

Some Forensic-psychiatric Aspects of Gambling

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Summary

The history notes that the men have always used gambling as a way of recreation. During the last two decades, gambling has drawn much attention as an economic, legal, sociological, criminological and psychological phenomenon. The studies have revealed some new approaches towards gambling, but also left numerous dilemmas. The International classification of diseases and related health problems (ICD-X) mentions two disturbances connected to gambling: gambling and betting, and pathological inclination towards gambling. The individuals with psychiatric diagnoses are exposed to greater hazard of becoming pathologic gamblers. Many efforts to create some more practical classification of gamblers have resulted in following classification: (1) social gamblers, (2) serious social gamblers, (3) problem gamblers, (4) pathological gamblers, (5) professional gamblers and (6) criminal gamblers.

The subject of our study were the pathological gamblers who perform criminal acts. The diagnosis of pathological gambling does not reduce responsibility before the law, but should be a factor that is to be taken into consideration when measuring the sentence. Mental competence of a gambler ranges from being competent to being incompetent via the impaired mental competence, ranging from significant to not significant impairment. Regardless if there are elements of a criminal act or not, pathological gamblers are individuals desperately needing the psychiatric help, because the experience shows that referring the patients to psychiatric services reduces the risk of relapses.

INTRODUCTION

The history notes that men have always used gambling as a way of recreation. Gambling has been present from prehistoric times, in all civilisations, independently of the economic and spiritual force of the culture itself. The attitude towards gambling, as a part of social surroundings, has been changing throughout the history. At the end of twentieth century, under the term 'zgambling', we consider a complex consisting of certain types of behaviors and activities. The common denominator of these is the risk of losing some values in exchange for a possibility to obtain a greater value.¹ Taking part in gambling is not mandatory and can be avoided, so it requires the active participation, motivation of which is not universal, frequently is in no relation to the amount of money invested and results from the various psychological needs.²

DEFINITIONS AND CLASSIFICATIONS OF GAMBLERS

Together with the foundation of 'Gamblers Anonymous' association in 1957, the social attitude towards persons gambling above their limits has changed, from moralistic to medical model.³

Following the medical model, gambling has been defined and classified using two official classification criteria: according to the International classification of diseases (ICD-X) and according to the diagnostic criteria from DSM-IV.

The International classification of diseases (ICD-X)⁴ mentions two disturbances connected to gambling: gambling and betting (Z 72.6) which is related to the way of life* and the pathological inclination to gambling (F 63.0) (disturbance of habits and urges) as a disturbance consisting of numerous, reappearing episodes of gambling, dominating the patient's life and harmfully affecting his/hers social, work, material and family values.

The DSM-IV defines pathological gambling as a permanent or temporary state of maladjusted behavior, consisting of five (or more) of the following symptoms:

1. preoccupation with gambling (for example preoccupation with re-telling stories from previous gambling events or competitions, planning the future gambling enterprises or analysing possibilities of obtaining money for future gambling);
2. the stakes and risks needed to achieve the desired level of excitement are ever increasing;
3. repeated efforts to control gambling, reduce it or quit it entirely;
4. uneasiness or irritability when trying to reduce or quit gambling;
5. gambling is the way of escape from problems or reducing the disphoric mood (for example feeling of helplessness, guilt, anxiety or depression):

* According to this classification, they would belong to the group of problem gamblers.

6. after losing the money gambling, frequently returning the next day to return the money lost ("hunting for losses");
7. lying to family members, therapists and other people to hide the level of their involvement in gambling;
8. criminal acts such as forgery, fraud, theft or illegal financial transactions, purposed to finance the gambling;
9. endangering or loss of important relation, job position, educational or bussiness possibility, because of gambling;
10. depending on other people to obtain money to alleviate the desperate financial situation caused by gambling.

Another criterion is that such a behavior can not be described better than as a manic episode.⁵ Besides the dichotomic classification to pathologic and non-pathologic gambling, that considers gambling a disease, i.e. an addiction, there is also the so-called dimensional approach. According to this approach, gambling is set on a continuum ranging from non-gambling via social gambling (with symbolic amounts of money) to pathological or compulsive gambling.⁶

There had been more than few tries to clasify gamblers systematically. Simecca (1971)⁷ defines seven types of gamblers, according to features of their behavior, attitudes, motives, ego participation, skill, superstitions and social reactions. To achieve more practical classification, we quote 6 basic types of gamblers:

- social gambler;
- serious social gambler;
- problem gambler;
- pathological gambler;
- professional gambler;
- criminal (cheater) gambler.

