criminal law, but also to civil law, family law and labour law. Through forensic psychiatry there are established links with issues of criminal liability of the offender or the irresponsibility under article 48 of the Criminal Code. According to art. 48 C.C., “the subject of the offense does not realize his actions or inactions, does not master them, so he does not understand why the action or inaction represents a social danger and is unlawful, is so irresponsible or mentally insane due to other causes”.

Forensic psychiatric expertise appeared later than other legal expert activities. The first textbook of legal and social psychiatry appeared in 1877, being developed by the senior doctor Alexander Șuțu. Psychiatric expertise developed in the last 50 years, and in 1962 acquired a modern orientation. Forensic psychiatry imposed itself as a branch of social psychiatry that studies the behaviour of different pathological and deviant mental illnesses and then assesses mental discernment. Forensic psychiatric expertise represents a scientific and technical activity particular of forensic institution which consists in the evaluation of the mental state in order to provide justice; one objective concerns the judgment of the person examined to determine its legal responsibility. This inter and multidisciplinary activity of synthesis, integration and endorsement, correlates discernment and human responsibility for acts committed to the detriment of law. Also establishes the social dangerousness of the person, secondary and tertiary psychoprophylactic measures, legal and methodological regulated.

The interdisciplinary nature of psychiatric expertise is given by the relations which it establishes, on the one hand, with biomedical sciences and, on the other hand, with social and legal sciences (1, 4). In judicial practice, forensic psychiatric expertise occurs much later than other expertise practices. Forensic psychiatric expertise is designed to determine to what extent the existence of the mental illness has influenced individual consciousness, and his possibilities to discern and know the consequences of his actions or inactions. The issues raised by forensic psychiatry expertise are multiple and sometimes of a particular difficulty. The problem of possibilities of recovery and social reintegration is of particular relevance.

Expertise in these cases is performed in specialized medical institutions. Forensic medicine is a new science which intervenes to protect and respect the fundamental human rights. The most

important role of forensic medicine in respecting human rights is found most strongly in the psychiatry expertise (1). Expertise is done based on an order issued by the authorized bodies.

Forensic psychiatry expertise becomes exhausted with recommendations aimed for the treatment of the subject, modulation of criminal sanction at personality of the subject, or its reinsertion through the application of appropriate teaching medical means. Mentally ill often shows dangerous behaviour that can be considered as a necessary condition which requires mandatory treatment and eventually healing (1). Forensic psychiatric expertise allows professionals to help those with mental disorders and help society through law (5).

Delinquent behaviour in addiction

Alcohol dependence is a serious threat to health in general, and especially to mental health, which seriously damages primarily the personal life of the individual in question, and, not the least, that of the family and the society in which he lives. Numerous studies in the field of forensic psychiatry confirmed a close relationship between violent offenders and substance abuse. Furthermore, recent studies have shown a causal relationship between major psychiatric disorders with substance misuse (comorbidity) in 50 – 80 % of forensic cases (8). Comorbidity in forensic psychiatry describes the co-occurrence of two or more conditions or mental disorders known as dual diagnosis (7).

An aggravating factor of criminal conduct in the mentally ill is comorbidity with alcohol (and other psychoactive substances). Alcoholism can lead to violent behaviour, accidents, social isolation and difficulties arising at work or family. Most antisocial acts are committed by people under the influence of alcohol, alcoholism being a factor delinquentogenic (9). Acute voluntary drunkenness is the most common form of acute alcoholism, consequently voluntary ingestion of alcohol possibly followed by a number of disorders, followed, in turn, by antisocial acts. People who commit antisocial or criminal acts under these conditions are deemed responsible and are punishable by law. Intentional drunkenness involves a deliberate act before going to commit the offense (drink to gain courage). People in these circumstances are accountable to the law, intentional drunkenness constituting an aggravating circumstance. Pathological drunkenness is a form of voluntary intoxication at individuals with paradoxical response at any consumption of alcohol in small quantities. Individuals who are in this state can commit serious antisocial acts, having no consciousness of the committed acts and no justified motive. These persons are considered irresponsible only at the first episode of pathological drinking. Chronic alcoholism is the daily ingestion of quantities of alcohol, people feeling the need, almost continuously, to stay in such states. In case of committing a criminal offense, they may be held responsible.

