

Isaac Ray Symposium: Human Rights, the Law and Psychiatric Treatment

INTRODUCTION

Almost all of today's practicing psychiatrists have personally observed or worked within a large mental institution. Most have been impressed by the enormity of the problem presented by the presence of great numbers of acute, chronic, and deteriorated patients confined in an arid treatment atmosphere. Psychiatrists, when exposed to these conditions, are often deeply moved and their humanitarian motives are mobilized. But only a small proportion of such psychiatrists choose to work permanently in these settings, and the inadequate conditions continue to be commonplace at this point in the 20th century, despite advances made by 20 years of the chemotherapeutic 'revolution' and 10 years of the community mental health movement.

Psychiatrists are quick to respond that they can achieve only limited goals with the resources given them, and that the situation accurately reflects the attitudes and priorities of our society with regard to the care of the mentally ill. Others maintain that only basic research into the causes of mental illness can materially improve the plight of patients. Some maintain that what is now being done is just about all that can be done within the framework of our current knowledge, and that greater expectations are unrealistic. Private institutions offering a high standard of care are often accused of being mercenary, while underfunded public institutions are often attacked for failure to provide a quality environment as they struggle with some of our most difficult patients. In the midst of this argumentation and recrimination, large numbers of mental patients continue to be confined in situations which offend the same humanitarian instincts which 200 years ago gave rise to the moral treatment movement in Europe and America.

Few people, on first examination, would say that this problem is a legal one. Yet the law has again been drawn into the interface of social change and institutional tradition. In a movement now gaining considerable momentum, the law is beginning to exert a strong moral influence in psychiatric practice. The legal questions raised are intricate and difficult. These legal questions involve such ponderous philosophical issues as the nature of man, free will and determinism, and personal responsibility. Societal issues are raised and they involve the basic responsibilities of the state, our ability to tolerate deviance, and the nagging problem of individual rights versus the rights of society.

Although the law offers perhaps no more final truth in these matters than medicine offers with regard to the causes of mental illness, the law's adversary approach to the discovery of truth and the fact that it cannot ignore issues once raised in the form of a legal conflict place it in a unique position to effect change.

Critics of the law's intervention in medical matters point to the fact that the law's extreme focus on individual liberty overlooks some basic psychodynamic realities of a mental illness. Is not a deteriorated bizarre schizophrenic, such critics ask, more "free" in a mental hospital than in a rooming house or on a city street? Is society at large prepared to bear the burden of its ill members? Does not society insist that the mentally ill be partially excluded so that social functioning may continue? Is not the trained medical professional a better judge of appropriate treatment than a legally trained jurist who may have never seen a psychiatric patient or a mental hospital? With regard to the "rights of patients," can we expect a diseased brain to function properly in accept-

ing or refusing its own treatment? Will not the attempt to judicially mandate staff ratios and treatment methods rigidify practice at current levels and stultify innovative and experimental treatment approaches?

The critical physician is often quite intolerant when the law intervenes in his work with what he feels to be its obscure language and antiquated phraseology. The legal test of "truth" also seems foreign and irrelevant to the physician's scientific approach. Caught in an adversary determination, the doctor feels attacked, defensive, and ill at ease. His hard-won empirical knowledge and clinical wisdom are questioned by those who are not trained to appreciate its complexities.

In this setting, it has been difficult for psychiatrists, jurists, and society at large to work constructively toward humanitarian goals. Yet this is precisely the task which we must undertake at this juncture in the history of psychiatric treatment. If we are able to cooperate, we may seize an opportunity to bring about change that will have far-reaching positive implications for the mentally ill and for society. If we fail to do so, and indulge ourselves in polemics and controversy, we fail our most basic professional obligation to reduce human suffering.

The Symposium which follows contains the papers read at a two-day program in Providence, Rhode Island, in the spring of 1974. This Symposium was sponsored by Butler Hospital, which is a private psychiatric facility and a teaching hospital for Brown University Medical School. The Symposium planners were greatly assisted through the course of their work by Ben W. Feather, M.D., Ph.D., who is Chairman of the Department of Psychiatry at Brown and Executive Director of Butler Hospital. The Symposium was presented in affiliation with the Rhode Island District Branch of the American Psychiatric Association and the Rhode Island Bar Association.

The purpose of the Symposium was to bring together a distinguished panel of lawyers, jurists, and psychiatrists to honor Dr. Isaac Ray and to focus on the current state of problems in law and psychiatry. An audience of about 300 medical and legal professionals from 20 states contributed to a spirited question and answer period which followed each day's presentations. The program became an exciting interdisciplinary dialogue and began to achieve a more basic goal of increasing the level of respect and appreciation among different professional groups.

The Symposium was conducted over two days: the four papers by Dr. Quen, Judge Bazelon, Dr. Rappeport and Dr. Stone were presented on the first day, and the three papers by Professor Derschowitz, Dr. McGarry, and Attorney Ennis on the second. The papers presented each day were summarized and discussed at the end of that day by Judge Joseph R. Weisberger. Following his summation, Judge Weisberger conducted a question period in which a panel of the speakers responded to questions from the Symposium audience.

In large part, the papers are presented exactly as they were read. Judge Bazelon's excellent paper is not reproduced here, since it has already appeared in *Scientific American* (Vol. 230, No. 6, pp. 18-23, June, 1974) and is easily available. Judge Weisberger's summation at the end of each day's papers is presented in its entirety. A short introduction to each speaker is provided in a footnote at the beginning of each paper. The subjects were chosen to represent major diverse aspects of the ethical and legal problems surrounding current psychiatric treatment. In presenting them to the wider audience of the *Bulletin*, we hope to share with colleagues some of the excitement of this program, and to contribute to the developing commitment for the solution of a human problem which has too long troubled the conscience of modern society.

ROBERT J. WESTLAKE, M.D.
Symposium Editor
Director, Outpatient Division, Butler Hospital
Associate Professor of Psychiatry, Brown University