

Psychiatry In The Mirror Of Social And Legal Reflection

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ABSTRACT: What is mental health? What is mental illness? These questions have accompanied man for many centuries. Strange, specific or different behavior of a person has always aroused interest. On the one hand, it could cause fascination, and on the other, it could cause fear. Over time, the topic of mental health interested the lawyers. It was necessary to regulate the situation, e.g. regarding crimes. There were situations in which the cause of the crime were, for example, the symptoms of a diagnosed mental illness. In Poland, the Mental Health Protection Act has been in force for over 25 years. This is a document that describes the rules of dealing with patients with mental disorders. This Act also presents the rules of conduct without the consent of the patient. We are talking about the situation when a patient is hospitalized without his consent. But why is psychiatry fascinating some and fearful in others? How to construct "psychiatric law"? How to improve the rules described in the Act, which explicitly addresses the problem of respecting the rights of an experimental patient of mental disorders? The presented text will attempt to answer the indicated questions. These activities will be based on reflections related to Polish psychiatric experiences: in this situation from World War II and the period of communist rule.

KEY WORDS: mental health, human rights, dignity of the person, social psychiatry, health Policy

Date of Submission: 08-01-2020

Date of Acceptance: 23-01-2020

I. INTRODUCTORY REFLECTIONS, OR "BEAUTIFUL MIND"

"It can be assumed with high probability that there is probably no man of modern civilization who would not show clear neurotic symptoms for at least a short period of his life." Antoni Kępiński, an outstanding Polish psychiatrist, spoke these words over fifty years ago. During World War II he was a prisoner of a concentration camp in Spain. Biographers of this great scientist point out that in "Spanish time" he experienced psychotic disorders. They probably helped him later in his clinical work. After the war, he graduated from medicine and eventually became the most famous Polish researcher of the human mind (Ryn, 2007: 106). The sentence quoted above by Kępiński is a very bold diagnosis. This "social recognition" is becoming more and more suited to the modern, ever faster functioning world.

How are you? We probably hear a similar question very often. We often ask them to others. Sometimes we turn to ourselves with this type of reflection, considering our state of mind. This question, however, takes on a unique meaning on October 10 each year. World Mental Health Day is celebrated then. What is our emotional condition then? Malicious people may say that there are no mentally healthy people in the world. There are only people "undiagnosed". More reliable data in its assessment, presented, among others, by the Polish Ministry of Health indicate that every fourth of us had, has or will have in the future serious problems with their mental health. The nature of these disorders may require the assistance of an expert providing therapeutic assistance. (Tracz- Dral, 2019, 4) I'm talking here about a doctor providing pharmacological help, or a psychologist who uses psychotherapy. Does this mean that such a large group of people in Poland is doomed to "madness"? Does psychiatric epidemiological data relate only to diseases or other mental disorders? Can we not be afraid of psychiatry?

II. "DEMOCRACY" OF MENTAL ILLNESS

Mental disorders and diseases are one of the most "democratic" clinical states that can be found in medicine. They can affect both young people and elderly patients. They appear in both poor and rich people. They occur in people without education. They are often attended by people with professorships. It can be assumed that the groups indicated here also encounter other disorders and diseases, e.g. of cardiological nature. However, when experiencing psychotic disorders, wealth does not matter. A few gold cards in your wallet can help you gain access to operations in another country. This treatment can help save the patient. When a physician recognizes a person's paranoid schizophrenia, it doesn't matter if I work as a poor construction worker, or if I'm a wealthy developer constructing another estate. Of course, a wealthy businessman may have faster access to a psychiatrist and new drugs. It is not known, however, whether his treatment in a rich clinic will have a better effect than in the case of a materially poor patient who will go to therapy in a mental health

clinic. (Kępiński, 1989: 8-9) A similar "democratic state" very differentiates the area of psychiatry from other medical specialties. A psychiatrist in this context may raise significant fears. We still do not know the specific reasons for the appearance of autism, bipolar disorder or anorexia. The eminent Polish psychiatrist, Stanisław Pużyński very strongly emphasized in his publications that psychiatry arouses fear because of ignorance. We do not know, we have not seen under the microscope "psychotic pathogens". Accusing vaccines of having autism in a child is a fashionable activity. However, it does not explain the specific causes of developmental disorder and (as we know) is based on unethical research results. According to Pużyński, the area of ignorance is still extensive in psychiatry. (Pużyński, 2007: 302). There are, however, very positive changes in this area.