Dipsomania is a pathological state consisting of morbid, uncontrollable, periodical need to consume alcohol in large quantities every week and month. In order to procure alcohol the persons concerned can commit theft. The episode can last for days, reaching its peak in comatose states. Recovery is difficult with amnesia and psycho-sensory disorders. In an episode of dipsomania the discernment can be reduced or abolished. Delirium tremens is a delirious state occurred at chronic alcoholics, especially when they are deprived of alcohol. These patients do not respond to their actions. Ethylic psychosis is a rare form, and its correct diagnosis attracts irresponsibility (10).

It should be noted that the largest number of people with personality disorders, respective alcoholism, are appreciated at forensic psychiatric expertise as having the discernment preserved and, in cases of rape, they are subject to prison. There is an increasing number of psychiatric comorbidities at forensic patients with increased prevalence of personality disorders (50 – 90 %), mood disorders (20 – 60 %) and psychotic disorders. Addiction and drug use, as well as alcohol abuse, can cause serious psychotoxic effects that can lead to violent and extreme behaviour: physical assault, rape, robbery, murder attempt and even murder. Co-morbidity contributes strongly to the process of establishing psychiatric diagnosis, diminished mental capacity or incapacity at the time of committing the offense. (7). In relation to drug related crime there is no statistical evidence, but a significant percentage of those who commit crimes against property and violent crimes against persons are drug users (8). In some studies, regardless of underlying psychopathological background alco-

holophily, it is distinguished a great criminal polymorphism, as well as an increased antisocial potential for unlawful acts (14).

Alcoholism accompanies or is the primary cause of 50 – 75 % of the offenses listed by the psychiatric judiciary expertise, acting through the disinhibition effect and externalization of violent behaviour. A special importance has the relationship between interpersonal violence and substances, as well as areas of criminal, civil, administrative law and in which the substance use may be a factor. Substance abuse or dependence has often played a major role (more than 30 % of cases) at the time of the offense to which the detention order was issued (6, 11). When comparing prison population with psychiatric comorbidity (psychiatric disorder and substance abuse) to the general population, it was found that substance abuse was twice as likely to be present among the prison population (7). Some studies show that over 40 % of the prison inmates reported that when they committed the offense for which they were imprisoned consumed psychoactive substances. Drugs and alcohol may produce effects that can lead to violence, as part of an acute psychological disturbances or secondary to misuse or addiction. Alcohol consumption is associated with 60 – 70 % of homicides, 70 % of stabbings, 70 % of strokes and 50 % of internal fights and attacks (13).

Alcohol has effects on the aggressive impulses, instinctual impulses, clinically or behavioural externalized effects through the pulsional disinhibition, irritability, increased irritability, hetero-aggressive behaviour. Moreover, the suggestibility is increased, greater conflictuality and uncontrolled crossing to act. Behavioural responses to alcohol abuse vary from individual to individual showing genetic involvement of individual tolerance and even cross-cultural variations of tolerance, and a certain vulnerability to alcohol. Imperious impulses of consumption proved a processual symptom, being determined situational and mezologic. Thus, mesological and social factors could be the cause of certain vicious habits with the establishing a pattern of chronic consumption. Behavioural polymorphism in alcohol abuse has psychological determination. Also, the “psychopatization” of the personality on the alcohol consumption is common. Emotional instability, jealousy, impulsivity, dysphoria, as changes of character, are associated with changes in moral profile. Clinically, the most common behaviours are expressed explosive impulsiveness, low self-control ability, and demanding. Alcoholic behaviour, equally in social, work and family relationships, has a maladaptive character. Conflict with others, that only the drinking dissipates, sometimes generates unexpected feelings of anger and agitation, sometimes reaching to motor acts of extreme violence (14).

The voluntary character of intoxication, gives value of aggravating circumstances in a juridical point of view. Subacute or acute interference are criminogenic according to an extent of disturbance of consciousness and its clinical type. Discernment is abolished in these situations. Chronic alcoholic delirium may be accompanied by aggressive acts targeting the partner, reaching up to murder. In jealousy delusions of psychotic intensity the discernment is abolished. Pathological drunkenness (idiosyncratic) with twilight state of consciousness disorder appears suddenly after a small amount of alcohol, abolishing the discernment for the first episode. In this situation, it is being analyzed the time of the ingestion, the twilight, the hypnotic post-critical, the amnesic waking moment, and the time of expertise (14).

