

## Alcoholism and Criminal Responsibility

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**Summary** — Who can endanger the security of other people according to the *Law concerning the protection of people with mental problems*? The question arises if we ourselves contribute to the repeating of criminal deed if we do not pay enough attention to it, considering the understanding of its psychopathology and treatment planning.

This paper describes a patient suffering from alcoholism with mental, somatic and social complications. The reason for choosing this case was its educational value, due to the repetition of criminal deed of murder with complicated psychodynamic explanation. In the evening hours, in the yard building where they had previously met and made love, after a short argument and the refusal of sex, perpetrator grabbed the victim from behind and squeezed her neck until she fell on the floor. After that, he went to an acquaintance of his, where he burned her money and her documents at the haystack and then, went home to have some sleep. In the evening hours, 13 years before that, he struck the neighbour of his with whom he had been emotionally involved with a plank, after she had declined his proposition of sex. He had taken her to the yard building, raped her and then put the old paper and other garbage over her and set fire to her. Afterwards, he went home to sleep. He awoke the same night to respond to the sound of fire alarm and went to help put out the fire, because he had been a member of the amateur fire brigade.

The patient has committed two criminal deeds of murder, which share the main characteristics: alcoholism, murder of female person who had rejected him, time and place of the deed, setting fire as an expression of destructiveness, i.e. desire to completely destroy the object of hatred. In both cases, there is a low level of alcohol intoxication present, as well as the "total recall" and

going home to sleep after the murder has been committed.

In the analysis of the cases, the need arises to provide a psychodynamic explanation, because otherwise the deed remains "strange". The client is characterized with an ambivalent attitude towards the opposite sex. He sees the rejection by the person he "loves" as a severe narcissistic insult and reacts with an outburst of aggressiveness. In the incriminated deeds, he repeats the auto-destructive and destructive urges as the only response mechanism he knows, with the features of a ritual. He destroys "everything around him" and the alcoholism represents a constellation factor, which de-blocks already weakened control and self-control. (Alcoholism 2006; 42:69-77)

**Key words:** Alcoholism; Criminal deed; Accountability; Treatment

## INTRODUCTION

Motivated with the case of repeated severe criminal deed of murder, with cases showing similar main features, we describe the case of a patient suffering from alcoholism, with mental, somatic and social complications. The reason for choosing this case was its educational value, due to the repetition of criminal deed of murder with complicated psychodynamic explanation. Through the description of the case, the question arises if we ourselves contribute to the repeating of criminal deed if we do not pay enough attention to it, considering the understanding of its psychopathology and treatment planning.

The main question that arises is: "Who can endanger the security of other people according to the *Law concerning the protection of people with mental problems* (Zakon o zaštiti osoba s duševnim smetnjama – ZZODS)" According to ZZODS, article 44, a person who was unaccountable at the time of criminal deed will not be released, but the compulsory detention in psychiatric institution will be commanded.<sup>1</sup>

There is no doubt that consumption of alcohol and alcoholism contributes to the incidence of criminal deeds and increase of violence.<sup>2,3</sup> In numerous studies, it has been proved that alcohol leads towards the release of aggressive impulses, crossing over the border of violence and increase of aggression, especially if the person has been set off with something.<sup>4</sup> In Russia, the consumption of alcohol is among the highest in the world, so the incidence of homicide is also five times greater compared to USA (the country with highest rate of homicide among the western countries), and two thirds of the perpetrators of criminal deeds have been intoxicated with alcohol at the time of the deed.<sup>5</sup>

The greatest risk for committing the criminal deeds in persons with mental disturbances exists among the addicts, who frequently also have a co-morbid personality disorder.<sup>3,4,6-10,15</sup> In a Swedish study of homicide perpetrators, it has been found that 90% of the perpetrators have some of the mental disturbances, most frequently, in 50% of the cases, addiction (alcohol, drugs) and personality disorder (antisocial, borderline, narcissistic and passive-dependent).<sup>9</sup> Each of these disturbances itself carries a risk of violence, while in combination, the risk becomes increased 8-18 times compared to the healthy population.<sup>4</sup> Similar has been determined by other studies.<sup>12,15</sup>