III. POSITIVE CHANGES

Comparing psychiatry with, for example, genetics, one can come to the conclusion that the first of these disciplines stands still. At the same time, it can be concluded that the second of the above-mentioned specialties is developing rapidly thanks to the support of IT specialists, for example. However, this view is incorrect. In the first place, psychiatrists have more and more information about the human psyche, among others by referring to the results of other medical specialties, including genetics. Secondly, the therapy of mental diseases and mental disorders is not only pharmacological (Raport UEMS 2009: 868). Antonia Kępiński emphasized that the best effect appears when a person approaches a real person. (Kępiński, 2001: 340) Similar positive therapeutic effects are present in psychiatric wards. The situation in the above-mentioned facilities has changed significantly in recent years. Known in many countries, large psychiatric isolation hospitals are dynamically transforming into places of professional support necessary at the time of crisis. In hospitals, special attention has recently been paid to equipping the patient with tools that help in the difficulties experienced by a sick or mentally disturbed person (Schröder, 2006: 6).

Psychiatric wards undoubtedly have a unique character. The already mentioned Antonia Kępiński added that there are treated people who experience conditions that can be shown in the following words: "The greater the internal breakdown in a person, the sense of their own weakness, uncertainty and fear, the greater the longing for something that will bring him back, will give confidence and self-confidence." (Białek, 2008: 5) Similar, dreamed behavior - although it may sound surprising - may occur at the moment when legal provisions are created that are consistent with democracy standards. It is worth paying attention to Leon Petrażycki's accurate observations. In his opinion, law is a special social phenomenon. His task is to create specific classifications of standards of conduct. At the same time, however, law is a key element in the reflection of the human psyche. We may like the laws. They can make us angry. They can also make us want to change (Petrażycki, 1985: 157). That is why the connection between law and psychiatry is a natural phenomenon.

Dynamic progress and changes in psychiatry are noticed, among others in the legal area. As early as 1993, Jacek Bomba pointed out that the appearance in Poland of the Mental Health Protection Act (finally adopted in 1994) was possible due to the self-regulating ability of physicians dealing with human mental health. (Bomba, 1993: 229) They understood that it was necessary to introduce, for example, judicial control regarding the referral of a mentally ill person to a psychiatric hospital. The medical professional group indicated here also knew that specific standards of physical coercion must be laid down for aggressive or auto-aggressive patients. That is why specific procedures were introduced for applying such measures as: immobilization, holding, forced administration of drugs and isolation (Act 1994). It was also psychiatrists who considered that the presence of independent state officials, i.e. patient advocates, in the psychiatric ward was necessary. The first specialists of this type appeared in 2006. They currently perform their duties in over two hundred psychiatric wards throughout Poland. (Ciechorski, 2015: 113- 114)

IV. NORM AND STIGMA

Antonia Kępiński, who has already been mentioned several times, pointed out that in societies it is extremely easy to "fall outside the normality brace." In one of his scientific papers he stated, that: "There are certain limits to human experiences and they cannot be crossed with impunity; if this happens when one goes "beyond" then there is no going back to the old one. Something in the basic structure is changing; man is no longer the same as it used to be." (Kępiński, 1970: 24) Currently, there is another form of the mentioned alienation. It is calling someone "crazy", "freak" or "psycho". (Pużyński, 2015: 133) We are talking here about the appearance of stigmatizing assessments that can be seen, for example, in criminal matters. In criminal proceedings we want to explain the magnitude of evil committed by the appearance of a mental illness. Probably that is why Anderes Brevik (killed over seventy people on the island of Utoya in 2011) was first recognized as a mentally ill person. However, as it turned out, he committed all crimes fully consciously, without experiencing, for example, hallucinations or delusions. (Szafranski, 2015: 9) Stigmat may also have a different form. By considering someone sick and crazy, we want to make someone unbelievable. We can see many examples of similar actions in politics. (Kmieciak, 2016: online)

In the last aspect we can see something unique and surprising. The social ridicule of people experiencing a mental crisis has recently met with fair criticism. It perfectly shows the reaction of Polish public opinion to the action: Don't freak out, go to the election. (Several well-known Polish actors, pretending to have a mental disorder, encouraged them to participate in parliamentary elections.) These types of ideas, combined with the visual presentation of pretended mental disorders, were strongly criticized as a violation of a certain canon of conduct.

Recently, it can be concluded that psychiatry creates a unique, plane of behavior of one person to another person. It is a plane based on his dignity. Referring to people experiencing a mental crisis, we see in a special way the need to protect their rights and reputation. This does not mean, for example, that the word "freak" is always bad. The well-known Polish singer, Paweł Domagała in the hit "Do not ask" (Over 15 million views on youtube), sings at one point: "take no freak, take a hug, take a hug me here, take a stand here." This singer proves that the word "freak" will not offend if it is supported by the good intention of the person speaking it. This is a very important observation. (Domagała, 2018, online).

