International Journal of Law and Psychiatry 35 (2012) 50–56

Contents lists available at SciVerse ScienceDirect

International Journal of Law and Psychiatry

French lay people's views regarding the acceptability of involuntary hospitalization of patients suffering from psychiatric illness

Myriam Guedj [a], Paul C. Sorum [b,*], Etienne Mullet [c]

[a] Department of Psychology, Mirail University, 5, Allées Antonio-Machado, F-31058 Toulouse Cedex 9, France
[b] Departments of Internal Medicine and Pediatrics, Albany Medical College, Albany, NY 12308, USA
[c] Institute of Advanced Studies, Paris, France

ARTICLE INFO

Available online 5 December 2011

Keywords:
Involuntary hospitalization
Mental illness
Threat to others
Beneficence
Autonomy
France

ABSTRACT

Purpose: To understand how lay people and health professionals in France judge the acceptability of hospitalizing a psychiatric patient against his will.
Methods: 123 lay people, 20 nurses, 5 psychologists, and 6 physicians judged the acceptability of involuntary hospitalization in each of 36 scenarios consisting of all combination of 4 factors: patient's adherence to treatment (agrees to take his medications or not); risk of suicide (none, immediate, multiple past attempts); risk of harming others (none, immediate, history of violence against others); attitude of patient's family (favorable to involuntary hospitalization or not). The judgment data were subjected to cluster analysis and subsequently to analysis of variance.
Results: 4 clusters were identified and labeled according to the factors that affected judgments: Never Favorable (7 participants, with mean acceptability judgment of 1.30 on a scale of 0–10); Threat to Others (35, with mean judgment of 8.68 when risk high, 2.94 when risk low), Threat to Others or Self and Adherence (88, with mean judgment of 6.89), and Always Favorable (24, with mean judgment of 8.41).
Conclusions: 95% of participants agreed that involuntary hospitalization is acceptable under certain conditions, especially – in accordance with French law – when the patient presents a risk to others.

1. Introduction

The involuntary hospitalization of psychiatric patients has a long tradition in Western countries. It is legal under circumstances that vary from one country to another (Dawson & Kämpf, 2006; Habermeyer, Rachvoll, Felthous, Bukhanowsky, & Gleyzer, 2007; Kallert, Rymaszewska, & Torres-Gonzalez, 2007; Steinert & Lepping, 2009), although the basic requirement is, of course, that the patient suffers from a mental disorder.

Article 5 of the European Convention on Human Rights provides that "Everyone has the right to liberty and security of person. No one shall be deprived of his liberty save in the following cases and in accordance with a procedure prescribed by law: …(e) the lawful detention of persons for the prevention of the spreading of infectious diseases, of persons of unsound mind, alcoholics or drug addicts or vagrants." Article 8 reiterates, more generally, that there can be "no interference by a public authority with this right [to respect for private and family life] except such as in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others." (European Court of Human Rights, 2010). The United Nations' Convention on the Rights of Persons on Disabilities of 2006 enjoins signing states to "undertake to ensure and promote the full realization of all human rights and fundamental freedoms for all persons with disabilities without discrimination of any kind on the basis of disability" (Article 4) and, in particular, to ensure that persons with disabilities "are not deprived of their liberty unlawfully or arbitrarily, and that any deprivation of liberty is in conformity with the law, and that the existence of a disability shall in no case justify a deprivation of liberty" (Article 14) (United Nations, 2006). It provides strong support for limiting the involuntary institutionalization and treatment of people with mental illness and other disabilities (Lee, 2011). Meanwhile, the European Court of Human Rights has repeatedly ruled that involuntary confinement is valid only if it is accord with national law and if it complies with the requirements set forth in the Court's 1979 judgment in *Winterwerp v the Netherlands*: "it must have been reliably established, through objective medical expertise, that the patient has a true mental disorder; the mental disorder must be of a kind or degree warranting compulsory confinement; the validity of continued confinement depends upon the persistence of such a disorder" (European Court of Human Rights, 2011).

* Corresponding author at: Latham Med-Ped, 724 Watervliet-Shaker Road, Latham, New York 12110, USA. Tel.: +1 518 262 7500; fax: +1 518 262 7505.
E-mail addresses: guedj@univ-tlse2.fr (M. Guedj), sorump@mail.amc.edu (P.C. Sorum), etienne.mullet@wanadoo.fr (E. Mullet).

0160-2527/$ – see front matter © 2011 Elsevier Ltd. All rights reserved.
doi:10.1016/j.ijlp.2011.11.010

In France, legislation in 1990 established that patients with capacity must give their consent to be admitted to a hospital (Dawson & Kämpf, 2006; Loi no 90–527 du 27 juin, 1990). The patient's family (or another person acting in the patient's interest) can, however, obtain involuntary hospitalization under two conditions: if, as confirmed by two psychiatrists, the patient's mental illness renders him or her incapable of "consent" (and, by implication, of the capacity to make decisions) and if his or her condition requires immediate care under constant supervision in the hospital. In addition, the civil authorities can require hospitalization when, as confirmed by a psychiatrist or by public notoriety, the psychiatric patient poses an imminent threat to others' safety or, more generally, to public order. This legislation has been upheld in recent decisions of French courts of appeals concerning psychiatric patients who refused treatment (Cour d'appel d'Aix-en-Provence, 2008) and who presented a threat of violence against others (Cour d'appel de Bordeaux, 2006). France ratified in February 2010 the UN Convention on the Rights of Persons with Disabilities. Nonetheless, the recent alteration of the 1990 law (Loi n° 2011–803 du 5 juillet, 2011) did not change the law's basic principles regarding involuntary hospitalization.

