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Italian "revolution" of forensic psychiatric hospitals: an observational study on advancements, difficulties and outcomes

Ilaria Rossetto | Ester di Giacomo | Giulia Dragonetti | Maria Gloria Gandellini
Fulvio Carabellese | Lia Parente | Massimo Clerici

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Corresponding Author: Fulvio Carabellese
email carabellese.fulvio@gmail.com

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Abstract
The debate about utility and reformation of Forensic Psychiatric Hospitals is rising in some countries. In Italy, over the last ten years a forensic hospital abolition movement led to the closure of the six high security forensic psychiatric hospitals (Ospedale Psichiatrico Giudiziario - OPG) and their conversion to a residential model of care based on High-Security Forensic Psychiatric Residences (Residenza per l'Esecuzione delle Misure di Sicurezza - REMS), aimed at mental health recovery and rehabilitation of socially dangerous and high security offenders, rather than on the containment of those not guilty by reason of insanity (NGRI). The authors of this article focused on how the new regulations affected methodology, type, and number of custodial security measures. In particular, this research showed that provisional security measures went from 44% of the total, in the year preceding the closure of the OPGs, to 64.7% and 64.6 % in the following two years. Also, the comorbidity with substance use showed a statistically significant difference before and after the closure of OPGs and this might disclose their role in crime.

Keywords: forensic psychiatric services, custodial security measures, provisional security measures, substance abuse.

Ilaria Rossetto, Department of Biomedical Sciences for Health, University of Milan (Italy) | **Ester di Giacomo**, School of Medicine and Surgery, University of Milano Bicocca (Italy), Psychiatric Department, ASST Monza-Italy | **Giulia Dragonetti**, School of Medicine and Surgery, University of Milano Bicocca (Italy) | **Maria Gloria Gandellini**, ASST Mantova (Italy) | **Fulvio Carabellese**, University of Bari "Aldo Moro", Ionian Department | **Lia Parente**, Interdisciplinary Department of Medicine, University of Bari "Aldo Moro" (Italy) | **Massimo Clerici**, School of Medicine and Surgery, University of Milano Bicocca (Italy), Psychiatric Department, ASST Monza-Italy

Italian "revolution" of forensic psychiatric hospitals: an observational study on advancements, difficulties and outcomes

Introduction

The debate about utility and reformation of Forensic Psychiatric Hospitals is rising in some Countries. The crucial importance of understanding the role and social function of prisons and forensic hospitals in contemporary society is fundamental and stressed by influential figure in the prison-abolition movement such as Ruth Wilson Gilmore (R. Kushner, 04.17.2019, NYT). Ideological movement for the abolition of prisons may sound provocative and absolute, but in some cases might drive to changes and improvements. The abolition of Forensic Psychiatric Hospitals implies greater support for difficult patients, that often lack in community psychiatric services. In the management of violent people, abolitionists ask how to resolve inequalities and give people the resources they need.

In the United States, there are currently more than two million incarcerated people (Fazel et al., 2016), a majority of them are African Americans, almost all of them from poor communities and often are non- compliant psychiatric patients, chronic addicted with dual diagnoses or homeless.

Opponents questioned if Forensic Hospitals were the best solutions to the mental health and social problems of those people since the birth of the penitentiary system. In Italy, over the last ten years a Forensic Hospital-abolition movement led to a shift aimed at converting Forensic Hospital in Residential Services with an emphasis on reintegrating people into society and achieving very low recidivism rates.

The closure of the six high security forensic psychiatric hospitals (*Ospedale Psichiatrico Giudiziario - OPG*) in Italy and their conversion to a residential model of care based on High-Security Forensic Psychiatric Residences (*Residenza per l'Esecuzione delle Misure di Sicurezza - REMS*) was a long and tortuous journey. The origins of the reform can be traced back to the early 1970s (before the Basaglia reform with the closure of psychiatric hospitals; Margara, 2011), but the process was fully completed in January 2017 (Carabellese & Felthous, 2016).

