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AXIOTHERAPY OF NON-ACCOUNTABLE PERPETRATORS OF CRIMINAL ACTS

Abstract

Axiotherapy is an original project built on value-based therapy carried out in a forensic psychiatry ward. It is addressed to persons who committed a criminal act and were deemed by the court to be non-accountable or of limited accountability at the time of the crime. As a result, they were referred for treatment as part of the imposed preventive measures. Patients treated at the forensic psychiatry ward are most often perpetrators of violent crimes. While suffering from various mental disorders, they also exhibit impulsive behaviour leading to criminal acts. Such behaviour has far-reaching consequences for both the patient and the general public. Mental disorders of forensic psychiatry patients, the course of the disease, the degree of aggression and associated circumstances (such as addiction, sexual preferences disorders, and personality disorders) indicate a crisis in the sphere of values, which could be one of the factors leading to the serious crime. Working with a value system that determines a person's behaviour means working on a system that motivates and activates them and can change over time. Axiotherapy is intended to help patients to work out their value system and to identify their transcendentals, as appropriate.

Keywords: values, non-accountability, detention, axiotherapy

AKSJOTERAPIA NIEPOCZYTALNYCH SPRAWCÓW CZYNÓW ZABRONIONYCH

Abstrakt

Aksjoterapia jest autorskim projektem opartej na wartościach terapii, który jest realizowany na oddziale psychiatrii sądowej, gdzie przebywają osoby, które w przeszłości popełniły czyn zabroniony i zostały uznane przez sąd za niepoczytalne lub ich poczytalność w czasie czynu była ograniczona i w ramach realizacji środka zabezpieczającego zostały skierowane na leczenie. Pacjenci leczeni na oddziale psychiatrii sądowej najczęściej są sprawcami agresywnych czynów zabronionych. Osoby te, chorując na różnego rodzaju zaburzenia psychiczne, przejawiają także zachowania impulsywne, które w tym przypadku zakończyły się popełnieniem czynu zabronionego. Takie zachowania mają daleko idące konsekwencje zarówno dla samego pacjenta, jak i ogółu społeczeństwa. Zaburzenia psychiczne pacjentów oddziałów psychiatrii sądowej, ich przebieg, stopień agresji i towarzyszące

okoliczności (np. uzależnienia, zaburzenia preferencji seksualnych, zaburzenia osobowości) wskazują na kryzys w sferze wartości, który może być jednym z czynników, który doprowadził do popełnienia ciężkiego czynu zabronionego. Praca z systemem wartości determinującym indywidualne postępowanie danej osoby jest jednocześnie pracą nad systemem, który motywuje, aktywizuje i może się zmieniać. Aksjoterapia ma prowadzić pacjentów do przepracowania systemu wartości i określenia właściwie swoich transcendentaliów.

Słowa kluczowe: wartości, niepoczytalność, detencja, aksjoterapia

INTRODUCTION

Psychology witnesses a marked tendency to reference values when building the concept of a human person. A particular role is played by psychology and psychotherapy trends called existentialism or humanism. These approaches serve as a basis for a direct conclusion that since values are essential for people and psychology is intended to help people, then psychology should help people practice values (Mellibruda 2021).

Value-oriented therapy has been scientifically justified (Marchewka 2021; Frankl 1998; 2021; Schwartz 1992; Kirchbach 2003; Längle 2003). When offered to patients in the forensic psychiatry ward, it serves a purpose, particularly in the context of the assumption that every human experience involves cognitive contact with the sphere of values. It is called a personal system of values, and it is “responsible for setting long-term goals, making choices, preference for socially acceptable behaviours and change of thinking and the manner of operating.” (Niewiadomska and Chwaszcz 2010, 67).

A value judgement process (evaluation, selection and execution) may face specific difficulties or disturbances. Most often, they result from an individual hierarchy of values not being shaped and stabilised enough to serve as a set of evaluation and selection criteria (Opozda-Suder and Ostafińska-Molik 2020, 118). Therefore, the individual’s choices may not align with the preferred values; they will not give a sense of meaning or contribute to one’s life.

