Forensic Psychiatric Assessment with the Claim of Incitement, Solicitation, Assistance to Suicide, and Reinforcement of Suicide Decision: A Case Report

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SUMMARY

Although the act of suicide is not considered a crime in Turkish Criminal Law, any contribution (incitement, solicitation, assistance and reinforcement of suicide decision) to the commitment of suicide is a crime according to the 84th item. However, the number of cases opened with respect to this item as well as request for forensic psychiatric expertise is very rare. In these cases, forensic psychiatric expertise depends on the psychiatric evaluation of the individual that committed suicide and the analysis of his/her relationship with the person that incited the suicide. If the suicide is completed, then the psychiatric process gains the qualification of a "psychological autopsy". In this paper, we examined a reporting process prepared for an individual that died as a result of suicide and the person accused of inciting him to suicide. Evidence and forensic aspects are discussed.

Keywords: Suicide, forensic psychiatry, expert opinion

INTRODUCTION

Suicide behavior is a complex behavior in which biological, psychological, and social factors altogether and actively influence the individual, the environment, and further generations (Atay et al. 2012). It is assumed that the rate of suicide is 16 in 100,000 people worldwide, which is a person dying every 40 seconds. Almost one million people each year die as a result of suicide (Swahn et al. 2012). In United States of America (USA), it is the third most common reason of death for the age group of 15-24 and the second most common reason of death for the 25-34 age group (Sussman et al. 2002). According to the data provided by the Turkey Statistical Institution (2015), the number of completed suicides were 3,252 in 2013 and 3,065 in 2014. The individuals who committed suicide consisted of 74.3% men and 25.7% women. Given that unrefined rate of suicide is the number of suicides in a population of hundred thousand, this number was 4.27 in 2013 and 3.97 persons in 2014. In other terms almost 4 individuals in a hundred thousand have committed suicide.

In history, the evaluation of suicide behavior by laws of crime has been variable. In the nineteenth century it was common to exclude the individual who died by suicide with respect to religious and societal aspects and humiliate them by body and name. Besides these, a procedure to punish the individual that survived suicide was widespread. Despite being limited in number, there are countries (Malaysia, North Korea, and Singapore) that penalize the relatives of the individual that died of suicide or the suicide committer themselves. India repealed this law in 2014. However putting euthanasia aside; incitement, solicitation of the individual to suicide, and assistance and reinforcement of suicide decision are considered to

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be crime in almost all of the countries (Mishara and Weisstub 2016).

In our country incomplete suicide or a suicide attempt is not a crime. However, assisting a suicide is a crime with respect to 84th Item of Turkish Criminal Law (TCL) (2004), and the suicide act can be legally investigated and prosecuted if necessary. According to the law item in question: 1. The person that instigates and incites the other person to suicide, empowers the suicide decision of the other, or assist other's suicide in any way is penalized with imprisonment for two to five years; 2. In the case of completed suicide, the person is penalized with four to ten years of imprisonment; 3. The person that publicly incites others to suicide is punished with three to eight years of imprisonment; 4. The people that incite the individuals with an inability or extinguished ability to perceive the meaning and consequences of the act and the ones who use force or threat to compel the individuals to suicide are held responsible for willful murder.

The request of expertise from psychiatry specialists within the scope of this item of TCL is infrequent. In this case study, we aimed to share the judicial report prepared for a person about whom a report was requested within the scope of 84th Item of TCL and the pursued methodology in the preparation of this report. In this study, names of the individuals, places, and date of event was changed.

CASE

The court assigned the hospital management officially the role of preparing a report of expertise about X. A forensic psychiatric report was prepared accordingly by the department of mental health and disease. It was requested to determine whether the written phone messages of X who had a communication with Y before shooting himself on 7 September 2014, at 17.00 pm with a rifle while he was alone constituted elements of crime. Crime was defined as "*inciting someone to suicide"*, "*assisting the occurrence of suicide*" and whether "*these messages empowered the suicide decision of the dead person*". With this aim, investigation documents and case file were examined and upon request of the court defendant X, parents, and friends of Y (Z and W) were interviewed.