The REMS - the new Italian High-Security Forensic Psychiatric Residences - have a Regional organization. In Italy there are 30 with about 20 beds each for a total of over 700 beds. They aim at mental health recovery and rehabilitation of socially dangerous and high security offenders, rather than on the containment of those not guilty by reason of insanity (NGRI), as it was in the OPGs. The REMS are also planned to support patients discharge process to low security community forensic services, with the supervision of public psychiatric services.

From OPG to REMS: historical and legal pathways

In April 2008 the Italian Government issued a first administrative order that established a program for progressive closure of the six OPGs, transferring responsibilities and resources to the National Health System from the Ministry of Justice. In 2012, a new law (Law 9/2012) stated that REMSs had to be established for providing a higher quality of mental healthcare to socially dangerous offenders with mental disorders under custodial measures. In May 2014, Law 81/2014 set deadlines and operational procedures that entrusted regional authorities to strictly monitor the process of transformation (Barbui et al., 2015) from OPG to REMS. The article 1 of Law 81/2014 entrusts the judge to apply a security measure to totally and partially insane offenders, even in provisional form, when any different measure - i.e. non-custodial measures as Conditional Release (CR), is not suitable to ensure adequate care to treat their social dangerousness.

Admission to REMS is a custodial security measure that should be an "extreme, exceptional" and, revocable: those criteria are in line with the jurisprudence of the European Educational Court (Pelissero, 2014). According to the new Law, security measure to prefer is therefore not custodial as Conditional Release. Noteworthy, the Law 81/2014 was approved without any change in the Italian Penal Code and might be a limit in the process of transformation of the Italian forensic psychiatric assistance which, according to some experts (Castelletti, Scarpa & Carabellese, 2018), created some difficulties in starting REMS activities. Furthermore, REMSs still admit NGRI offenders according to articles 222 (security measure applied in case of total insanity), 219 (security measure applied in case of partial insanity) or 206 (provisional measure applied in case of awaiting trial) and socially dangerous (article 203 of the Italian Penal Code) at risk of recidivism.

Social dangerousness: the need for a new assessment

According to the Italian Penal Code (article 203), "social dangerousness" is the increased probability for an offender to commit another crime in future. The Italian Penal Code also states that NGRI subjects attested as socially dangerous must have security measures for care and custody purposes. The assessment of social dangerousness is entrusted by the judge to forensic psychiatric expert witnesses who evaluate of several qualitative and clinical (static and dynamic) risk factors (i.e., psychological and psychopathological profile, compliance to treatment, family, environment, social, and economic factors) (Fornari, 2015). The use of specific and validated tools is not routine in Italy, and, as a consequence, the possibility of discrepancies among recommendations from different

experts is increased. Some Italian forensic psychiatrists (Catanesi & Carabellese, 2005) criticize risk assessments without structured instruments and stress for the widespread of standardized risk assessment tools as suggested by international scientific societies (Rocca et al.,2012).

In Britain, approximately 70% of clinicians working in forensic psychiatric facilities and two thirds of those working in general psychiatric settings commonly use standardized risk predictive tools (Doyle et al., 2012). In the U.S. and in Canada, the risk assessment of violent behavior in mentally ill through specific tools is now routine in psychiatric practice (Skeem & Monahan, 2011). Similarly, international guidelines for the treatment of schizophrenia recommend an accurate violence risk assessment (APA, 2004; Simon, Tardiff, 2008). As a consequence, the possibility of using an "evidence-based" method rises in Italy after the closure of OPG and new forensic facilities opening to provide motivated prognosis.

Curiously, a great criticism against the use of standardized tools still persists in Italy, even if those instruments are internationally suggested. A possible explanation might be that professional awareness on the need to assess the risk of violent behavior in the psychiatric patient is more recent than in other Countries. Furthermore, many instruments that are used in other countries have not been validated in the Italian context and language. For example, the HCR-20^{V3}(Douglas, Hart, Webster, & Belfrage, 2013) - one of the most reliable tools for assessing the risk of violent recidivism and crime in forensic psychiatric population (de Vogel & Ruiter, 2005) - was validated for the Italian population only in 2019 (Caretti et al, 2019), but is not routinely used yet.

