

Review of the Greek efforts to modernize and adapt the legislation regarding psychiatric patients rights including compulsory admissions law, as well as the infrastructure of psychiatric care

M. PALIOURA¹, D. PAPADOPOULOS¹, T. VORVOLAKOS²

Summary

Aim: *The aim of this study was the review of the literature regarding the modernization of Greek legislation that regulates the rights of psychiatric patients in Greece.*

Method: *Literature research in the library of the departments of Law, Social Administration, International Economic Relations and Growth, Political Sciences and Business Administration as well as the library of Medical School in Democritus University of Thrace. We also performed an online research in the databases Pubmed and Scopus.*

Results: *A relatively small number of references were found. This happened despite the fact that research was not only confined in electronic data bases. The gradual modernization of the legislation to the point that it can be considered modern was also shown. The beneficial effects of this modernization were also apparent.*

Conclusions: *There is a gradual improvement in the respect of the rights of mentally ill people. Unfortunately service users' participation, stigma and the concurrent mentality regarding mental illness lacks behind legislation progress. Research in this matter is relatively limited. Further research could be much more beneficial in order to understand the causes of this phenomenon and ultimately tackle stigmatization*

Key words: Rights, Mentally ill, Greek, Legislation

1.Introduction.

What rights do the mentally ill people have is a constant question. We tend to answer to this question with the remark that they do have exactly the same rights as the other humans do. As human right is defined the ability of each person to live and to act according to the current legislation being able at the same time to achieve better quality of life in his goals.¹

Despite this general definition, the issue of the rights that mentally ill people do have is a major issue around the globe and through time. The way that Greek public as well as mental health professionals deal in real practice with these rights as well as the extent that this is in accordance with the current legislation and ethics was the motive for the current paper.

2.International declarations, pacts and agreements regarding the rights of mentally ill

After WWII along with the movement regarding human rights, the issue of the rights of mentally ill started to emerge. Since 1970s numerous pacts were made regarding the rights of mentally ill and the first ethics guidelines were established.

In 1973 for the first time the Code for the Rights of the Patient was established by the American Hospitals Union and a year later in France the white paper regarding the rights and the obligations of the patient was also established. The same year the Hospitals Comity of the European Communities establishes the European Paper for the Rights of Patients.²

A number of international declarations and psychiatric ethics followed like the Geneva Declaration 1973, Hawaii Declaration 1976, Athens Declaration 1989, the declaration regarding the protection of per-

1. Social Worker, Department of Social Administration and Political Sciences, Democritus University of Thrace, Komotini

2. Psychiatrist, Department of Psychiatry, School of Medicine, Democritus University of Thrace, Alexandroupolis

sons with mental disease and the improvement of care and mental health 1991, Madrid Declaration for ethics and Psychiatric Practice 1996. ^{3, 4}

In 1990 in Belgium the first European meeting of mentally ill relatives took place, for the Declaration of the rights of Mentally Ill and their families. In the first part of this Declaration the first twelve articles refer to the rights of mentally ill while in the second part they refer to the rights of the relatives of mentally ill as well as service regulations.

Thus in the first article each patient has the right to access care and proper help according to his mental disorder. In the second article, mental patients should be encouraged to actively participate in every aspect of their lives. In the third article, restriction of persons' freedom is justified only in the case that his situation requires compulsory hospitalization and treatment. Even this should be happening only in according to the lawful procedures that assure that human rights should be respected. This measure should be implementing in case that his safety or the safety of his family is in danger. Articles 4, 5 and 6 refer to the mental health centers and the fact that they should be placed locally regarding the patient place of residence at the same time they should have the option of in or out patient's treatment while their expenses should be covered by their insurance. They should also have their own income that they can use at will since according to the articles 7 and 8 they must have full control of their financial assets unless court decides otherwise. Patient's rights to control their assets can be removed only by special legislation. Patient's legal status should be applied and change through time in accordance with the current social and scientific developments as it is stated in article 9. In articles 10, 11 and 12 it is pointed that states should provide adequate financial support in order to provide proper care and treatment and support research regarding prevention of mental illness.