The summary of the event in question as a result of investigation and interviews are as follows; Y was a 17 years old high school student. It was understood that on a September day at about 17.00, Y was dead at the scene after being shot in the left chest cavity by a semi-automatic hunting rifle and the death was considered suicide. The case was closed two and a half months later with the reason of "no need for prosecution". However, four months after the event Y's father registered a complaint for Y's girlfriend X for incitement and solicitation of his son to suicide by text messaging on the day of suicide. The case reopened and the complaint was filed.

At the scene, a note that Y left was found, which read: "*nobody is responsible for my death, I am shooting myself because I failed my class. I can't live with this dishonor, let everyone give their blessing… my mom, dad, brothers, and sisters I love you a lot…Goodbye*"

On the day of the event, Y's father stated that "*his son had no enemies, that he didn't know why Y committed suicide and whether he had any problems*". After 8 months from the event, the father indicated that: "*they had a good father-son relationship; Y had been intolerant and angry for the last few months; that he broke someone nose in a fight; that X had been Y's friend for a while; that she attended an Islamic ceremony made on the 7th and 40th days of his son's death; and also that there had been someone else in her family that died by suicide.*

After 8 months from the event, the mother indicated that: *Y's birth and development was normal, that he was a hot-blooded person; that he was described as "respectful but irresponsible about classes" by his teachers; that he was not interested in guns other than hunting interests; that he was sensitive about his father's comments and opinions about himself; and that he didn't want his father to hear about his failing the class.*

It was understood from his cousin and brother's statement on the day of the event that: *Y was not unhappy or dispirited the day before the event; that he didn't mention any problems; that he failed his class and that the reason for his suicide might be his classes; that he didn't have any known problems with X; and finally that he didn't care much about girlfriend issues.*

It was understood from the interview conducted with Z and W who are his friends of the family after 13 months that: *Y had changed in the last 5 months; that he became aggressive; that he didn't attend classes in the last year and preferred meeting with his girlfriend; and that his father was a tough man*.

From the statement of X on 5 February 2015 it was understood that: *They have been lovers for four months when Y committed suicide; that Y told him that "he failed his class but his family didn't know about the situation and thus he wanted to commit suicide; and that Y was stressful in the beginning of the school year*. Additionally, X reported that: *on the day of the event they communicated by mobile phone and via facebook and they argued out of jealousy; that Y indicated that he ended the relationship but X didn't accept this, but when she couldn't convince him she reacted by telling him that "I am breaking up with you too*". Afterwards, it was confirmed that Y sent a text message indicating that he would commit suicide with the reason of not being able to tell his family that he failed his class and also that he didn't love X. X responded with the message *"I don't love you either, kill yourself if you will"* and another message *"I will kill myself too, I took 45 drugs".* Then Y was reported

to respond by a message saying *"Ok"* and didn't respond to any more messages after that. From the statement of X it was learned that: *she sent the messages in question with instant anger; that she called Y's father after she couldn't get any response to her messages and couldn't reach Y; that she informed Y's brother over social media that she reached Y's cousin via phone and told him that Y could have possibly killed himself*.

From the case file it was understood that, on the day of the event, X and Y had 44 text messages in a time period of 1 hour (40 minutes and 23 seconds). Twenty four of which were written by Y and 20 of which were written by X. In these messages: 1. Y blamed X for unfaithfulness and mentioned about suicide because of this; Y wrote: "*I got bored with life here studying and arguing with my father everyday*" but the other messages were all about the relationship between the two. 2- From the argument that went on the relationship of the two, it could be understood that despite the emphasis on the theme of "*Y directing the rifle towards himself, not being able to pull the trigger, and said that he not kill himself if X would write that she loved him*", he continued blaming X. In return, it was found that X denied unfaithfulness and that she also wanted to end the relationship despite the fact that she loved him. She wrote that they might commit suicide together and that she took 45 tablets of 1000 mg . 3- In this messaging, Y wrote "*I loved you. I expected love and respect from you and for you not to deceive me*…." in his last message.

X was interview almost 10 months after Y's suicide. It was learned from Y that: *they met each other 4 before the death; that Y was afraid of his father so he arranged a fake school report to tell him that he passed his class; that he couldn't take the make-up exam and he failed; and that he started to talk about suicide afterwards*. It was determined that what X orally reported was compatible with case files.