Methods

The aim of the study

Reports by the Italian National Commission for monitoring the process detailed progressive establishment of the REMSs on the national territory, their reception capacity, organization and structural heterogeneity, the criticity of waiting lists. However, little or nothing is known about refers to the characteristics of the patients admitted, particularly regarding their legal position, the type of crimes they committed, the risk assessment process, the length of stay and possible outcome of their mental treatment pathway.

The aim of this work is to verify how the new regulations affected methodology, type and number of custodial security measures. If, as the new Law mandates, non-custodial security measures should be privileged, we would expect a reduction in custodial security measures, especially provisional ones.

The sample

The population is represented by all the male subjects, resident in Lombardy, sectioned in Castiglione delle Stiviere - an OPG then REMS - between the 1st of April 2014 and the 31st of March 2017. Castiglione delle Stiviere was the first health-oriented Forensic Psychiatric Hospital in Italy, the only one with female admissions and the biggest (more than 120 beds).

The total sample was divided into three groups according to the date of hospitalization:

(a) Admissions between April the 1st, 2014 and March 31st, 2015, when OPG closed. These patients were interned under previous legislation. The number of patients admitted each year in the previous ten years was stable and it was, on average, 66,5 patients per year.
(b) Admissions between April the 1st, 2015 and March 31st, 2016, the first year under the Law 81/2014 ("testing year").
(c) Admissions between April the 1st, 2016 and March 31st, 2017, the second year under the Law 81/2014 (the current phase of the new legislation).

The choice to include only male subjects from Lombardy follows Law 81/2014 stating that every REMS refers to a strictly defined epidemiological area (in this case Lombardy) and aimed at avoiding bias of selection. All female subjects from each Italian region were admitted only in Castiglione delle Stiviere, independently from the Region where they lived, and were excluded to prevent any bias (different relationship with community psychiatric services due to displacement of patients' origin).

Evaluation tools

Patients' medical records, as well as their legal and health documentations were examined to investigate: age, legal position at admission (articles 219, 222 and 206 - Italian Penal Code), type of crime (against person/property), past internments or detentions, psychiatric diagnostic profile (axis I, axis II, according to DSM-IV-TR criteria), use of alcohol or substances (yes/no), being in charge of their local Department of Mental Health.

The HCR-20 V2 (Webster et al., 1997) was used to measure the risk of violent recidivism in order to assess social dangerousness and it was administered 10 days after hospitalization (T0). According to the Literature, a cut-off of 27 identifies high-risk class of violent recidivism and 21 a low one. SPSS 13.0 (SPSS Inc.) software was used for statistical analysis of the data. In order to examine the difference in distribution between the groups of dichotomous and nominal variables, Chi-square test, student T and Phi tests were used ($p \leq 0.05$). For criminological variables, a non-parametric correlation was performed with Spearman's rho test.

Results

Clinical, legal and criminological data

The study recruited 201 patients, divided in:

– Group A (N= 68): patients admitted to the OPG during the year before its legal closure (1st April, 2014 – 31st March, 2015)

– Group B (N= 68): patients admitted to the REMSs in the first year after their opening (1st April, 2015 – 31st March, 2016)
– Group C (N= 65): patients admitted to the REMSs in the second year of their activity (1st April, 2016 – 31st March, 2017).

The total number of custodial security measures (CSM) did not vary after REMS opening (see Table 1)

In the year before OPG closure, definitive CSM was 66.1% of all measures applied while provisional ones was 33.9%. Conversely, patients admitted to the REMSs showed a reversed situation in the first as well as in the second year after REMS opening, with statistically significant difference (p=0.01) in both cases.

Furthermore, definitive CSM in B and C groups were importantly reduced compared to A group, even if the difference was not significant (p=0.08).

Diagnostic assessment showed no notable discrepancies among the three groups (Table 2). The comorbidity with substance use showed a statistically significant difference (p=0.05) between group A and group C. It might indicate a growing etiologic and criminal role of abuse/dependence during the last years.

In all three groups, 2/3 of patients were in charge to the deputy Department of Mental Health (DSM) (Table 3). This data suggests the possibility to activate community treatment pathways.