Looking at the problems of detention patients from the perspective of their value system, determined by their attitudes and behaviour, is a pioneering initiative. It is related to the assumption of M. Rokeach that values are more important than attitudes. They are more dynamic, have strong motivational, cognitive, emotional and behavioural components, and are considered social behaviour determinants (Rokeach 1968, 157).

Incorporating the value judgement when treating a detention patient aligns with the desire to seek new solutions and therapeutic effects for this group of people. This idea was proposed as part of the COST Action IS1302 project (Sampson et al. 2016), which aimed to analyse and compare research on the effectiveness of treatment methods and to develop standards of forensic and psychiatric care in Europe. Experience from European countries such as Italy, the United Kingdom, Germany, Austria, Poland, and Belgium, which jointly implemented the EU-VIORMED

project (DeGirolamo et al. 2019), show the need to address issues comprehensively, identify and prevent aggression in populations suffering from mental disorders and care for people with aggressive behaviour.

1. NON-ACCOUNTABILITY IN POLISH LAW

In all modern legal systems, the issue of criminal liability and assistance to people affected by mental disorders is standardised. Criminal liability is related to the principle of guilt. Under the current Polish criminal law, the principle of guilt is expressed in Article 1 of the Criminal Code, which states that the perpetrator does not commit an offence if no guilt can be attributed to them at the time of the offence. This ability to attribute guilt is based on two premises: maturity, i.e. the degree of psychophysical development, and accountability (Supreme Court Judgement of 4 November 2002). Guilt in Polish law is considered from the point of view of psychological theory and the definition of the normative theory of guilt. Guilt is defined as the defectiveness of the decision-making process when it is possible to make a decision compliant with the requirements of the legal standard (Bojarski 2020, 211).

Under the legal doctrine, the decision is expressed as an act defined as the perpetrator's behaviour closely linked to internal control processes (Makowski 1932, 21-22; Marcinkiewicz 2011, 27-28). Therefore, the legal effects of certain human acts depend, among other things, on the perpetrator's mental state at the time of committing the act (Heitzman and Markiewicz 2012, 46). A non-accountable individual, despite being the perpetrator, does not commit the crime because they are not culpable. In turn, the perpetrator with limited accountability may be subject to exceptional relief. Determining the extent of accountability of an individual committing a criminal act is essential either for the liability or the penalty (Heitzman and Markiewicz 2012, 1).

The Polish Criminal Code does not define accountability. The principle is that an adult person has the ability to act according to legal standards, has the ability to recognise what they are doing and is free to guide one's conduct (Żywucka-Kozłowska 2021, 572). This means that the standard conditions are not defined, only those that raise legitimate concerns. In practice, accountability is only examined if there are doubts about the perpetrator's mental health. To determine the degree of accountability, the court is assisted by experts in the field of psychiatry, and sometimes also psychology (Heitzman and Markiewicz 2012, 1).

The definition of non-accountability is provided in Article 31 §1 of the Polish Criminal Code. The article adopts a mixed method of defining accountability (psychiatric and psychological). The reasons for non-accountability are mental illness, mental impairment or other mental distress (biological and psychiatric). The occurrence of one of the above may exclude the possibility to recognise the significance of the act or to direct one's conduct (psychological reason), which is a consequence of non-accountability. Furthermore, time is an important

factor for excluding guilt in the context of non-accountability because only non-accountability at the time of the crime results in the exclusion of guilt.

In the case of limited accountability, the court may apply exceptional leniency (Article 31 §2 of the Criminal Code).

2. STAY IN A PSYCHIATRIC INSTITUTION AS A FORM OF PREVENTIVE MEASURE

A consequence of the legal and penal reaction to acts committed by the non-accountable perpetrator is the possibility of applying a preventive measure referred to in Article 94 of the Criminal Code. The legislator refused to punish persons who committed a crime while in a state that excludes the possibility of recognising the importance of the act or directing one's conduct. It would be pointless to penalise such persons or apply a punitive measure since such sanctions would not be able to fulfil their functions properly. Moreover, such persons must be isolated from the rest of the population to protect the community from otherwise non-accountable and unjustifiable behaviour. They also require specialised treatment (Golonka 2013, 54).