The discussion and result section of the report that we were requested to present to the court were as follows:

Discussion: 1- The individuals between the age of 15-20 are not completely mature with respect to psychological status and their attitudes and behaviors may show fluctuations. Although they may have reasoning like adults, the necessary mental equipment for comprehension is not yet developed. Emotional tone outweighs in their decisions. This psychological state may lay the basis for "*sudden and undetailed*" acts. In this event, it can be understood that Y tried to avoid negative consequences that he anticipated because of failing the class and entering the make-up exam and he experienced more uneasiness, interference, and desperateness. 2- Emotionality and lack of rational judgment are also seen in opposite sex relationships of adolescents. In opposite sex relationships, adolescents commonly experience "emotional relations without complete attachment" and thus, they have short-term relationships. Rarely, passionate relationships with strong bonds occur. In passionate relationships, the fear of loss and perception of threat concerning the ending of the relationship may dominate the relationship. Considering even the most usual social behaviors as "infidelity" may influence the relationship. In situations where the individuals are under burden, this risk gets magnified. As a result of the investigation, it may be understood from the messages that the relationship between the defendant X and Y was "*passionate attachment*" in nature according to Y. He considered the probability of the end of the relationship as equivalent to death. Defining a Facebook greeting, which has been accepted as a usual social behavior in our days as infidelity, is an indicator of this situation. It is understood that the convictions that X put forward to remove the perception of "infidelity" were not enough for Y. 3- Suicide is an act of offense in nature. Different than the usual offensiveness, the target is the person himself/herself. In the time period that involves the act of suicide, the psychological state of the person is unique. In this period, the person subjectively reaches the conclusion that "*all the ways are obstructed for him/her*". The person becomes severely *despaired* and *hopeless*. When the person is in this time sequence, he/she is not in a mood of evaluating convicting words mentally. This psychological state is experienced under the influence of mental disorders like "*depression*", "*schizophrenia*" and "*excessive alcohol-drug intoxication*" as well as in "intensive crisis situations". The evaluation made in this time period when the suicide occurs is a negative mood that may be defined as "*the deficient and thus distorted evaluation of reality*". 4- In these situations, the clinical practice manuals of mental health professionals prescribe the protection and treatment of the person by hospitalization until the risk for suicide diminishes. In other words, trying to convince the person to give up his decision cannot be succeeded in short term. It is almost impossible for a person in this psychological state to be discouraged from the act by an unprofessional, which is the same age person in the above mentioned psychological state especially in a text messaging period. It is a hard topic for psychiatrists to differentiate between "threatening others by killing himself/herself (suicide)" and "killing oneself". It is not always easy even for mental health professionals to discriminate between threat of suicide and act of suicide (killing oneself). As for lay people, it is extremely difficult to make such discrimination. It is inevitable for this difficulty to increase where the person that needs to make this discrimination has a familial or emotional closeness with the other person that tells he/she will commit suicide. The fallacy may be "exaggerating the will to die" or in contrary to this it may be in the form of "not perceiving the severity of the will to die". 5- In the event in dispute, the competence of Y's interpretation of Y's will to die is not an expected situation. Various sentences corresponding to a meaning of "*kill yourself*" found in the text messages may indeed be a form of "*converse instruction*" told to prevent the suicide. Another example of the trying to conversely instruct

is the message with the content of "I am killing myself too". The conviction that the main situation behind Y's suicide decision was mostly related with the crisis of academic failure and also that the age-normative relationship crisis would also contribute to this was reached. However, it was also assumed that the importance of this relationship crisis is not more than usual couple relationships and that X didn't have the intention to incline Y to commit suicide.

Conclusion: As a result of investigations and interviews, the medical opinion was that there was no medical (psychiatric) proof of intention or neglect in X's messages with respect to claims of inciting or assisting Y's suicide act. It was also concluded as a medical (psychiatric) conviction that investigation of these messages didn't provide proof for reinforcement of Y's suicide decision.