Confidentiality in psychiatric expertise practice

The forensic doctor is obliged to respect the principles of medical ethics and professional deontology, as any doctor must respect confidentiality. Thus, patients only use information about the forensic drawing conclusions. Confidentiality of the forensic information in particular is a form of respect granted to any individual. Professional secrecy is meant to protect the public image of the person involved (2). Forensic psychiatric expertise has a privacy character.

The right to privacy is not absolute, in some cases the medical examiner being released from the obligation of professional secrecy: “Breach of confidentiality” legally imposed by the Article 39, paragraph 3 of Government Decision no. 774/2000. Those situations of self-harm or heteroaggression exempt the doctor from maintaining the confidentiality (3). In the forensic psychiatric expertise, highlighting a disease that is characterized by a potential marked heteroaggression requires, the medical

examiner to recommend, in forensic conclusions, taking safety measures. Among the safety measures medical examiner can oblige to medical treatment or hospitalization, in order to prevent new antisocial acts. Other situations that limit secrecy are: abuse, infanticide, drug use, and murder (2).

Conclusions

Interaction between the legal aspects and the use of substances is significant in forensic psychiatric expertise. Substance abuse has often played a role in criminal behaviour that led to the detention order, and it may also be a risk factor for relapse. Multiple studies on the various factors that contribute to criminal behaviour showed a causal relationship between mental disorders, substance abuse and crime. Drug consumption leads to committing crimes.

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REFERENCES:

1. Damir, D., Toader, E., *Importanța expertizei medico-legale în apărarea drepturilor fundamentale ale persoanei*, „Revista Română de Bioetică” 2005; 5(2)
2. Morar, S., *Confidențialitatea în practica medico-legală*, „Revista Română de Bioetică”, 2006; 4(2)
3. Hotărârea Guvernului României nr. 774/7.09.2000 pentru aprobarea Regulamentului de aplicare a dispozițiilor O.G. nr. 1/2000
4. Damir, D., Toader, E., *Etic și legal în psihozele afective*, „Revista Română de Bioetică”, 2007; 5(2): 78-82
5. Marian, G., Nica, E. A., Focșeneanu, B. E., Cârlogea, D., Ghinea, D., *Aspecte etice în practica și cercetarea psihiatrică*, „Revista Română de Bioetică”, 2012; 10(4): 13-20
6. Marca, E. F. J. M., Lucker, T. P. C., van den Hurk, A. A., *Addiction and recidivism in forensic psychiatry*. Tijdschr Psychiatr. 2009; 51(11): 813-820
7. Palijan, T. Z., Mužinić, L., Radeljak, S., *Psychiatric comorbidity in forensic psychiatry*, Psychiatria Danubina, 2009; 21(3): 429-436
8. OEDT (2008), Raport anual 2008: situația drogurilor în Europa, Observatorul European pentru Droguri și Toxicomanie, Lisabona
9. Curran, G. M., Sullivan, G., Williams, D. K., Han, X., Allee, E., Kotrala, K., “The Association of Psychiatric Comorbidity and Use of the Emergency Department among Persons with Substance Use Disorders: An Observational Cohort Study”. BMC Emergency, 2008; 8:17
10. Scripcaru, Gh., Astărăstoae, V., Boișteanu, P., Chiriță, V., *Psihiatrie medico-legală*, Editura Polirom, Iași, 2002
11. Moldovan, T., *Tratat de drept medical*, Editura All Beck, București, 2002
12. Elliott-Harper, C. A., Harper, D. W., *Alcoholism and the forensic psychiatric patient: a comparative study*. Poate J Psychiatry. 1981; 26 (2):108-109
13. Snowden, P., *Substance misuse and violence: the scope and limitation of forensic psychiatry's role*. APT 2001; 7:189-197
14. Dragomirescu, V., Hanganu, O., Prelipceanu, D., *Expertiza medico-legală psihiatrică*, Editura Medicală, București, 1990