It is quite important to point out that patient's carers have also rights themselves regarding support from mental health services. In articles 13, 14, 15 and 16, carers have rights regarding their involvement to the care of the mentally ill person they support. Supporting family is also quite important and this could be done with the support of non medical lead services.

The following articles are about services. Self support groups must be recognised as separate service and should be financially supported. State

funded support to the family is quite useful while in this also Social Security organizations can also be involved. These services must also help in patient's rehabilitation.⁵

In April 1994 in Amsterdam, World Health Organization published the Declaration of Patients Rights in Europe. According to this rights of mentally ill should be protected when they feel that it is not. So they have the right to address their complains to the court where their case should be thoroughly investigated and solve as detailed and quickly is possible and they also should be informed regarding the result of the process.⁶

In 2006 pact regarding the rights of people with special needs was finalized and it started to be implemented in 2008 it is a broad and global agreement regarding all the aspects of peoples lives and aims to assure their participation as full members of the society. Although it is a broad agreement for the disabled people it clearly includes the mentally ill. ⁷

It must be highlighted here that in U.N. text there is no clear term regarding psychosocial impairment. Despite that though there is a clear cut in U.N's article between mental and psychic impairment and the aim of it that people with psychosocial impairment should instead referred as people with psychiatric impairment not necessary social impairment also. ⁸

This pact is binding for state members and within it they are obliged to promote and protect the right of all of their citizens that are members of these groups. In our case this can be applied in citizens with psychosocial impairment. The most recent pact was regarding the rights of people with Special Needs was signed by 94 U.N. member states among them United Kingdom, Germany, Denmark and Spain.

3.The Greek Effort

During the last 30 years Greece made a serious effort to modernize its legislation and infrastructure regarding mental health and patient's rights protection and respect.

a.Legal efforts

The basis of each effort of course is the Constitution its self. In the Greek Constitution it is Clearly stated that 'every compulsory medical act that causes physical harm is forbidden since it harms the physical health of the person furthermore every kind of black-

mailing practices is considered psychological violence so it is also regarded as violation of the law.⁹

More specific laws regarding respect of the patient's rights are the following acts. Act 1379/83 'National Health System', Act 2072/92 'Modernization and Organization of Health System'. Act 2716/99 'Growth and Modernization of Mental Health Services' and articles 34, 69 and 70 of Criminal Law that refers to mentally ill persons that commit criminal acts.^{10,11,12,13}

In Greece, according to Act 2519/97 a number of services were established in the Ministry of Health. These are the Independent Service of Patients Rights Protection and the Rights Protection Control Comity. Citizens Communication Bureau and the Comity for Citizens Rights Protection regarding hospitals were also established with the same act improving not only health users information but also patients doctors relationships.

An extremely important step towards mental health modernization was 2716/1999 Act. According to article 2 'mentally ill person has the right to tailored treatment and decent living conditions in Mental Health Services, has the right to talk directly to a lawyer and to dispute his compulsory hospitalization in the court. Furthermore he or she has the right to protect his property and has also the right for social rehabilitation. Finally he or she also has the right of full access to his medical file.¹⁴

In contrast with the advance and modern legislation regarding patient rights respect Greece delayed to verify the 2006 Pact for people with Special Needs. So the additional protocol which was necessary in order to implement the pact was verified in 2012 by the Greek parliament despite the fact that pact itself was signed much earlier.¹⁵

b.Psychosocial Effort

In 26 March 1984, rule 815/84 was approved. This rule consisted by two programs A and B that were about the creation of new facilities and staff training in order for mental health sector to be reformed fully. Program A lasted from 1984-1994 training facilities were funded to be build and equipped completely. Program B aimed to rehabilitate mentally ill in order to use programs' A graduates expertees.¹⁶

'Psychargos' program started to take shape in 1997 until 2006 it was reformed in 2010. From 1997 until 2001 'Psychargos' was enrolled in a special pro-

gram regarding the rehabilitation of people with psychosocial impairment that was aiming for them to gain access to jobs.