Social gambler

The great majority of gamblers belongs to this type. Social gamblers gamble for pleasure, company, recreation and fun. However, besides gambling, they do many other things for fun. Although they do want to "win", their self-esteem and feeling of success do not depend exclusively on winning. Their gambling is limited in time. They are characterized by the certain plan in gambling and their "losses" are predictable and acceptable. That plan includes starting to gamble with the specified amount of money. In case they lose that amount, they never exceed it (they do not borrow money). They stick firmly to their plan and "hunt for losses" does not occur, i.e. they do not go next day to "cover and/or recover" the amount they had lost gambling. The important and basic difference between social and pathological gamblers is that social gamblers can stop whenever they want. It is esteemed that 65% of adult population of Great Britain plays the British National Lottery and

the results suggest that playing lottery is specifically related to the restrictions of social activities of the player.⁸

Serious social gamblers

This is a recently defined category, and the gamblers of this type promote gambling to their basic source of fun and recreation. They spend most of their leisure time gambling or in the gambling surroundings. Though their gambling is quite frequent, they keep gambling with the plan that includes previously set amounts of possible losses and do not increase the number and the amount of stakes.

Similarly as among the social gamblers, they can sometimes get a "big win". That can change their plan into believing that they can earn more money gambling. Such change of attitude, i.e. plan, can cause them to become problem gamblers.

Problem gamblers

Sometimes the serious social gamblers progress into problem gamblers, because they change their plan (attitudes). They start to "hunt their losses", increase the number and the amount of stakes anticipating the next big win. Although they spend most of their time gambling and in the gambling surroundings, the problem gamblers do not satisfy enough criteria to diagnose them as pathological gamblers. However, the common feature is that their behavior endangers or harms both them personally, as well as their families, jobs and professional duties.⁹ Continuing gambling, many of them become pathological gamblers, similarly as many problem alcoholics become real alcoholics.

Pathological gamblers

Pathological gambling has been defined for the first time as a psychological disturbance in 1980. It has been classified under the disturbances of urges, and it is characterized by a reversible or permanent maladjusted gambling, causing problems to personal, family or business efforts.

The studies show that pathological gamblers cover 1-2% and problem gamblers 2-3% of adult population,¹⁰ i.e. according to the studies from USA, 64-95% of the population had gambled in some period of life, while the prevalence of problem gamblers and probable pathologic gamblers ranges from 2,3% in South Dakota in 1993 to 7,3% in New York in 1996. In Washington state, 89% of interviewed persons had gambled, while about 5% have been detected as problem gamblers and probable pathological gamblers.¹¹

Since both gambling and the addiction to gambling will not "just go away", certain attitudes have emerged that the society should support "secure gambling", just as it supports "safe sex" and "responsible consumption of alcoholic drinks".¹²

Professional gamblers

Professional gamblers choose gambling for the source of their income, i.e. prefer gambling to conventional ways of earning money for living. They value discipline and they are characterized by limited risks. They are not addicted to gambling and they do not gamble "just for the action" (excited euphoric state of mind). They never "hunt for losses" and when they lose, they are able to stop gambling and analyze their losses. Basically, they know a lot about the game itself, do not depend on hunches and never go far from the area of their skill. In gambling, the important elements are chance, luck, or the law of probability. Among the professional gamblers, gambling is planned and they frequently have, differently from other gamblers, additional sources of information, which is particularly obvious in betting (for example horse or dog races and similar).

Some persons of this type may have problems connected to gambling (for example the short lasting "hunt for losses" or the loss of control), but they still do not satisfy completely the criteria for pathological gambling.

Criminal (cheaters) gamblers

Criminal gamblers are basically persons with antisocial disturbance of personality. Differently from other types of gamblers, they do not intend to reinvest the money won using the illegal or criminal gambling for further gambling. Their behavior is frequently more connected to cheating than to the gambling itself.