DISCUSSION

The suicidal behavior is frequently observed among adolescents, and it the third most common reason of death in adolescents (Cash and Bridge 2009). The studies performed demonstrate that adolescent suicides are more impulsive in nature (Parellada et al. 2008). In adolescent suicides, variables like aggression, hostility and impulsive behaviors, the lack of problem solving skills, and being unable to find enough reasons to continue living play roles. (Scoliers et al. 2009; Karch et al. 2013; Lin et al. 2016). In the case we present, impulsivity and especially the lack of problem solving skills have played important roles. As a result of psychological autopsy on ten completed suicidal behaviors with ages ranging from 18 to 30; being unsuccessful in achieving autonomy; being unable to overcome feelings of shame; and being unable to get rid of aggressive feeling have all been introduced as important factors (Rasmussen et al. 2014). As for our case, the shame related with failing the class and the aggression that appeared in his relationship with his father played important roles. The psychiatrists will be assigned to similar kinds of cases as expertise should consider that there are differences between suicidal behaviors of adolescents, adults, and the elderly while evaluating the adolescent and the youth's suicidal behaviors.

In the forensic psychiatric investigation, the subject that was highlighted was whether the mental health and mental deficits of the case that committed suicide was absent or present and whether his control over his behaviors decreased. According to the 84th Item of TCL, the people that incite others with undeveloped or removed perceptual abilities to understand the meaning and consequences of the act (as well as individuals that force or threaten others to commit suicide) are held responsible for intentionally killing these others. In this case report, no evidence of undeveloped or removed perceptual abilities of the person was found with respect to the investigation of the file and based on the interviews conducted with relatives. This aspect should be considered carefully as it may affect the results of the report in forensic psychiatric expertise in the scope of 84th Item of TCL.

In the psychiatric expertise practice that we performed; all of the case files including scene investigation reports about the file, autopsy report, statement records of related people, and text messages that were written between him and his girlfriend at that time were investigated. Furthermore, the family and his girlfriend, who was defendant, were interviewed. In the cases where incitation to suicide is in question, the whole case file, photos and video records if present, the notes that are left by the person committing suicide, the records of the calls, messages and social media and also the medical-psychiatric treatment records of the person should be examined. However not to content with this, the person that attempted suicide if not completed, witnesses, the relatives of the person who attempted or committed suicide should be interviewed. It is difficult to form a psychiatric opinion without collecting these data and reaching enough details. It is important not to avoid requesting the required resources (person, document etc.) from the court. It was reported that in the suicide notes that adolescents that die as a result of committing suicide leave, they hold themselves responsible for the act without leaving, and suspicion or confusion and that these notes contain less than the adults' (Freuchen and Grøholt 2013). It may be said that the note that our case left had similar properties. In a study where the completed suicides were investigated with psychological autopsy method, the presence of completed suicide in family history had been identified as a risk factor (Phillips et al. 2002). It was learned that a relative of the case from the father's side also died as a result of suicide.

The courts in the USA scrutinize the question if the suicide attempt could be prevented because the principle of "legally, the suicide may be prevented if it is foreseen" determines the point of view of the courts. However the predictability, despite depending on a legal principle and being possible intuitionally, is a vague concept. Most importantly in clinical practice it has no objective equivalent. The predictability doesn't mean that the clinicians can foresee suicide attempt (Saddock et al. 2015). The fact that predicting an individual's suicide is difficult even for clinicians must be considered in the expertise investigation within the scope of 84th Item of TCL similar to what we did in our case.

As a result, the expertise in these kinds of cases (where mostly there is no psychopathology in question) is based on performing the psychiatric evaluation that the item of law requires. The expertise request in cases about the individuals that are claimed to incite other to suicide requires within the scope of the 84th Item of TCL. The detailed psychiatric investigation of both the person that committed suicide and the person claimed to incite the suicide and also the situation and environment that they are in. In these kinds of cases, the lack

of investigation of one of these components means the increment in fallacy. As one of the people to be investigated was dead, the mental investigation of this person was carried out via indirect information. Thus, the expert should be creative in determining information resources that are required. However, general convictions and methods of producing these convictions which are used when common situations like forensic psychiatric procedures, mental disorders, and penal responsibility are in question don't help a lot in these situations. It is the main principle for the expert to determine the need for information and request the court to provide it in order to better understand the case and the problem at hand.

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