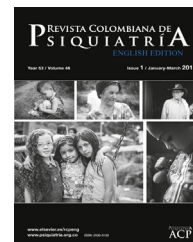




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Case Report

Application of the criminal liability biopsychological criterion in a case of delusional disorder[☆]



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ABSTRACT

In this article, the authors report the case of a man who committed the crime of homicide and was evaluated for criminal liability in a psychiatric expert's report. He was diagnosed with delusional disorder and found not guilty. Security measures were applied and he was committed to a high-security psychiatric hospital in Rio de Janeiro, Brazil. This case presents the correct technique to apply the biopsychological criterion, according to the Brazilian Penal Code.

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Aplicación del criterio biopsicológico de imputabilidad penal en un caso de trastorno delirante

RESUMEN

En este artículo, los autores relatan el caso de un individuo que cometió el delito de homicidio y fue evaluado en peritaje psiquiátrico para el análisis de imputabilidad penal. Se le diagnosticó trastorno delirante con inimputabilidad penal, y se le aplicó una medida de seguridad, con internación en Hospital de Custodia y Tratamiento Psiquiátrico en Río de Janeiro, Brasil. Este caso ejemplifica la técnica para la aplicación del criterio biopsicológico según el Código de Proceso Penal brasileño.

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Palabras clave:

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Introduction

In Brazil, the criterion adopted by the Penal Code¹ for the evaluation of criminal liability is the biopsychological criterion: liability is only excluded if the agent, for reasons of mental illness or mental retardation, was at the time of the action incapable of ethical-legal understanding and/or self-determination. For the application of this criterion: the expert should analyse the following points: verification of the existence of mental illness or mental retardation by means of a mental health examination; evaluation of the causal relationship between these and the crime committed; evaluation of the understanding and determination (decision) ability.²⁻⁴

Violence committed by individuals with severe mental disorders has become the focus of greater interest among doctors, police authorities and the population in general. Several studies in the last decade have demonstrated an association between mental disorders and violent behaviour. One of the main approaches for the study of this relationship is the investigation with murderers, given that murder is considered one of the most severe expressions of violence.⁵

In the study by Petursson et al.,⁶ in Iceland, on psychiatric aspects of murders, it was verified that in 80 years of study (from 1900 to 1979), there were 45 murders, with 52 victims and 47 murderers. Of the 47 murderers, 13 had a diagnosis of a psychotic disorder (27.7%), of which the most common was paranoid schizophrenia, with four cases (8.5%), and the least common was delusional disorder-jealous type, one case (2.1%). Other diagnoses found were: three of mental retardation (6.3%), 10 of personality disorder (21.3%), six with alcohol and drug addiction (12.8%) and one with neurotic disorder (2.1%). Another finding was that 14 individuals had not received a psychiatric diagnosis (29.8%). In the study mentioned, when trying to establish a standard for violent behaviour, it was observed that murderers with psychotic disorder were older than those with other types of disorder, and among them there was a greater frequency of having murdered their family members, in addition to not having committed any crime that benefited them financially. Another important relationship linked to the use of alcohol was also found: more than 60% of murderers and 50% of victims were under the influence of ethyl derivatives.

Clerici et al.⁷ describe one case in Italy, involving a 47-year-old psychiatrist who was a confessed criminal of a murder against another psychiatrist who was his assistant doctor. The attacker, who had a persecutory delusional belief directed towards his assistant, murdered him in an ambush. After his arrest, the murderer was subjected to a psychiatric assessment, in which he was diagnosed with delirious disorder-persecutory type, found not guilty and a security measure was applied which consisted of him being detained in a criminal hospital.

Delusional disorder, previously called paranoia, is a rare psychotic disorder, with prevalence rates throughout life estimated at 0.2%; the persecutory subtype is the most common.⁸ The essential characteristic of this disorder is the development of an isolated delirium or a set of deliriums related to each other, which are generally persistent and often last a lifetime.⁹

It is important to point out that in the specific literature there are few studies that illustrate the relationship between delirious disorder and murder. The forensic importance of this case can therefore be concluded.

Case report

The case involved a 42-year-old Brazilian Caucasian male, born in Rio de Janeiro, widowed, with completed secondary studies who was an aircraft and helicopter mechanic. He was under arrest and awaiting a court ruling.

In 2008, the accused stabbed his ex-wife and killed her. The motive for the murder was that he disagreed with the victim's religious behaviour. According to various people linked to the victim, the accused had been threatening his wife and religious friends, not satisfied with the fact that he had been forbidden from attending meetings of the Jehovah's Witnesses church.

One month before the murder, the accused indicated that he had started to have ideas of murdering members of the church, which, according to him, introduced "false teachings" in the Congregation of Jehovah's Witnesses. His objective was to reclaim the right to access the organisation and the "New World Translation of the Holy Scriptures", having been prevented by leaders of this organisation. He then decided to fight for his rights and for "justice", which in his understanding included murdering all those who agreed with blood transfusion. In his version of the story, the victim supported the fraudulent decision that had led to his expulsion from this religion. Therefore, he had decided that his wife would be the first to be murdered.