V. LAW AND PSYCHIATRY

According to the results of analyzes of the Polish Ministry of Health, every fourth Pole had, has or will have a mental crisis. Mental illnesses, mental disorders, addictions, various anxiety and neurosis are phrases and formulations that are increasingly appearing in public space. In Poland, the issue of assistance to people in similar states is regulated by the Mental Health Protection Act. It was adopted over twenty-five years ago to support the public in particularly difficult situations. (Dąbrowski, Pietrzykowski, 1997: 16- 22)

Can a person with mental disorder be subject to therapy without his consent? Can you use force against this person when it poses a threat to yourself or others? Many people probably ask these questions. They also refer to legal doubts. What strength actions can be taken against a mentally ill person? Does this not violate her dignity? For many years, this topic in Poland remained outside the scope of regulation in the rank of an act. At the end of the 1950s, the Polish Ministry of Health introduced an official instruction. Under it, it was possible to treat a person with mental disorder without further justification. The most important decisions were made by the psychiatrist and head of the department. The patient could stay in a psychiatric hospital for several decades. Hospital stay was not subject to any judicial review. Polish psychiatrists - remembering the crimes of World War II committed by the Nazis - never decided to follow the instructions of the communist authorities. Stanisław Dąbrowski emphasized in his scientific works that, unfortunately, there was a situation of human rights violations in the history of Polish psychiatry. This, mentioned co-author of the Polish "psychiatric act" pointed out that the lack of rules for the use of direct coercion against aggressive patients was a special problem. There were also situations of unlawful monitoring of patient correspondence. There were also cases of sick people limiting contact with the family. These activities were accompanied - as already mentioned - at the same time by the memory of the criminal actions that Germans carried out in Poland against the mentally ill. As part of Action T4, tens of thousands of patients were murdered during World War II. (Katolo, 2012: 24) A strong humanistic view was still present in Polish psychiatry. It has become a strong motive to take legislative action to regulate the treatment of people experiencing mental disorders. The effect of these efforts was the adoption by the Polish parliament of the Mental Health Protection Act. It happened in 1994 (Act, 1994)

VI. PRICELESS CONTENT OF THE LAW

Everyone who has a close person experiencing mental disorders knows how difficult a problem we are dealing with. We are talking here about the appearance in special and sometimes difficult symptoms: mental illness with delusions or hallucinations, aggressive behavior in an intellectually disabled person, or memory impairment in an elderly person. These states often force taking action in the form of securing the sick person against himself. This action may inevitably involve the use of force against it. The Mental Health Protection Act is an important legal act that regulates the principles of action in this type of, most often difficult situations. These principles show how, while respecting human rights, one can simultaneously treat a patient when he does not agree. The Polish "psychiatric act" introduces the possibility of compulsory therapy for a person who:

- she is mentally ill (experiencing symptoms of psychosis),
- because of the symptoms of a mental illness threatens himself or others. (Compulsory treatment Polish psychiatry) (Act, 1994)

These activities are subject to the supervision of a guardianship court: family department. The judge is obliged to talk to the patient in the hospital. The court is previously informed about the patient's condition by an independent psychiatrist. Subsequent amendments to the Act introduced better practical solutions. The purpose of subsequent amendments was to protect the dignity of people experiencing unique mental suffering:

- the obligation to appoint a lawyer for a man detained in a hospital has been introduced,
- independent Patient Rights Advocates began work in the psychiatric wards,

- the possibility of admitting an incapacitated patient to a psychiatric hospital has been minimized solely because of specific family expectations. (Act, 2017)

A quarter of a century of existence and functioning, the Mental Health Protection Act compels key summaries. There is a legal act in Poland that introduces transparent rules of conduct for people who, because of a mental illness, can pose a danger to themselves or others. Only mental illness or intellectual disability can be the reasons for such forced intervention. (Dąbrowski, 1993: 53- 60) The introduction of such clinical criteria is very important. In history, there are cases in which this compulsory psychiatric treatment was based on an unspecified diagnosis. Such an example is given by Brazilian writer Paulo Coelho. In the introduction to the book "Weronika decides to die" he described his own experiences related to treatment in a psychiatric hospital. At the age of 19 he was placed in a psychiatric institution solely because of exhibiting behaviors referred to as "lack of adaptability." (Coelho, 2009: 243) The Polish "psychiatric act" prevents such proceedings. Even an incapacitated person must be heard when a rational objection is made to the treatment. In such a situation, the decision is made by the guardianship court, not by the patient's legal guardian.