Preventive measures are not a penalty. They are applied to perpetrators who cannot be punished (since they are non-accountable, they are not guilty), to those who can reasonably be expected to commit offences again despite being punished, or, ultimately, to persons who cannot be punished sufficiently strictly because of the extent of guilt. Still, there is a need for isolation or prevention measures (Print No. 2393).

The catalogue of protective measures is regulated in Article 93a §1 of the Criminal Code. Preventive measures include electronic control of the place of stay (electronic surveillance), therapy, addiction therapy, and stay in a psychiatric institution. In addition, under Article 93a §2 of the Criminal Code, the sanctions referred to in Article 39(2-3) can be imposed as a preventive measure. They include disqualification from a specific work role, the exercise of particular professions or pursuing specific economic activities; disqualification from activities involving raising, treating and educating minors; a prohibition of being in specific communities and locations, a prohibition on contacting certain persons or on leaving a specific place of residence without the court's consent; a prohibition to participate in a mass event; a prohibition on entering gambling centres and participating in gambling games; an order to leave premises occupied jointly with the victim; and a disqualification from driving.

A stay at a psychiatric institution is the most acute preventive measure because it involves deprivation of liberty. Therefore, the court decides on psychiatric treatment in isolation conditions where this is provided for in the law (Article 93b §5 of the Criminal Code). Importantly, it is not necessary to obtain their consent to place the perpetrator in a psychiatric institution.

The placement of a non-accountable perpetrator in a facility requires the court to determine if the perpetrator has committed a prohibited act of serious

social harm and if there is a high likelihood of recidivism. This is linked to three key legal principles: necessity, subsidiarity and proportionality. Necessity relates to the fact that the court may decide on a preventive measure in the form of a stay in a psychiatric institution when it is necessary to prevent the perpetrator from committing a severe social offence (Article 93b §1 of the Criminal Code). The stay in a psychiatric institution should be cancelled when it is no longer necessary (Article 93b §2 of the Criminal Code). Subsidiarity implies that the court may decide on a preventive measure in the form of a stay in a psychiatric institution only if other legal measures under the Criminal Law or other laws prove insufficient to protect the legal order against the unwanted behaviour of the perpetrator (Article 93b §1 of the Criminal Code). The principle of proportionality consists in adjusting the nature and manner of the protective measure to the seriousness of the crime that the perpetrator may commit (Article 115 §2 of the Criminal Code) and the risk of recidivism, taking into account their progress in therapy or addiction treatment (Article 93b §3 of the Criminal Code).

The aim of placing the perpetrator in a psychiatric institution is to protect the public against their unwanted and illegal behaviour (Zduński 2015, 71) and to start therapy to eliminate the high risk of recidivism. The duration of stay in a psychiatric institution is not determined in advance (Article 93b §1 of the Criminal Code).

The stay of the non-accountable perpetrators in the forensic psychiatry ward serves a medical and protective function. Another important purpose of the non-accountable perpetrator's stay in a forensic ward is their social readaptation and preparation for returning to society and the proper fulfilment of social roles. The work with forensic patients is multi-level and multi-stage. In the forensic psychiatry wards, several specialists are employed, such as psychiatrists, psychologists, nurses, occupational therapists, addiction therapists, social workers and other medical staff. This offers patients a wide range of pharmacological, therapeutic, socio-therapeutic, resocialisation and rehabilitation effects (Heitzman and Markiewicz 2017, 602).