Violent behaviour is defined as an obvious and intentional physically aggressive behaviour aimed against the other person, like hitting, slapping, pushing, choking, throwing things, threatening with weapons, forcing the sexual intercourse, raping, murder, robbery and assault.<sup>10</sup> The relation between the perpetrators of violence, i.e. murder and the victim shows that most victims have been killed by the persons they knew, in most cases their intimate partners.<sup>11-14</sup> One quarter of the women were killed by their intimate partners and the murder had been preceded with an argument. The risk for the murder of women is particularly high if the partner is strictly-controlling, unemployed, previously convicted, addict and the woman expresses the wish to end their relationship.<sup>11,12</sup>

We described a patient who has done two very similar murders of his intimate partners in the state of alcohol intoxication. After the first murder, he has been convicted and sentenced to prison, while after the second murder, besides the prison penalty, a security measure of compulsory psychiatric treatment in penal conditions has also been commanded.

### CASE DESCRIPTION

The subject has been born in the family of peasants who occasionally consumed alcohol. He was the second child in the family with three children. Psychiatric heredity was negative. His early psychomotor development was normal. He has finished five grades of primary school with success described as "sufficient", repeating the first and the second grade. He has not continued his education, because his parents had enough land, so he continued to work in agriculture. He has spent one year in the army. He got married at the age of 24 and had two daughters. For a short period, he worked as a labourer in an alcohol-producing factory and later in agriculture.

In the beginning of his marriage, he got along well with his wife, and then some

misunderstandings started to break out. His wife kept "nagging him", mostly because of alcohol and she was also "lazy". He was most bothered by the fact that she kept "turning him away from her bed", while she "flirted" with other men. He belonged among those men who would have sex with their wives every night, "but she would not let him". During the "better days" of their marriage, they had sex up to two times a week at the most, and while they were fighting "even less". They have divorced after nine years of marriage. After the divorce, during the period of 18 months, he had a sexual intercourse three more times. That was "not enough" for him. After the divorce, he started to drink more often. While drinking, he would feel particularly potent and felt an irresistible urge for sex.

He committed his first criminal deed of murder at the age of 38. From the early morning, he started drinking and continued doing it throughout the day. In the evening, he felt that he was "potent" and went through the village looking for the woman who would satisfy him. Three women turned him down. Angry and drunk, he met women with whom he had been previously involved. She turned him down too. He went after her to her yard, took a plank, hit her on the head and dragged her to the shed. In the yard building, he took the clothes of her and of himself and raped her. Then he threw old paper, nylon and rags on her and set her to fire. Then he went home and slept. He was awakened by the fire brigade's siren. Since he was a member of the amateur fire brigade (DVD), he stood up and went to put out the fire. Then he went to sleep again. When he awoke in the morning sober, he "realized" what he had done.

The toxicologist has calculated that, at the time of deed, his blood alcohol level equalled 1.57%. He was at the stage of alcohol intoxication in which the rational and ethical restraints weaken, especially if there is a certain amount of sexual desire. The medical expertise showed that, at the time of deed, he had behaved abnormally. Though his consciousness was intact, his ability to control his actions and his will, as a moderator of actions, was significantly reduced due to the personality traits, sexual "hunger" and alcohol intoxication. He was characterized as a person of blunt intelligence, with meagre educational and personal interest resources, chronically prone to excessive alcohol drinking. He was sentenced to twelve years in jail. Five years after, he was pardoned.

Five years after he got out of jail, he started a non-legal marriage. The relationship lasted for about three years. They have lived from the retirement fund that she had earned in Germany and occasional wages that he got. Ultimately, the woman started complaining to her cohabitants that life with him had been becoming ever harder, because he drinks alcohol often and in large quantities and takes her money.

She decided to leave him. She went away to her relatives. The client reports that she "...left without a word. That bothered me a lot, it's as if she has cheated me, husband has to know everything about his wife, absolutely everything, otherwise it is cheating". When she had returned to her house in the evening one month thereafter, he went to her. He was moderately intoxicated with alcohol. They went together to the yard building where they had previously met and made love. There he requested that she has sex with him. She agreed, but she asked him to "lend her some money", because she had owed some. The client reports that she had told him: "If you do not give me money, you will not get any sex". She had her back turned to him. He was overwhelmed with great rage and he lost "control". He grabbed her by the neck and squeezed until she fell on the floor. Then he went to an acquaintance of his and in the nearby fruit grove, on the haystack, burned her money, wallet and documents, as well as the things from his pockets. Then he went home to sleep. When he woke up, he "understood" what he had done and went to turn himself over to police.