The accused had never had psychiatric or psychological treatment and believed that he was not suffering from any mental problem. He did not consume alcoholic drinks or tobacco and denied having done so on the day of the crime. He reported that he had used cannabis in adolescence, only at the weekends, until he turned 21. He denied having had a traumatic brain injury and convulsions in the past.

During the forensic examination, the accused reported that in 2003, while he was carrying out a personal study at home on the "144,000 chosen people", he believed that he had been chosen by the author of the scriptures (Jehovah) himself, feeling a vibration in his body and hearing the voice of a man in his mind, which asked him: "Do you accept?". He recounted that he had responded positively to this voice, also mentally, which led him to believe that he would therefore live forever on Earth. He told his wife and the leaders of the church what had happened, but they all laughed at him. Later on, he declared that the editors of a journal of this religion had started to send him "subliminal messages" in the publications, with degrading comments about him with the aim of "violating his mind" and deflecting his faith. In 2008, he reported that he had felt prepared to take on and inherit the religious laws and prevent them from being passed on to the domain of other people. His most important mission would be to apply the death penalty to people of the Jehovah's Witnesses religion who were in favour of blood transfusions. He believed that all members of this religion should reject any type of blood, that the penalty

for those who did not do so should be death and that “it would be recorded in the ancient scriptures”.

The accused stated that religious leaders of this church had created a doctrine that supported and promoted the introduction of the concept that all Jehovah's Witnesses could accept blood fractions in their medical treatment. The accused pointed out that he was not in agreement, but his wife was. On the day of the murder, he said that he had thought about executing all individuals of the Jehovah's Witnesses religion who did not follow the teachings of this religion, in addition to arguing with his wife because he believed that she had interfered with his spiritual plans and had changed the view on the acceptance of receiving blood. He recounted that he had decided to murder her because of her disregard for this issue, and this is why he had stabbed her in various places on her body. He reported that he had not fled, and that he had no intention of denying the crime. Therefore, three days after the murder, as the crime had not been noticed, he decided to turn himself in to the Police. Initially, the Police did not believe his story. This is why he drove the police to the crime scene and showed them the victim's body. In light of this, the accused was arrested immediately.

The expert assessment diagnosed delusional disorder (F.22-ICD-10).⁹

Discussion

For the correct application of the criminal liability biopsychological criterion, four steps must be followed: first, verify that there is a mental disorder and transfer this fact to legal language.³ Therefore, in the case in question, delusional disorder is classified as a Mental Illness in accordance with the Criminal Code.

Although individuals with delusional disorder can commit any crime, the most common are those against people.³ In addition to the alteration of the content of thoughts, delusional patients do not tend to present alterations in other psychological functions and often go unnoticed in the middle of social coexistence, until they turn openly hostile when their delusional beliefs are contradicted,³ as has already been reported. According to Ribé and Tusquets (2002), *apud* Chalub et al.,¹⁰ when faced with the belief of being humiliated or persecuted, the delirious patient can commit a crime that, for them, represents the compliance of a duty and may act therefore in a deliberate way to fulfil their mission, acting alone, without fleeing or hiding the authorship of the crime or regretting what happens. They may even feel relieved or proud of their actions. The above-mentioned case illustrates these mentioned aspects.

The second step is the evaluation of the casual link between the mental disorder and the crime.³ The accused presents a systematised delirious conception of a mystical revelation in which he believes he has been chosen to carry out a mission that includes the application of the death penalty to a determined group of people who act in disagreement with the precepts of his belief. Finding opponents, such as his own wife, the accused identifies her as an enemy that must be eliminated, within his delirious ideation.

The third step consists of evaluating the ability to understand the illegal nature of the criminal action. Therefore, the accused clearly identifies the illegal nature of his action, as he handed himself in voluntarily to the Police and confessed his crime spontaneously. However, in the circumstances that he believed existed, within the context of his delusional ideation, everything turned his action legitimate, and took away the criminal nature of the event.¹¹

The fourth step consists of evaluating the capacity of determination. The paranoid individual becomes a complete slave of his morbid ideas, he is no longer free to act and also to understand correctly, because these ideas are fixed, prevail and mean that he acts according to them; they deprive him of his self-government.¹¹ In fact, the accused was not free to choose between carrying out this action or not. The delirious stance led him to be certain that he should carry out the action.

The experts concluded that the accused, at the time of the events described in the report, was totally incapable of understanding the illegal nature of the event and of determining in accordance with this understanding as a result of his mental illness. The court ruling was the security measure in the form of confinement in the Prison Hospital.

Conclusions

The referenced case illustrates the correct application of the criminal liability biopsychological criterion well. It is very important that the expert has in-depth knowledge of psychopathology and criminal law. The conduct of a good medical history and the analysis of the papers from the proceedings are essential to strengthen the psychiatric-forensic conclusions that will help during the trial for the determination of the sentence. The expert is a trial assistant, who is going to lead it to a better decision, with the application of security measures and of appropriate criminal and correctional sanctions in each case.

Conflicts of interest

The authors have no conflicts of interest to declare.

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