3. VALUES AND THEIR IMPORTANCE IN THE TREATMENT OF DETENTION PATIENTS

Attitudes and values are considered to be determinants of social behaviour, whereas values determine attitudes and behaviour (Kościuch 1983, 84-85). Although individuals have more attitudes than values, values are the analytical tool used to describe and explain the similarities between individuals, groups, nations, and cultures (Rokeach 1968, 157-158). Under this definition, value is understood to be a lasting belief that a given course of conduct or the ultimate aim of life is individually and socially more attractive than other ways of behaviour and life objectives. Also, M. Kosewski mentions the regulatory impact of values on behaviour and indicates that internalised moral values guide human behaviour. According to him, values are the basis for self-evaluation. An activity considered valuable provides a subjective sense of well-being and positive self-esteem.

A discrepancy between behaviour and values is felt as a state of discomfort and serves as an incentive to reduce it (Kosewski 1985, 62).

Taking value-related measures against aggressive perpetrators treated in forensic psychiatry wards seems to be an important therapeutic direction for this group of patients. The illness, its course, the degree of aggression and the associated circumstances (such as addiction, sexual preference disorders, and personality disorders) indicate a crisis in their value and may constitute one of the factors leading to the criminal act. This has been verified with scientific research by M. Rokeach, for whom 'me' is the central element in the system of values and attitudes. It is an active factor determining the individual behaviour of a person. This system motivates and activates but can also change (Rokeach 1973, 18). Research shows that human function is permanently transformed only when values, not attitudes, change. These changes are more significant the more central values have been modified (Rokeach and McLellan 1972, 237). Value judgement covers all processes associated with the experience of values – cognitive, affective and motivational processes.

Mental illness and offence is also unique situation in which a reevaluation occurs, a value crisis is disclosed, and a change in the existing functioning occurs. Long-term research results indicate that many forensic patients suffer from decreased mental health and activity, which usually requires a new way of adapting. Many people with mental illness associate their mental impairment and ability to continue their social, family and professional activities with the effects of the illness. Patients complain about loneliness, misunderstanding, rejection and loss of hope for a better future (DeSisto et al. 1995, 331; Chuchra 2008, 548). This is linked to a reduction in overall life energy, which results in decreased confidence and can cause difficulties in mobilising oneself to act (Chuchra 2008, 552). Activity decline, emotional poverty, and inadequate, sometimes also illegal behaviour, are often considered by the public to be the consequences of patients' choices rather than the consequence of their illness. This makes it difficult for patients to connect with their family, loved ones or friends, especially due to their lack of understanding. However, the contact and support of the community (family and friends) is an important factor in the patient's recovery (Kaszyński 2013, 78). Therefore, a patient in the forensic psychiatry ward who has committed an aggressive criminal act – most often against somebody close to them – is particularly vulnerable. The family often turns away from the perpetrator, not because of the illness, but because of the acts committed. It is, therefore, important to distinguish an intentional violation of the law from an offence resulting from a mental illness. As noted by J. Szeluga, P. Pankiewicz and R. Miętiewicz – this makes it possible to see “the relationship between the interests of the individual and what is considered a social interest and to look at the centre of the environmental-body relationship” (2020, 14).

The analysis of the value system of patients, their problems with value judgement, and immaturity in this area are fundamental. They may cause difficulties in interpersonal relations and, more generally, in overall social functioning.

Psychological effects of immature value judgement include experiencing greater mental tension, increased anxiety, increased guilt, difficulties in achieving life's aspirations, reduced task performance, and decreased self-esteem (Oleś 2002, 64; Niewiadomska and Chwaszcz 2010, 67-71). In turn, empirical analyses show that people violating social principles show signs of a crisis in value judgement, i.e. difficulty in prioritising values, feeling of failure to comply with internal standards, the disintegration of the individual axiological system, and poor stability of value judgement (Simourd and Andrew 1994, 27-28).

Since the value judgement takes place at the level of thinking and concrete forms of behaviour, the consequence of one's values is actions taken in their spirit (Pankiewicz and Szeluga 2006, 210). Therefore, in a situation where the values and moral system of a mentally ill person is contrary to generally accepted social and legal standards, there may be a violation of law, including committing criminal acts, as has been the case for mentally ill detained patients.