Medical expertise showed that the client is a person with a primary personality disorder, mostly of narcissistic type, reduced primary intelligence and narrowed field of interest, who had, with time, developed an addiction to alcohol, presently in advanced stage, with somatic (liver damage, EEG changes with epileptic activities), mental (changes of character with the development of an organic psychosyndrome) and social (reduced adaptability to new life conditions) complications, with the pre-morbid characteristics which became more accentuated with mental deterioration, particularly the low threshold of tolerance to frustration, with pronounced sensitivity to rejection, low self-control with impulsive reactions, inability to withstand critics and rejection of others, when he reacts with defensive calmness or anger, feeling of humiliation, emptiness or anger. There were no signs of abnormal reaction to alcohol. It has been concluded that the ability to understand the significance of his actions and behaviour at the time of deed was reduced. Besides the jail sentence, he has been also sentenced with a security measure of mandatory treatment of alcoholism.

The client has drunk alcohol from his early youth and after the army, almost every day. He has mostly drunken schnapps, beer or wine, in company. The only abstinence from alcohol happened when he had served the sentence for his first murder and, for a short period, after he had come out of jail. About five years previously to his second criminal deed, it had been noticed that he got drunk from smaller quantities of alcohol than before and that could not hold his alcohol the way he had used to.

## DISCUSSION

This case report opens many questions like "should we consider a complete responsibility of client at the time of criminal deed in the state of intoxication with alcohol"? The viewpoints are different in various European countries. In England and Germany, the intoxication with alcohol is considered to be an alleviating factor.<sup>17</sup> The perpetrator mostly gets the smaller jail sentence. However, in Sweden, the intoxication with alcohol does not represent an alleviating factor, so the perpetrator receives the same sentence as he would if he was sober. According to the European laws, if a person suffers from a mental illness at the time of criminal deed, he is also sentenced with the measure of mandatory psychiatric treatment in a psychiatric institution.<sup>2</sup>

Intoxication with alcohol in penal system can be considered from two viewpoints. It is different if the diagnosis of addiction to alcohol is established, or it is estimated that there is a habit, i.e. acquired dysfunctional behaviour. The professional literature is full of discussions on question if alcoholism represents an illness or a habit.<sup>16</sup> There is an opinion that people have free will and independently decide on their actions. The persons who had committed a criminal deed while intoxicated, but are not alcoholics, are responsible for their deeds, because it is believed that they had free choice between drinking and not drinking. By deciding to drink, they had let their inhibitions go.<sup>16</sup> The state of alcoholism is interesting considering the presumption of freedom of choice. Alcoholics have no choice considering the decision if they are going to have a drink or not, they "have to drink". Viewing alcoholism as a habit that reduces the ability of the person to choose drinking or not drinking, it does not give alcoholic the excuse that he cannot choose his own actions. It is sometimes hard to establish if the intoxicated person has been less accountable and in what degree. On the other hand, if alcoholism is considered a disease that takes away the freedom of choice considering drinking, then there is a strong argument to view the intoxication with alcohol in alcoholics as a factor that reduces the accountability of perpetrator to a higher degree.<sup>16</sup> Understanding the effect of alcohol on behaviour, on mental and somatic functions, is a significant component in judging the mental state of a person at the time of criminal deed. Intoxication with alcohol represents a temporary psychophysical state, which can be reached by any person, based on the free will and personal choice.<sup>18</sup> The estimation of accountability in persons who suffer from alcoholism is based on the evaluation of level of mental damage caused by alcohol in the context of the crime committed.<sup>19</sup>

One of the reasons because of which the penal sanctions exist, is to prevent the recidivism. Sanctions can range from treatment in psychiatric institution, to combined jail sentence and treatment, jail sentence itself and even the ultimate solution, the death penalty. Some of the recommendations mention that the duration of treatment in psychiatric institution should be longer or at least equally long as the jail sentence. So the sanction would integrate the treatment and the penalty.<sup>2</sup>

The point is which alcohol changes the motif of the crime itself should also be considered.<sup>2</sup> The perpetrator strived to satisfy his sexual urges. When he met refusal, rejection by the persons he "had loved", he experienced a great narcissistic insult, reacted with a burst of mighty rage and aggression. In both deeds, he had repeated the auto-destructive and destructive urges, as the only mechanism he knew, characterized also with some ritual features. By burning, he destroys everything around him. He shows the irresistible urge to completely destroy the object of his love and hatred. It should be stressed that he had committed two murders with almost identical features: murder of female person who had rejected him, place and time of the crime, burning, low level of alcohol intoxication and "total recall", as well as going home to sleep after the deed.