About half of all three samples had a positive history of criminal records (see Table 4). Crimes against person (abuse, assault, threat, homicide) prevailed, especially in group C where they represented 72% of crimes. Spearman's rho test did not reveal, in any of the three groups, any positive correlation between the type of security measure, type of crime and criminal record.

The legal evolution of provisional CSM was similar in groups B and C.

Group B included 44 subjects in provisional CSM: in 12 cases (27.4%) the CSM became definitive, 8 patients (18%) got their CSM cleared while for 18 of them (41%) the custodial security measure became Conditional Release (CR). In 6 cases (13.6%) the CSM remained provisional. Patients released on CR had a median length of stay in REMS of 7 months, while the average score at the HCR-20 V2 was 18.6 (low-medium risk class). No patient breached CR rules and had to return to REMS.

Overall, the situation in group C is similar; out of 42 patients in provisional CSM, 15 (35.7%) were discharged on CR, 2 (4.8%) had their CSM cleared, 5 (12%) had definitive CSM. Two patients (4.8%) went to prison while 18 (42.9%) still had provisional CSM. The percentage of provisional CSM that remained provisional was higher in group C than group B probably because that measures were still under evaluation at 31st of March 2017.

Even in group C, no patient discharged on CR was readmitted. Their median length of stay in REMS was 5.4 months with an average score at the HCR-20 V2 of 16.6 (low risk class). Noteworthy, in sample B, 34% of the patients provisionally admitted to REMS had not a psychiatric evaluation; in sample C the percentage was 28.5%.

The average score at the HCR-20 V2 obtained by each group and the relative classes of risk are reported in Table 5.

In Group A, most of the patients is in medium class of risk, while in groups B and C the largest part is in low risk class, with statistically significant difference (p=0.04) between groups A and B. It highlights that, surprisingly, patients admitted to REMS during the first year of activation had an average score at HCR-20 V2 significantly lower than the subjects interned in OPG.

Discussion

The law 81/2014 determined the definitive closure of the OPGs. A slow legislative process was necessary but the lack of a parallel change of the Penal and Criminal Procedure Codes, as well as in the Penitentiary and the related implementing Regulation, created problems of interpretation and integration among services.

According to the new law, the custodial security measure, even provisional, against offenders without criminal responsibility or with partial criminal responsibility, should have become an exception.

The judge, both in precautionary and in executive phase, should apply the custodial provisional or definitive security measure, only if other measures are not suitable to ensure adequate care and to contain social dangerousness of the subject. Accordingly, the main security measure should be conditional release with therapeutic prescriptions, using custodial security measure as an extreme possibility. Unfortunately, despite the legislative novelty, since the beginning of the reform the number of internments due to provisional security measures increased, at a point that hundreds of measurements still pending with the creation of long waiting lists (Castelletti, Scarpa, Carabellese, 2018).

According to data by the Italian National Commission for monitoring the process of REMS activation, patients under custodial security measures, or with a pending measure were 863 as per February 2017, while there were 761 patients interned in the six Italian OPGs as per November 30, 2014 [four months before OPGs closure] (Second quarterly report to Parliament on the OPG Exceedance Program).

Results from our study confirms this evidence. Moreover, the number of internments in Lombardy (the most populated Region in Italy) did not change substantially since the new legislation. Admissions to the OPG of Castiglione delle Stiviere, in the year preceding its transformation in REMS was almost identical in the first (N=68) and the second year (N=65) of its activity as a REMS. Provisional security measures (art. 206 of the Italian Penal Code) ordered by Lombardy Courts went from 44% of the total, in the year preceding the closure of the OPGs, to 64.7% and 64.6 % in the following two years.

Interestingly, security measures for total insanity rea-

sons decreased more than other measures, going from 32.3% to 13.2%, even if that should be the only justification for an admission to REMS with mental treatment purposes.

Provisional security measures became definitive only in few cases (27.4% in the first group, 12% in the second) while mostly turned into Conditional Release, respectively 41% and 35.7%. The median length of stay in REMS of subjects discharged on Conditional Release was 7 months for group B and 5.4 for group C.