The inclusion of values in therapeutic programs is also linked to the assumption that every human experience involves cognitive contact with the sphere of values, which is called a personal value system. It is responsible for "formulating long-term objectives, making choices, preferring socially acceptable behaviours, and modifying the way of thinking and acting. Internal standards should be understood as elements of personality which constitute a relatively stable organisation of beliefs regarding preferred behaviours or final states of existence, organised according to their relative importance. With this system, individual choices are targeted at objectives that, in their subjective perception, represent an important value, and thus give sense to the execution of those choices" (Niewiadomska and Chwaszcz 2010, 67).

Values that people recognise and practice form an essential element of personality development and influence their goals, decisions, and behaviours (Makin, Cooper and Cox 2000, 79; Robbins and Coulter 2005, 344; Shams, Akbari Sari and Yazdani 2016, 627). People with high axiological sensitivity are not only considered mature but also have a higher level of acceptance of the present. They show awareness of the value of being their real selves regardless of the situation (disease, difficulties, and crises), while values and informed choice support and guide their self-development (Manukyan, Golovey and Strizhitskaya 2015, 102).

4. AXIOTHERAPY AS PROPOSED PSYCHOTHERAPEUTIC MEASURES

Axiotherapy refers to therapeutic measures that address the sphere of values. This type of psychotherapeutic effect has been considered to include activities associated with the change. Scientific theories confirm that irrespective of the diversity of psychotherapy concepts and definitions, a change is a key concept both in research into the psychotherapy process and its effects (Aleksandrowicz 2000, 8; Czabała 2000, 239-240; Aleksandrowicz and Czabała 2012, 256; Prochaska and Norcross 2006, 5; Szcześniak 2011, 295-296; McAleavey and Castonguay 2015, 294; Moldovan and

Pintea, 2015, 300-301; Wampold 2015, 270). The change is understood as the gradual correction of disturbances and the introduction of such transformations that will help develop and attain health in general (Huflejt-Łukasik 2015, 442; Waszyńska, Bury and Filipiak 2016, 100). Psychotherapy is expected to change patients' experiences and behaviour. Its purpose can be rehabilitation, restructuration, development or integration of a patient's personality. Regardless of the psychotherapy techniques used, the consequence is to bring about changes in patient's behaviour as well as their cognitive and emotional processes (Kendall and Braswell 1982, 672; Moldovan and Pintea 2015, 300; Kramer et al. 2020, 617-618; Kendall 2021, 60). Other expected results include a change in the severity of disorder symptoms, and the disappearance or reduction of psychological symptoms, whereas some researchers also mention an improvement in social performance (Bomba 2010, 39).

Patients' stay in the forensic psychiatry ward is intended to lead to re-education, socialisation, reorganisation, restructuring, development, and personality integration (Szcześniak 2011, 295). This is in line with the general principles of psychotherapeutic measures and is the aim of actions taken for detention patients in the forensic psychiatry ward. They are intended to lead to changes in their various areas of life and health, ultimately minimising the risk of recidivism.

Axiotherapy is based on identifying the relationship between the value system and the source of incentive stress, the organisation of experience and the manner of controlling one's behaviour. Values are assumed to play a regulatory function, as demonstrated by the impact on a person's cognitive, emotional and behavioural system, i.e. the development of certain attitudes and behaviours (Rokeach 1973, 18).

The treatment begins with diagnosing the values and the other related personality dimensions. To accomplish this task, the group participants complete the Milton Rokeach Value Survey (RSV) in the Polish adaptation by Piotr Brzozowski. The Rokeach Value Survey is one of the simplest and most interesting methods of value testing. M. Rokeach recognises values in the personality theory, and the survey he developed measures values accepted by the group or the individual that relate to the most important life goals and how they are achieved. Therefore, Value Survey is an excellent tool to measure needs, attitudes and judgements in the context of certain behaviours (Brzozowski 1989, 3; Ciecuch 2013, 28-33). The personality description developed by M. Rokeach, through values and not attributes, has the advantage, according to the author, of allowing one to think about an individual in terms of both constancy and variability. Preferences are relatively constant but are subject to modifications, compatible with the circumplex and known development processes (Ciecuch 2013, 325) and may be re-valued. A trait is a permanent disposition, consistently characterising an individual over a long time, even a lifetime, despite the variability in behaviour (Buksik 2000, 192).

