

# Ambivalence of Psychiatric Care: “The Free Choice: Still a Topical Issue?”

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The persistence of compulsory hospitalization in psychiatry is still a topical question within the atmosphere of violence and even of barbarism which comes to light in our society. Given opinions get more radical and demand zero risk in psychiatry, it becomes a lack of political ambition to carry on speaking of medical approach on the one side and of liberty on the other side.

The ambivalence of psychiatric care is in the heart of this matter and of these difficulties which erase the reality of the frailty of the patient, of his difference. These ones also erase the clear reality that the majority of persons suffering of mental health problems are more often victims than perpetrators of crimes of violence. To paraphrase Foucault, the norm tends to replace the law, and the latter goes after the norm. The moral treatment rather than confinement comes first: « Concerning the moral treatment, we quite simply mean this at first : the treatment which suits insanity is not a physical treatment ». That is to say, to give up the compulsion and thus to bring out, thanks to the moral leverage, the healthy psychic part which remains still free. The democratic environment of psychiatric care keeps a part as significant as the technical and therapeutic advances. Let us remind everyone that the notion of the freedom of choice, the people's one, is the foundation- implicitly- of the democratic government which Jean Bédier was putting that way: « The French Revolution has established the principle of the people ruling (governing) itself: that is the democracy. The French people are regarded as responsible ». Psychiatric care grew in the country of the Human Rights. These psychiatrists (alienists) thus showed to Couthon, the revolutionist: « that the reason why the insane people could not be treated was because they were deprived of liberty » and they obtained the release of some of them, who were thus risen to the dignity of the patients ». Michel Foucault goes over the scene again and relates the famous story of the release of the insane people of Bicêtre.

While looking for suspects in the hospital Couthon is finally led to Pinel « to the area of the restless people where the sights and the sounds of the lodges impressed him painfully. (...) Turning towards Pinel, he hurls at him « Well Citizen, are you insane yourself, willing to unchain such animals? » Pinel answered him calmly: « Citizen, I am convinced that these insane are so difficult to treat just because they are deprived of air and liberty. – So, do as you want with them, but I fear you might be the victim of your temerity ». (...) The great philanthropist set to work immediately. »

During the bicentenary of the French Revolution, the French lawmaker tried to break with the logic of assistance which reduces the person to the level of two-year-olds, and who had been considered so far as a subject of minor importance. This accounts for the fact that in 1990, during the legislative reform of the « Esquirol law »

(1838), the general rights of the in-patients in psychiatry were valued, and among them the informed choice. The latter is indeed above all rooted in the field of private practice, but also in a general principle of the right, coming from the juridical civilization. What matters is in fact to make sure that the patient trusts us and to admit he should be free to accept or not the care. The free choice gets intermingled with the medical and social necessity. When the ability of the person in mental suffering to make caring choices is failing, some decisions may impose themselves. We thus have to do so with determination for the safety of everyone. This inflection reminds us of the fact that man is never at the beginning of ethics, since, as Charles Taylor puts it, the subject never determines alone the questions which matter. To elaborate his own choices cannot but be associated with a moral space pre-existing, with a previously established social order, and with previous collective choices, all of them reflecting a civic and public organization which has been established by the current legal framework. It is then easier to understand the dynamics of care without consent since what matters is to strike the balance between the needs, rights, choices of the patients, as well as those of their dearest ones, and the demands of our life in a community.

Mental health is then going to be a biopsychic and social resource, as such valued by the law. However, it is also regarded in different ways, since the legal statute of the patient changed once more in 2011. Actually, it can be either a voluntary hospitalization or an involuntary commitment at request of a third party when persons fail to consent and require immediate care, or a hospitalization on the request of the administrative authorities (the police authorities). This plurality of legal statutes and medical approaches may account for the difficulty about the medical choices in psychiatric care. It is really an important matter as for the freedom of choice of the way and plan of action of the care, with or without the help of the general practitioner whose power of inflexion is today recognized as far as the coordinated healthcare circuit is concerned. The political strategy claims to handle standard care pathways in the healthcare system in order to control therapeutic and social risk. We are thus coming back to this risk Couthon perceived intuitively in his warning to Pinel when he « frees » the insane: « Woe unto you... ».

## REFERENCES

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