Involuntary hospitalization is, however, among the most controversial and debated issues in mental health care. It has, repeatedly and increasingly, been the focus of criticisms from human rights advocates, political bodies, and patients' families (Kallert, Glöckner, & Schützwohl, 2008). It clearly involves an ethical conflict (Alexius, Berg, & Aberg-Wistedt, 2002; Monahan, Swartz, & Bonnie, 2003; Putkonen & Vollm, 2007; Wynn, Myklebust, & Bratlid, 2007). The principle of autonomy of the patient is superseded by the principles of beneficence toward the patient and responsibility to society, i.e. to those who might be affected by the patient's actions. Autonomy is demoted on the grounds, first, that the patient lacks insight into his or her psychiatric illness and, as a result, refuses or is unable to adhere to appropriate treatment, and/or, second, that the patient is likely to harm him- or herself or others if not hospitalized and adequately treated. If autonomy were allowed to supersede public safety, violent patients would end up being handled through the system of criminal law (Szmukler & Holloway, 1998). As observed by Monahan et al. (2003), the process of deinstitutionalizing mentally ill patients in the US has resulted in a 90% reduction in the mental hospital population, but it also has resulted in a concomitant increase in the number of inmates with serious mental troubles.

Involuntary hospitalization has also been the focus of criticisms from psychological and sociological researchers (Monahan, 1992; Taylor & Monahan, 1996). Involuntary hospitalization is mostly decided on the basis of the anticipation of future violence to oneself or others, which is a much more difficult prediction to make than is usually appreciated by the public and by the clinicians themselves (Lidz, Mulvey & Gardner, 1993; Monahan, 2006), even if main risk factors are better known now than 25 years before (Skeem, Miller, Mulvey, Tieman, & Monahan, 2005); clinicians systematically over-predict violence among psychiatric patients. Valid, standardized instruments for predicting future violence are available (e.g., Monahan et al., 2006), but the extent to which these instruments are used by health professionals at the time of recommending mentally ill patients' hospitalization is limited (Monahan, 2006) or unknown (e.g., in European countries).

Psychological and sociological researchers also argue that involuntary hospitalization is not the only option that can be considered when patients do not adhere to treatment and, as a result, are liable to become violent (Monahan et al., 2003). Patients can be led to adherence in a contractual way rather than in a coercive way. They can be offered housing or money (disability benefits) in exchange for treatment adherence. They can avoid being incarcerated for the troubles for which they are responsible if they agree to be treated; that is, a court can make treatment adherence a condition for suspending their sentence. Even if in practice, the distinction between coercion and contract may be considered as artificial, this distinction can be made real (Bonnie & Monahan, 2005).

1.1. Lay people's and professionals' attitudes concerning involuntary hospitalization

Pescosolido, Monahan, Link, Stueve, and Kikuzawa (1999) examined American lay people's opinions about the use of legal coercion to force treatment of persons with mental health problems. Most people considered that patients suffering from schizophrenia are not very able or not able at all to make treatment decisions (74.3%), are somewhat likely or very likely to do something violent to others (60.9%) or to self (86.5%), and should be admitted to the hospital if dangerous to others (90.5%) or to self (94.8%). More educated people were less likely to express these views than less educated people.

Elger and Harding (2004) compared law students' and medical students' views regarding the involuntary hospitalization of suicidal patients suffering from Huntington disease. There were few differences between the two groups: 44% of the law students and 49% of the medical students agreed with involuntary hospitalization. Luchins, Cooper, Hanrahan, and Rasinski (2006a) examined the opinions of psychiatrists regarding involuntary hospitalization and found that decisions to hospitalize were positively associated with the level of possible harm and differed as a function of the psychiatric diagnosis. In a subsequent study, Luchins, Hanrahan, and Heyrman (2006b) examined the opinions of lawyers and had findings consistent with those of Elger and Harding (2004): decisions to hospitalize were positively associated with perceived level of risk of causing harm to others and with adherence to treatment.

Steinert, Lepping, Baranyai, Hoffmann, and Leherr (2005) conducted a cross-cultural study involving psychiatrists, other professionals, and lay people from four European countries: England, Germany, Hungary, and Switzerland. Participants were presented with scenarios describing patients with schizophrenia and indicated whether they should support involuntary hospitalization in each case. In the case describing a first episode associated with social withdrawal, 74% of the participants agreed with compulsory hospitalization. In the case of recurrent episodes and moderate danger to others, 87% of the participants agreed with compulsory hospitalization. Psychologists and social workers were, however, significantly less in agreement with that decision than psychiatrists, nurses, and lay people. Overall, there were only small differences in percentages of agreement from one country to the other (see also Lepping, Steinert & Röttgers, 2004).

Wynn, Myklebust, and Bratlid (2006) used three scenarios to examine the opinions of Norwegian lay people regarding the involuntary admission of schizophrenic patients. Their findings nicely complemented those of Steinert et al. (2005). In the case of a patient in an early phase of schizophrenia, 39% of the participants supported compulsory admission. In the case of a violent patient with delusions, 80% of the participants supported compulsory admission. Wynn et al. (2007) found basically the same results when they examined Norwegian psychologists instead of the general public.

1.2. The present study

The present study examined the views about involuntary hospitalization of lay people and health professionals in France. It differed from the other studies in that, as in several studies recently conducted on other aspects of medical ethics (Guedj, Muñoz Sastre, Mullet, & Sorum, 2009; Teisseyre, Duarte dos Reis, Sorum, & Mullet, 2009; Teisseyre, Mullet, & Sorum, 2005), it examined the mental process by which a person arrives at the conclusion that compulsory hospitalization is acceptable or not. In addition, the present study aimed at delineating the possibly diverse positions that individuals – both lay people and health professionals – may have regarding involuntary hospitalization. As stated by Steinert et al. (2005, p. 635),