The aim of 'Psychargos' is the organization of Mental Health Services in such manner that can assure prevention, care, treatment and full rehabilitation of mentally ill persons'.¹⁷

Currently 'Psychargos' program is in its third phase and a plan for years 2010-2020 is established.¹⁸

4.Compulsory Hospitalization

Maybe the most challenging part in approaching mental illness is that of compulsory hospitalization of mentally ill persons in order for them to be treated properly.

Article 96 of the constitution and the 2071/1992 Act are referring to compulsory hospitalization of mentally ill. 'It is absolutely necessary for the person to suffer from mental illness and to be unable to judge what is best for his health'. Two medical reports regarding persons' mental health that adequately describe the reasons for compulsory hospitalization are necessary in order for the District Attorney to instruct this to happen. In that case patient is placed in a psychiatric inpatients unit. In 97% of the cases transfer is made by the police.

After admission patient is informed by the director of the psychiatric department or anyone else that has the proper authority regarding the reasons for his/hers admission so he or she can use his right to utilize any legal protection if he or she thinks so. The fact that these informations were communicated to the patient is documented in a proper form. Thought the above described is the formal procedure, nevertheless this is often not the case. In many cases patients are not properly informed especially regarding the legal protection they are entitled too.

During the same procedure medical officer ought's to evaluate whether patient is in a position to understand adequately the informations regarding his or hers rights. If this is not the case then patient's representatives ought to be found and informed instead.

Patients legal rights are his or hers right to be presented in front of the court in order to be judged if his compulsory admission, that the District Attorney suggested is justified. Patient has also the right for an appeal. After three months the continuation of the admission is judged again by the court.

Compulsory admission is also mentioned in articles 34,69,70 of the criminal law in cases that a crime committed is the direct impact of mental disorder which prevented a person to act according to his or hers best judgment. This is called according to the legislation 'biological assumption'. Thus in many cases mental disorder can to function as defense strategy to criminal trials. This is because in case that the accused is judged as 'insane' is sent to a mental institution whether is he or she is judged as 'sane' is sent to prison.

During compulsory admission patient and his family as well, should be informed about his rights to treatment. Patient's privacy should be respected. They can have tailored treatment and use their own fortune. They can also use their personal items like their own clothes. It is also necessary to have telephone contact with their family and other persons they wish to.

5. Discussion

Comparing Greek legislation with international developments in mental patients rights and ethics can someone argue that legislation is modern and in accordance with international standards.

Unfortunately despite the above fact there are considerable difficulties in implementation of it in practice. This leads to the fact that only part of this progress is reaching service users and their families.

Although the exact reasons for it are mainly a legal matter, we are going to approach this matter from psychiatrists and social workers view who both are called to implement the current legislation regarding mental patients rights.

One of the most important problems is the complexity of the legislations which in an effort to protect patients rights and in accordance to constitution creates a quite complex legal structure which in many cases is impossible to be followed. Main reasons are the speed in which the psychiatric phenomena are evolving, logistical issues like the lack of suitable words or difficulties to escort the patients to the court. Legal procedures are not compatible with scientific development due to the fact that it is slow creating considerable difficulties.

The above problems are illustrated more than in any other part of the procedure in the compulsory admissions procedures that are be heavily and in many cases not rightly been criticized for bad practices that lead also to increase stigma.¹⁹

One key issue is the lack of proper documentation of patient's conditions in doctors' reports to the District Attorney regarding the reasons for compulsory admission.²⁰

In great many of the cases compulsory admission is judged substandard regarding patients rights protection as it is shown in a study regarding 179 compulsory admissions, the same it was shown regarding the hospitalization conditions. Further more the almost certain police presence during the procedure enhance stigma.^{21,22}

Stigma itself is the other quite important issue. Despite the last 30 years of efforts it is still quite strong regarding mental patients and mental illness. Mental patient are still viewed as dangerous or incurable.²³

