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Reform of Italian forensic mental health care. Challenges and opportunities following Law 81/2014

Over the last decade, the Italian Parliament has committed to fundamental changes to the pathway that offenders with mental illness follow through forensic mental health services. Historically, six forensic psychiatric hospitals (*Ospedali Psichiatrici Giudiziari* (OPGs)) operated in Italy but the quality of care delivered in these units was poor. Resources were heavily directed towards custodial rather than therapeutic aims and a general consensus developed that major changes were needed. Initially, Law 09/2012 was passed and required small scale therapeutic facilities (*Residenze per la Esecuzione della Misura di Sicurezza* (REMS)) to be opened to replace OPGs, but in response to delays, Law 81/2014 set deadlines and operational procedures to conclude this process. Previous articles give a fuller account of the law change and highlight some criticisms of Law 81/2014, including the lack of a strong clinical or economic evidence base and reliance on the amorphous concepts of criminal responsibility and social dangerousness (Barbui and Saraceno, 2015). This paper therefore aims to present further consideration of both the challenges and opportunities that this legislation presents.

The reform has rightly been recognised as an attempt to improve the quality of care for offenders with mental illness, both through improving conditions for offenders who need detention in psychiatric units and through increased use of diversion from court to community mental health services. This reflects the call for strengthened diversion across Europe (Srivastava *et al.*, 2013) and conforms to international guidelines on good practice (World Health Organization, 2014). Evidence supports this approach with smaller therapeutic units, like REMS, shown to be more effective than larger custodial units or prison. Diversion from court increases the levels of engagement with mental health services whilst decreasing contacts with criminal justice agencies (Sainsbury Centre for Mental Health, 2009).

Yet there are a number of challenges presented by the reform that may undermine its beneficial impact. First, there have been concerns about the preparedness of the Italian forensic mental health system and REMS, especially in light of the deadlines enforced by Law 81/2014. Delays in construction of REMS and lack of transitional arrangements raised questions about the placement of existing patients from OPGs and the cost of building and running REMS may divert resources from already stretched community mental health services. Similarly, if regions have delays in providing REMS beds then newly referred patients may not be placed in the locality of their community mental health service. In addition, there appears to be a lack of recognition of the risk that this group of offenders with mental illness pose in secure settings and appropriate training and security measures are needed to ensure that REMS provide a safe environment for patients and staff. It has been suggested that if these issues are not considered then REMS could become “little OPGs” and offenders with mental illness could continue to be treated according to the inadequate standards that this reform seeks to replace (Casacchia *et al.*, 2015).

Second, the pathways defined by the reform rely on the legal concepts of social dangerousness and criminal responsibility, but the use of these terms may prove problematic. Initiatives in England that merged legal and psychiatric concepts have been criticised on the basis that there is a lack of evidence to support ratings of dangerousness and these assessments are not predictive of future risk (Duggan, 2011). Similarly, criminal responsibility as a legal concept does not explicitly relate to psychiatric definitions or practice (Wilson, 2009), and this conflicts with human rights directives which require mental disorder for involuntary detention in psychiatric settings (Council of Europe, 2004).

Third, it is possible that the Italian criminal justice system will come under pressure to restrict the number of offenders with mental illness who are diverted to community services and an unintended consequence of the policy may be an increase in the use of custodial sentences for this population. The flexibility of the concept of insanity and the lack of emphasis on psychiatric diagnosis may become a mechanism to enact this, with informal thresholds changing over time (Large *et al.*, 2008). At the same time, political pressure may lead to further legislation which permits detention in custody. Evidence on whether similar initiatives in other countries have increased the burden of mental illness in prison is incomplete and evidence from the closure of non-forensic psychiatric inpatient units may not be generalisable to this issue (Winkler *et al.*, 2016; Yoon *et al.*, 2013). However, a trend towards risk containment has been found across Europe and in the USA, and Italy has been found to follow this trend, albeit with larger increases in supported housing compared to involuntary detention and the use of prison (Priebe *et al.*, 2005). Italian prisons are not equipped to effectively manage mental illness and already have a substantial number of prisoners with mental illness, with even greater numbers requesting psychiatric intervention (Zoccali *et al.*, 2008). If custodial disposals were used more frequently for offenders with mental illness this would exacerbate problems in prisons, fail to address the reasons for closing OPGs and enforce re-institutionalisation.

The Italian reform is based upon sound principles and represents an opportunity to improve the care of offenders with mental illness, but it should be supported by wide-ranging attempts to monitor its impact. This is needed to ensure that the number of REMS units and beds are sufficient and that discharges to the community are used. It would also allow an assessment of whether the laws have been successful in improving care for this group, whether increased capacity in REMS is needed to allow detention in psychiatric settings, and whether the reform has led to unintended consequences, increased use of custodial sentences or use of out-of-area placements. In addition, the reforms represent an opportunity for researchers to evaluate the effect of community management of offenders with mental illness and diversion from the criminal justice system. Evidence on the use of this approach is limited and high-quality evidence could have wide-ranging implications, particularly if an economic evaluation was included, at a time when many countries are developing systems that aim to reduce the number of offenders with mental illness in prison and both justice and healthcare costs must be curtailed. To our knowledge, there is currently only one observational study in Italy with the aim of evaluating the critical issues following the discharge of forensic patients and their transfer to the community psychiatry – the PERSON Project (ProcEss, Rehabilitation, Service use, Outcome and Needs in community forensic patients) (Ruggeri *et al.*, in progress) and further exploration is needed.

The reform of the Italian forensic mental health care has the potential to change the landscape of care of offenders with mental illness and to provide a blueprint for other countries to follow. However, problems with the implementation of the reform require consideration by national and local policymakers and the effect of the reform on court decisions should be monitored to ensure that the aims of the policy are met. The reform also represents an opportunity to establish an evidence base for diversion and community management which could inform attempts to reduce the number of prisoners with mental illness across Europe.

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