PATHOLOGICAL GAMBLING

Pathological gambling is probably not a homogenous disturbance. It is a complex disturbance of mental health, frequently encountered with other syndromes, including depression^{13,14} and the addiction to psychoactive substances and alcohol.^{15,16} There are numerous empiric investigations of the relationship between pathological gambling and other psychiatric disturbances. The most frequent co-morbid disturbances among the pathological gamblers are the addictions to psychoactive substances, mood disturbances (affective disturbances), urge control disturbances (for example compulsive shopping, compulsive sexual behavior), and the disturbances of personality of "borderline" type.⁷ There is a particularly high rate of antisocial disturbance of personality. However, among the majority, the antisocial characteristics are the direct consequence of gambling behavior.¹⁸ Blaszynski and Steel (1998) have detected mostly the impulsive behavior, lack of inhibition, and extreme mood oscillations as a response to outside stimuli among the pathological gamblers and they conclude that pathological gamblers show levels of personality disorders which are comparable to those among the general population of psychiatric patients.¹⁹ Besides the pathological gamblers, the problem gamblers also show an increased risk of various psychiatric disorders, most frequently the antisocial personality disorder, alcoholism and nicotineism.²⁰

The persons with psychiatric diagnoses and addicts are exposed to greater risk to become the pathological gamblers.²¹ The reverse studies have shown that pathological gambling is far more widespread among the psychiatric patients compared to the general population and that a considerably greater number of patients comes from the families with gambling problems. Pathological gamblers have a wide range of primary psychiatric diagnoses, like schyzoaffective disorders, paranoid schyzophrenia, major depression and organic personality disorders and the high incidence of secondary diagnose of addiction to psychoactive substances.²²

CRIMINAL ASPECTS OF GAMBLING

Numerous investigations deal with criminal aspects of games of fortune and gambling. Some studies even deny any relationship between gambling and crime,²³ while others quote that the criminal manner of gaining property is encountered frequently among gamblers, i.e. all kinds of illegal deeds concerning property (forgery, fraud, extortion, very rarely robbery, which they commit as the last chance after they had lost everything gambling). Their criminal behavior is mostly not violent.

The studies on the convicted criminals population in Croatia show that non-violent criminals show more pronounced sociopathic characteristics like being homeless, gambling, unemployment and smuggling compared to violent criminals, while it is other way around when alcoholism is concerned.²⁴ The studies have also shown a low correlation of gambling with alcoholism and drug addiction and a very high correlation with unemployment, smuggling and being homeless, supporting the hypothesis that gambling is a part of a specific way of life, aimed to establishing the optimal level of relatively low activation.²⁵

Knecht (1993), studying gambling among the convicted prisoners, concludes that overactive gamblers are more frequently encountered among criminals whose criminal deeds are connected to drugs and property, and that they bear a negative burden of high prevalence of psychiatric disturbances in family, greater incidence of peripartal complications, disturbances of behavior in early childhood and the consumption of the addictive substances.

MENTAL COMPETENCE OF PATHOLOGICAL GAMBLERS

Among the pathological gamblers, there is a high risk of committing a criminal deed to become able to continue their gambling, independently of the presence or

* In the practice, we meet the pathological gamblers who show intentions to get back the properties required through the criminal activities, but also that they are forced to engage in criminal, activities by the person who had cut them the maney (i.e. selling free stolen properties or the addictive substances).

lack of antisocial disturbances of personality. Accepting the pathological gambling as a disease, i.e. the psychiatric disturbance, has led to the situation that the legal system is more frequently facing the problem of reduced mental competence for criminal and other offences done by gamblers. The studies and papers dealing with the relationship between the pathological gambling and the evaluation of mental competence are few. In USA, the attitude that had prevailed was that it is not in the interest of general public to consider the urge control disturbances sufficient for claiming the lack of mental competence. Thus, the pathological gambling as well, as an urge control disturbance, is not considered sufficient to free from the responsibility for criminal deeds.²⁶ According to the papers dealing with the relationship between the criminal deeds and pathological gambling, Blasczynski and Silove (1996) conclude that the diagnosis of pathological gambling does not alleviate the responsibility for criminal deeds but is a factor that should be considered when measuring the sentence.

The mental competence of a gambler can range from full competence to incompetence, via reduced competence, which can be more or less significant, depending on every individual situation, taking into account the personality of the gambler, presence of more serious mental problems, presence of the abuse of addictive substances and the factors concerning the situation in which the deed had been committed. Most of the criminal deeds committed by gamblers are, according to our experience, done directly aiming to continue their activity - gambling.