The existence of this type of legal proposal does not mean that legal and social solutions are perfect in Poland. We are currently in a situation of a clear institutional crisis of psychiatry, in particular child psychiatry. In 2019, several of the children's wards were closed in Poland. It was caused by the lack of psychiatrists. This specialization does not enjoy the special interest of medics. It should be remembered that psychiatry is a branch of medicine that in some sense "scares away" graduates of medical universities. It involves providing support to a special, sometimes still mysterious group of patients. In addition, the prospects of other specialties allow for higher financial profits. Action has been taken to rectify this situation. However, their implementation requires time. (Puścikowska, 2019: 23-24)

Ostatnich kilkanaście miesięcy pozwala mieć nadzieję, iż w Polskiej służbie zdrowia nastąpią istotne zmiany. W kolejnych częściach tego kraju zaczęły funkcjonować Centra Zdrowia Psychicznego. Pracujący w nich specjaliści mogą szybciej dotrzeć do potrzebujących pomocy osób zamieszkujących dany teren, w tym teren odległy od szpitala. Ministerstwo Zdrowia, widząc kryzys psychiatrii dziecięcej uruchamiło nowe możliwości specjalizacji. Niebawem mają pojawić się grupy psychoterapeutów: będą to pedagodzy i psychologzy, którzy uzyskali dodatkowe kwalifikacje. (Gierblińska, 2019: online) Widać również w tym zakresie ogromną aktywność Rzecznika Praw Pacjenta. Urząd ten stara się regularnie interweniować w sytuacji naruszenia praw osób doświadczających kryzysu psychicznego. (Pochrzęst-Motyczyńska, 2019: online)

VII. SUMMARY

Stanisław Pużyński, already cited several times above, has repeatedly drawn attention to the relationship between psychiatry and the mental state of man with social and cultural development. (Pużyński, 2015: 133) In recent years, some disturbing phenomena have been seen in this aspect. Just before World War II, the American thinker Fulton Sheen said that the philosophy of the time had "lost mind and soul," recognizing that the only thing he could admit was "ignorance." (Shhen, 2019: 15) A similar assumption was the perfect excuse for accepting, for example, Nazi and fascist criminal ideologies. Nowadays, we have moved to the other pole of activities. They were correctly diagnosed by judge Antonin Scalia. He emphasized that we live in a time of domination of "expert magic". This phenomenon is very clearly seen in the area of sciences dealing with the human psyche. Their representatives are primarily focused on making recognition of every human behavior. Human action must be qualified as a norm or pathology. (Scalia, 2009: 28) At the same time, you can see the opposite. Looking at, for example, the decisions of the World Health Organization regarding human mental health, surprising phenomena can be seen. The standard of evidence-based medicine changes to a standard in which medicine is based on emotions. The removal of transsexualism from the list of mental illnesses and disorders last year is a clear example of this. Medicine ceases to be a place of objective diagnosis today. It becomes an area of subjective recognition of a given state as exclusionary and discriminatory. Disease and disorder are decision making deleted from the glossary of terms. The change of criteria is more and more often as a result of experts' decisions, not scientific discovery. (Kmieciak, 2019: 43- 46)

Another threat to medicine (including psychiatry in particular) are euthanasia practices undertaken for people with psychiatric disorders. These activities take place especially in the Netherlands and Belgium. It is becoming increasingly difficult not to compare these actions to the actions of Nazi doctors using "life-saving procedures". The fight for the rights and autonomy of a suffering man, officially depicted in this aspect, leads to his death inflicted in the name of human rights. However, this is not the fight for the dignity of people experiencing crisis, pain or suffering. (Pużyński, 2015: 222)

Experiencing a mental illness or mental disorder is not a moral defect or evil. Instead, it should be a chance to change attitude towards a man experiencing suffering. It requires the presence of respect and willingness to help. Antonia Kępiński pointed out directly that for many years he was able to work with people who see and hear more. In his opinion, people experiencing a mental crisis are the strongest. They obtained extraordinary perseverance. They went through the internal, "their own hell", which despite its imaginary and

face, caused enormous and real suffering. Respect for people in a similar health situation should be very real in us.

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Błażej Kmiecik , et.al. “ Psychiatry In The Mirror Of Social And Legal Reflection”. *IOSR Journal of Humanities and Social Science (IOSR-JHSS)*, 25(1), 2020, pp. 42-46.