Analysing this case, we wonder if the second murder could have been prevented if, after the first murder, the security measure of mandatory treatment is psychiatric institution that would last longer than the jail sentence. The alcoholic perpetrator would be "pressed" from the professional side to view his alcoholism, his actions in states of alcohol intoxication and his loss of control, so there would be a better chance for the second victim to stay alive.

### CONCLUSION

This case report opens many questions connected with the criminal responsibility of alcoholics or persons intoxicated with alcohol. The question arises: "Who can endanger the security of other people according to the Law concerning the protection of people with mental problems?" and "Is that completely clear and with only one meaning?". Does refusal to "make love" means exposing to danger of losing life? We could wonder if we may say "no" to the person intoxicated with alcohol, bad partner, family violence or simply, any behaviour that we do not accept.

The perpetrator was sentenced, in the first case, with the jail sentence, with pardon, and then repeated almost the same crime. Was it just a coincidence or a lack of understanding in the system that sanctions such behaviour?

Since alcohol and alcoholism as a disease lead to an ever rising number of criminal deeds and violent acts, especially in families, it would be desirable and necessary that the medical profession, together with legal system, find better ways to collaborate.

## ALKOHOLIZAM I KAZNENA ODGOVORNOST

**Sažetak** — Tko sve može ugroziti sigurnost drugih osoba prema *Zakonu o zaštiti osoba s duševnim smetnjama*? Postavlja se pitanje doprinosimo li recidivu kaznenog djela ne posvetivši mu dovoljno važnosti u razumijevanju psihopatologije te planiranju i osmišljavanju tretmana.

U radu se prikazuje pacijent koji boluje od alkoholizma s komplikacijama na psihičkom, tjelesnom i socijalnom planu. Razlog odabira ovog prikaza je edukativnost kroz ponovljeno kazneno djelo ubojstva sa složenim psihodinamskim tumačenjem. U večernjim satima u prostoriji dvorišne zgrade, gdje su se i ranije sastajali i vodili ljubav, nakon kraće prepirke i odbijanja vođenja ljubavi, oštećenu je s leđa uhvatio rukama oko vrata i stiskao dok nije pala na pod. Odlazi kod poznanika gdje u voćnjaku zapali njezin novac i dokumente na stogu sijena, a zatim odlazi kući spavati. U večernjim satima, 13 godina ranije, sumještanku s kojom je bio u emocionalnoj vezi, nakon odbijanja vođenja ljubavi, udarcem letvom u potiljak obara na tlo. Odvlači ju u dvorišnu zgradu, obljubi ju, a potom na nju nabacuje stari papir i drugi otpad te ju zapali. Odlazi kući spavati. Budi se iste noći na zov vatrogasne sirene i kreće gasiti požar jer je član dobrovoljnog vatrogasnog društva.

Pacijent je počinio dva kaznena djela ubojstva, koja u bitnim odrednicama imaju slična obilježja: alkoholizam, ubojstvo ženske osobe koja ga odbacuje, mjesto i vrijeme izvršenja, paljenje kao izraz destruktivnosti da se u potpunosti uništi objekt ljubavi i mržnje. U oba slučaja prisutan je i niski stupanj alkoholiziranosti, „potpuno sjećanje“ te odlazak kući na spavanje nakon počinjenja ubojstva.

U analizi slučaja nameće se potreba i za psihodinamskim objašnjenjem jer inače kazneno djelo ostaje „strano“. Klijenta karakterizira ambivalentan stav prema suprotnom spolu. Odbacivanje osobe koju je „volio“ on, takav kakav jest, doživljava kao tešku narcističku povredu i reagira sa silnom provalom agresivnosti. U inkriminiranim djelima repetitira autodestruktivne i destruktivne porive kao jedini mehanizam koji zna, a koji ima ritualne odlike. On tada „razara sve oko sebe“, a alkoholiziranost je konstelacijski faktor koji je otkočio ionako oslabljenu kontrolu i samokontrolu.

**Ključne riječi:** Alkoholizam; Kazneno djelo; Ubrojivost; Tretman



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