Once the participant's value hierarchy is established, the group sessions begin and take place once a week. They are developed based on the list of values in the Rokeach survey: terminal values (18 values: true friendship, mature love, self-respect,

happiness, inner harmony, equality, freedom, pleasure, social recognition, wisdom, salvation, family security, national security, a sense of accomplishment, a world of beauty, a world of peace, a comfortable life, an exciting life) and instrumental values (18 values: cheerfulness ambition, love, cleanliness, self-control, capability, courage, politeness, honesty, imagination, independence, intellect, broad-mindedness, logic, obedience, helpfulness, responsibility, forgiveness). Total – 36 values. According to psychological knowledge, sessions are planned using behavioural and cognitive techniques to strengthen the personal value orientation of perpetrators, as confirmed by research. The application of these techniques results in changes such as increased self-esteem, self-control, recognising the effects of one's conduct, postponing the gratification of objectives, responsibility for events in personal life, pro-social attitudes, decreased severity of the difficult circumstances experienced and the number of aggressive attacks on others (Niewiadomska and Chwaszcz 2010, 80).

The following forms of work are planned: lectures, psychoeducation, working in groups, films and reviews, discussions, multimedia presentations, visualisation (drawing, painting, other forms of visual expression), role play and specific techniques typical for behavioural and cognitive therapies (such as summary, Socratic dialogue, scaling, techniques of divided part, empathic confrontation, bibliotherapy and film therapy elements, behavioural experiments, expression of feelings in writing, role-playing, skills training, problem-solving techniques). These methods focus on transforming and reducing non-adaptive behaviour and, based on the learning-process patterns, allow the patient to acquire new behaviours (Bąbel 2011, 31; Sass-Stańczak and Czabała 2015, 10), which is the expected outcome for patients in the forensic psychiatry ward.

CONCLUSION

Several European countries have recently researched factors affecting the length of patients' stay in forensic psychiatry wards (Conell et al. 2019; DeGirolamo et al. 2019). The researchers have highlighted the need to develop new cost-effective, successful methods of forensic psychiatry to promote evidence-based therapeutic strategies and improve the quality of patients' life. Furthermore, it has been demonstrated that the lack of progress in therapy (linked to an increased risk of recidivism) is due, among other things, to insufficient rehabilitation and therapeutic programs, both in forensic psychiatric institutions and in community psychiatry. In particular, it has been pointed out that this is important for long-term patients in forensic psychiatry facilities who are socially withdrawn and ill-prepared to meet everyday needs in the modern world (Connell et al. 2019, 679).

The axiotherapy program at the Forensic Psychiatry Clinic of the Institute of Psychiatry and Neurology in Warsaw is an attempt to respond to this request. The program has been developed from the ground up and has been in operation for more than five years. It enabled participants to be observed in their day-to-

day tasks in the forensic psychiatry ward. It was noted that the participants made changes in areas such as: being involved in the recovery process (better cooperation with doctors and psychologists), being more active in other therapeutic activities, being more critical of the offence committed, being open to better collaboration with staff and other patients, being more engaged in contacts with the family. Patients disclosed that they were more open to forgiving themselves for their mistakes and less critical of themselves. They started working on themselves (they initiated health-promoting behaviours – physical exercise, changed diet, focus on intellectual development – language learning, reading literature). An important indicator of improving patients' health was that most received positive (psychiatric and psychological) health assessments after the end of the treatment. This led to the courts changing the degree of protection, and patients were transferred to forensic psychiatry hospitals with a basic degree of protection.

These preliminary observations encourage us to continue axiotherapy activities. In the future, it is planned to extend the efficacy studies with this form of psychotherapy to study the dimensions of personality such as self-esteem, sense of life, dealing with stress, effective coping with emerging difficulties and obstacles, and the level of illness acceptance.

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