Since there is a significant co-morbidity or co-existence of various psychiatric disturbances among the pathological gamblers, we believe that they should be all noted, if they satisfy the criteria (for example pathological gambling and the antisocial personality disorder: pathological gambling and alcoholism). This way of establishing the diagnoses could make the job of court experts easier, because they could not only evaluate the basic personality and turn their attention towards the additional factors that had influenced the ability of the pathological gamblers to control their actions *tempore criminis*, but also enhance the further medical treatment of pathological gamblers.

Krober (1985) thinks that in some cases, similarly as it is done with addicts, the procedure for establishing the work incompetence should be initiated.²⁷ We believe that establishing the work incompetence for pathological gamblers should be partial and mostly concerning the jobs dealing with property keeping, ranging from the restriction of controlling the mobile or stationary property to the restriction that the individual is not allowed to engage in business arrangements that would be bad for him.

According to our experience, following the gamblers during the complex treatment in the Forensic Department of "Dr Ivan Barbot" Neuropsychiatry Hospital in Popovača, it seems that less therapeutic effect is achieved with patients included in individual and group psychotherapy, which is certainly a subject for further evaluation, considering that the personality structure and the length of treatment could have influenced the therapeutic effect. It seems that better therapeutic effect is achieved with gamblers taking part in continued sociotherapeutic programme in the

frame of therapeutic community during 24 hours, where other therapeutic methods, besides positive models of behavior, have been included (cognitive, behavioral, etc.), what will be analysed and followed in further treatment. We think that the sociotherapeutic and psychotherapeutic treatment of the gamblers who committed criminal deeds is necessary and welcome, because the experience shows that referring these patients to psychiatric services reduces the risk of relapses.²⁸

The gamblers who had been evaluated as mentally incompetent can be given the sociotherapeutic and psychotherapeutic treatment in penal institutions and in the conditions they can provide, while for the mentally incompetent with more pronounced personality changes and/or suffering from more serious mental disturbances, the treatment can be carried out in specialized forensic departments. After demission, the treatment can be continued on out-patient basis through the period of not more than two years, what has been re-established as a useful possibility after the changes and additions to the *Law of Care for Mentally III Persons (Zakon o zaštiti osoba s duševnim smetnjama - ZZODS)*.²⁹

In some exceptional situations, i.e. those that have such characteristics, the state attorney has the possibility to use the *Article 175, ZKP RH (Zakon o kaznenom postupku RH)*, following the principle of usefulness, meaning that it is possible for him to, with the penal procedure postponed, refer the person to treatment, include it in charity work or require that he/she compensates for the damage done.³⁰

Sažetak

NEKI FORENZIČKO-PSIHIJATRIJSKI ASPEKTI KOCKANJA

Povijest bilježi da se čovjek oduvijek služio kockanjem kao oblikom rekreacije. Posljednja dva desetljeća pozornost brojnih istraživanja privlači kockanje kao ekonomska, pravna, sociološka, kriminološka i psihološka pojava. Istraživanja otkrivaju nove poglede na kockanje, ali ostavljaju i brojne nedoumice. *Međunarodna klasifikacija bolesti (ICD-X)* navodi dva poremećaja: kockanje i klađenje te patološku sklonost kockanju. Osobe s psihijatrijskim dijagnozama i ovisnici izloženi su većem riziku da postanu patološki kockari. Više pokušaja da se načini praktičnija klasifikacija kockara dovela je do podjele na: 1. društvene kockare, 2. ozbiljne društvene kockare, 3. problemske kockare, 4. patološke kockare, 5. profesionalne kockare i 6. kriminalne kockare.

Predmet našeg istraživanja su patološki kockari koji čine kaznena djela. Dijagnoza patološkog kockanja ne umanjuje zakonsku odgovornost, ali je čimbenik koji treba uzeti u obzir kod odmjeravanja kazne. Ubrojivost kockara može se kretati od ubrojivosti do neubrojivosti preko smanjene ubrojivosti koja može biti u znatnoj ili neznatnoj mjeri. Bez obzira na to hoće li ostvariti obilježja kaznenog djela ili ne, patološki kockari su osobe kojima je prijeko potreban terapijski tretman jer praksa pokazuje da upućivanje psihijatrijskim službama smanjuje rizik recidivizma.

Ključne riječi: kockanje; vještačenje; ubrojivost

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