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True change or return to the past? The evolution of psychiatric care in Italy

Liliana Lorettu
Department of Medical, Surgical and Experimental Sciences -AOU Sassari University of Sassari

Abstract. The psychiatric care in Italy has undergone radical changes over time, passing from a custodialist form, that of the 1904 law, to a community psychiatric care suggested by the law 180. However, in recent years there has been a further change in which old formulas of custodialism and control of the mentally ill are re-proposed.

Key words: mental health system, community care, psychiatric reform, Italy, Reform law 180, Mental health

The first law on psychiatric care in Italy dates back to 1904 (Law no. 36 of 14 February 1904) which established psychiatric hospitals for the care of the mentally ill.

Individuals with mental disorders were considered unpredictable and dangerous due to the perceived association between mental illness and violent behaviour, which had its roots in fear and prejudice rather than scientific evidence. The spirit of the law, mainly focused on detention, was aimed at protecting society against the violent behaviours of the mentally ill and their disruption of social norms. The main task and responsibility entrusted to psychiatrists was to detain mental patients and control them. However, it is wise to refrain from judging the past from the perspective of the present, and we should add that the introduction of psychiatric hospitals meant that for the first time the mentally ill were offered a bed, a roof and hot meals, despite the distortions and abuses that over time have characterised this care model.

Fast forward to 1978, when Law no. 180 revolutionised the paradigm: this act recognised the dignity, autonomy and freedom of choice of the mentally ill, rejected the assumption that they were a threat to society and set in motion the process of closing psychiatric hospitals, which were to be replaced by community-based psychiatry (1). A key right recognised to individuals with a psychiatric disorder was precisely the right to the free choice of care, which is part of a broader process of change, and the decline of the paternalistic therapeutic relationship. During those years, the rules on psychiatrists' professional liability, as established by the case law of the courts, were rather lax: as a corollary of the freedom, dignity and autonomy enjoyed by patients, psychiatrists were held to have a duty to provide care with diligence, prudence and expertise, but not a duty of control. However, implementation of the psychiatric reform was bogged down by several problems, resulting in mental health clinics which in many ways replicated the exclusion and marginalisation of the old psychiatric hospitals (2).

Later still, in recent years, a further shift occurred, prompted by three distinct factors. The first element is a shift in the position of the courts, heralded by some judgments of the Court of Cassation (VI Criminal Chamber, judgment no. 10795/07) which ruled that the psychiatrist can be held liable for the patient's behaviour, thus placing on psychiatrists not only a duty of protection and care for the patient but also a duty of control. The second element is the revival by some legal scholars of the concept of the mentally ill as a source of danger '.... thereby imposing on the consultant the duty to neutralize the negative consequences of that danger on third parties' (3). The third element is the

process that led to the closure of the Forensic Psychiatric Hospitals, the opening of residences for the execution of security measures (REMS) and the entrusting of mentally disordered offenders to community psychiatry (Law no. 8/2014). This process has resulted in a sort of 'community-based mental asylum' combining different types of patients: psychiatric patients, mentally disordered offenders, and other offenders who are improperly placed in psychiatric facilities, altering their purpose and operation.

This is how, in the name of innovation, we have disturbingly come full circle, since psychiatrists are once again asked to provide not only treatment but also control, chipping away at the psychiatrist's ethical dimension and giving rise to a new problem: the diversion of resources from psychiatric patients to individuals who do not actually need psychiatric care. While this is happening, *the stars look down*.

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Correspondence:
Liliana Lorettu
Department of Medical, Surgical and Experimental Sciences -AOU Sassari University of Sassari Villaggio San Camillo, Strada Statale 200, Sassari, CAP 07100, Italy
E- mail: llorettu@uniss.it