These periods of time were obviously not sufficient to carry out a forensic treatment and the role of the REMS' team was, improperly, to integrate and sometimes replace the expert assessment. If the work of the experts was conducted in an appropriate manner, using also structured risk assessment tools, both the improper provisional security measures and the total number of internments would probably be reduced. To achieve this, it would also be necessary for the territorial services to have structures capable of accommodating NGRI subjects in the post-crime decompensation phase, facilities available, for example, in the UK forensic services (Forensic Psychiatric Intensive Care Unit, F-PICU) which help to avoid unnecessary internments.

There is a public and academic debate if REMS must adhere to such request or instead if they should have highly specialized forensic treatments with acknowledge efficacy for patients who can really benefit from them. The crucial work of assessment and evaluation should instead be carried out outside the REMS system, within the Mental Health Departments, in Community Forensic Psychiatric Units (CFPU), as it happens in Countries with grounded clinical forensic experience like the Netherlands and the United Kingdom. CFPU could also implement forensic epidemiological research with the goal of attesting the prevalence of mental disorders among offenders, evaluating resources and unmet needs and possible outcomes.

A crucial issue is linked to unstructured evaluation of social dangerousness. The routinely use of internationally acknowledged instruments, like the HCR-20, to assess the risk of violent recidivism and to classify each subject within a risk class, should be encouraged.

Our data shows that patients discharged from the REMS under CR did not return for recidivism, thus confirming the validity of the HCR-20 classification.

Patients from OPG had a definitive security measure with a middle class risk of recurrence, while those in REMS had more provisional security measures and a low risk of recidivism without significant differences in age, diagnosis and type of crime. It is interesting that the main difference lies in a higher comorbidity with substance use disorder in patients admitted to the REMS.

This evidence seems paradoxical since the new legislation indicates admissions to the REMS only for highly dangerous patients with no other therapeutic possibility, while those admitted are less dangerous and are dischargeable in a short period of time.

A possible explanation could be REMS may be seen as more inviting and less restrictive compared to OPG and judges may prefer that solution for patients with shorter prognosis. Furthermore, the lack of a structured psychiatric forensic system can get judge's decision complicated if they have to find a prompt alternative measure.

Data on substance abuse deserves an in-depth analysis. The greater frequency observed in groups B and C (narcotic substances and alcohol) might disclose their role in crime, as suggested by an important research on offenders that showed an increased risk of violent recurrence by 50% in case of substance abuse (Grann et al., 2008). Furthermore, according to many authors and world agencies (Pickard & Fazel, 2013; Iozzino et al, 2015; Fazel et al, 2016; Cavalera et al, 2020; de Girolamo et al, 2020; di Giacomo et al, 2020a; WHO, 2009) specific treatments for substance abuse disorders should be a clinical priority in forensic psychiatry, particularly in case of use of polyuse.

It is interesting to consider that long-term hospitalization offers the opportunity to treat drug addiction in a safer environment, with withdrawal management and cooperation between forensic and community addiction services.

A final point to consider is the opportunity to treat mental illness within a prison (APA, 2000; 2016a; 2016b; Salize, Dressing, 2009; Wilson, Cumming, 2010; Fazel et al, 2016; Capuzzi et al, 2020). Even if the role of prison environment in the onset of psychiatric disorders is undefined, strong evidence suggests low rates of identification and treatment of psychiatric disorders in that context, with adverse outcomes like an increased risk of all-cause mortality, suicide, self-harm, violence and victimization.

Conclusions

The legislative reform of the Forensic Psychiatric Hospitals in Italy had a difficult start with problems raised. For this reason, the Constitutional Court intervened in 2022 to request new, and more important, legislative provisions. Furthermore, the COVID-19 pandemic (di Giacomo et al, 2020b) contributed to additional slowing down the process for a few months till partially blocked it. Beyond temporary modifications due to the pandemic, Forensic psychiatric reform deserves simultaneous modification in the penal code to be fully applied and the creation of organized forensic community teams.

The presence of personality disorders and comorbidity with substance use requires specific staff training as well adequate therapeutic programs.

The use of internationally acknowledged instruments for risk assessment and management should be adopted on a regular basis as well as a structured plan of discharge and follow up.

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