Commentary: A Comparative Review of Involuntary Admission of People with Mental Illness in China and Barbados

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Shao and Xie discuss the changes to involuntary admission laws across seven jurisdictions in China over a 10-year period and the influences on the new National Act. The discussion is important, given allegations of human rights abuses in that country. Strengths and weaknesses of the National Act are raised and compared with our local experience on the island of Barbados. Further discussion of the most appropriate approaches to involuntary admission would be useful.

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Shao and Xie have detailed the major changes to the laws governing involuntary admission in China and note that "despite some weaknesses, [it] is an important step toward standardizing the diverse practices in involuntary admission of the mentally ill persons" (Ref. 1, p 30). We agree that this is a worthwhile goal but note that the sociopolitical context in China introduces some complex challenges to this effort.

Allegations of abuse and human rights violations have been documented in China. For example, Human Rights Watch[2] has found that some of the psychological factors leading to mental illness among the inpatient population included: inability to subordinate personal interests to the interest of the party, failure to unite with others, and dissatisfaction with the policies of the party owing to an erroneous standpoint. English *et al.*[3] also stated that the concept of social dangerousness, used in China to hospitalize political dissidents, directly contravened human rights standards.

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This experience underscores the need to have legislation in place that specifically addresses the approaches to and the basic principles of involuntary admission, including establishing the presence of a mental illness by medical experts, determining that the nature and degree of the mental illness warrant admission, and establishing the persistence of mental disorder to justify continued confinement.[4]

According to the World Health Organization (WHO) Policy Guidance Package:

> Legislation should lay down procedures for protecting the human rights of people who are being treated involuntarily and should provide them with protection against harm and the misuse of the powers. . .these procedures include obtaining an independent second opinion, obtaining permission from an independent authority based on professional recommendations, giving patients access to the right to appeal against involuntary treatment, and using a periodic review mechanism [Ref. 5, p 4].

The relationship of the National Act to the local ordinances does not seem entirely clear. Shao and Xie[1] state that the National Act represents "an entirely new approach to involuntary admission" (Ref. 1, p 31) but do not state explicitly whether the new legislation supersedes existing local ordinances. Such clarification would aid the readers' understanding of the operationalization of policy. If still in effect, variations in local regulations present training challenges

for mental health professionals working in different jurisdictions.

Criteria for Involuntary Admission of the Mentally Ill

We note a potentially problematic element in the National Act. If a person poses significant risk to self and there is no family member willing or able to initiate medical protective admission, the processes to facilitate protective custody appear unspecified. Risk to self is not a basis for emergency admission; therefore, persons at risk to self but without identifiable family members cannot be admitted involuntarily.

In Barbados, both risk to self and risk to others constitute a legal basis for involuntary admission under two distinct pathways: medical recommendation (MR) and hospital order (HO).[6]

Medical recommendation involves an application, signed by a parent or guardian of the patient, requesting psychiatric evaluation for involuntary admission. Subsequently, two medical doctors (not necessarily psychiatrists) must independently evaluate the patient. The application contains the facts on which the doctors have based their opinion and a statement to the effect that the person has a mental disorder and is likely to benefit by temporary treatment.

A hospital order allows a court to order an accused person who appears to have a mental disorder to be admitted to a mental hospital. A second category of HO allows a ministry-appointed mental health officer (MHO) to recommend that a senior member of the police take a person into custody without warrant on the basis of behavior or appearance evidencing mental disorder. The Minister of Health can designate any person employed by the Psychiatric Hospital as an MHO: mainly community psychiatric nurses and a few consultant psychiatrists.

Although Barbadian legislation provides a mechanism of hospitalization for persons at risk of self-harm, with or without the involvement of family, in practice, there are some barriers to admission. No MHO is employed at the Queen Elizabeth Hospital (QEH), the sole public general hospital, which provides voluntary inpatient and outpatient psychiatric services. This means that if a person thought to be at risk to self or others is evaluated at the QEH and the relative is unwilling to sign the request for evaluation, that person cannot be admitted involuntarily. Instead, the patient is discharged to the care of relatives if the family is so willing.

However, in other situations, relatives may be unwilling to initiate a request for evaluation because of fear of retaliation by the patient resulting in physical or emotional risk; these are legitimate concerns, particularly in instances in which emergency responses may be delayed. We have long opined that relatives should not determine risk and the need for admission. Instead, a mental health professional should request evaluation for involuntary admission. The present system all too often requires relatives to function as (untrained) clinicians or to expose themselves to avoidable risk.

Procedures of Initial Assessment and Decision-Making

Shao and Xie note the stipulation that a registered psychiatrist conduct the initial assessment, and in some jurisdictions, specific experience is required. Barbadian law requires two medical practitioners for the evaluation who must not bear any affinity to the patient or to each other. There is no requirement regarding the specialty or years of experience. In practice, one practitioner is usually a psychiatrist or psychiatrist in training.

Physicians with postgraduate training in psychiatry are best qualified to make accurate diagnoses and develop treatment plans. Particularly in the case of MR admission, specialized training is important to protect patient rights because the periods of commitment legally (though not commonly in practice) could last up to six months without review.

Notably, China's National Act allows "affiliated units, neighborhood committees or villagers' committees where the patient resides" to make decisions on admission, with the police having a limited role in that process. This further underscores the concern expressed above regarding the use of lay people, who in this circumstance may know even less about the patient than a relative, to make clinical decisions. From our perspective, this raises serious questions about the level of training and potential conflict of interest of these groups.

Periods of Detention

As the authors point out, the local regulations "lack effective oversight . . . review mechanisms . . . clear time limitations, and specific discharge procedures"

(Ref. 1, p 36). Clear periods of detention or review should be included in the National Act. The National Act must become the gold standard for China as legislation and the treatment of persons with mental disorders change to meet international standards.

In the Barbadian context, the case of an MR patient must be reviewed at least once every six months and the medical certification is valid for 12 months. In addition, the senior consultant psychiatrist may change the status of an MR patient to that of a voluntary patient. A patient on HO may be admitted for up to 72 hours (or up to 8 weeks if sent *via* court).

Discharge and Complaint Procedures

Cultural norms in China may put the distinction made between procedures for discharge or complaint of a person at risk to self versus risk to others in a different context than that in which we have trained and worked. We nonetheless wish to express concern that legal protections for those at risk for self-harm appear to be less stringent than those for persons who pose risk to others.

Conclusion

We applaud the efforts of Chinese authorities to develop national standards for involuntary admission and congratulate the authors on providing a useful review of the standards as well as explication of some of the on-going clinical challenges. We do, however wish to emphasize that the above-expressed concerns have implications for the human rights of those detained. While we recognize that our training and experience have been in our own sociocultural environment and do not claim particular expertise in Chinese cultural and political systems, we hope that our comments encourage further discussions.

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