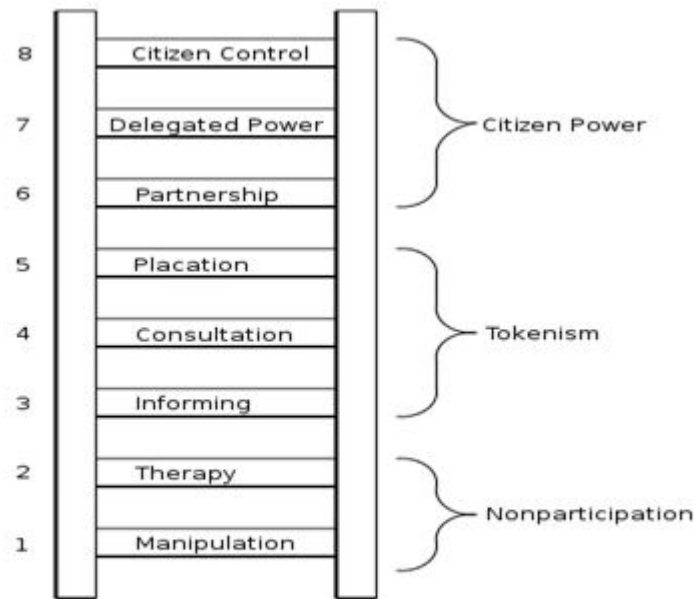
This is probably the single most important obstacle in mental patients rehabilitation and psychiatric reform in general. This is very clear in all professionals that deal with mental illness. It is striking that this often stops rehabilitation efforts even if all the legal and financial problems around it are solved.

Stigma penetrates all social structure. So even stakeholders disregard the benefits of psychiatric patients' rights respect and psychiatric reform. That means that even if it is scientifically proven that mental health approach through psychiatric reform practices according to Belgium pact principles is cost effective, stakeholders still consider it as a luxury.²⁴

A radical widespread practice in order for us to improve the above mentioned problems propose the inclusion of the service users themselves through either self help groups or empowerment practices.

Such practices in contrast with the current Greek mentality were change is almost every time starts with decisions by the central authorities, are based in the active role of citizens/users of the services. These practices allow the users to improve care and their inclusion by themselves and do have significant benefits regarding users mental health as well as their legal and social status also.

During last years R. Arnstein model regarding empowerment practices is used (Picture 1) by various services in order for the users to participate. According to this model, users share their personal experiences regarding their illness, their recovery, the various services, their care as well as community's reactions.



Picture 1.

Self help groups

Group dynamics that grows gradually by group bonding, covers group member needs in order not to feel alone anymore (they and their problems) and also learn to appeal for help as well as to give help.

Self help and empowerment groups are a common social gathering. It is part of an emotional experience and exchange by the sense that I give help in order for me to get help.

Such practices and particularly empowerment practices started from Germany and expanded in other countries during 90's. Such groups exist in UK, Netherlands, Norway, Sweden and Slovenia.²⁵

It is the right time for mental health professional as well as the academic community to understand and to take into account the opinions of service users. After all users have deep knowledge of their values and meanings of their relationships and by some aspects can be considered 'experts'.

In the above mentioned directions regarding

empowerment and active participation of service users are rights like 'psychiatric wills', 'advance directives' or 'patient's wills' that exists already as laws in countries like UK. Such peaces of legislation can improve further the legal status of compulsory admit ions par example and to influence directly the quality of the provided treatment options.^{26,27,28,29}

6.Conclusions

During the last 30 years Greece has make quite important steps towards mental patients rights protection and reformation of mental health provision. Legislation has been modernized and lots of State services and bureaus deal with the protection of vulnerable individuals mentally ill included. Only part of this progress is reaching mental health services users.

Main problems are , limited representations of the service users among stakeholders, stigma around mentally ill and mental illness, as well as complexity of legislation but in a lesser degree.

Further research regarding ways to face these challenges in order for psychiatric patients' rights to be better served and to reach an upper level in patients care is necessary.

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