Letter to editor in response to “Is it time for international guidelines on physical restraint in psychiatric patients?”

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Abstract

The Mastrogiovanni case was a revolutionary case in the field of Italian forensic psychiatry. A recent judgment of the Court of Cassation has defined what the legal limits of mechanical restraint should be. On the other hand, even today, there is a gap in the scientific community about the presence of guidelines governing mechanical restraint. It is probably time to create specific guidelines to protect the psychiatric patient and the mental health worker. Clin Ter 2019; 170(2):e108-109.

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Dear editor,

we have read the article entitled “Is it time for international guidelines on physical restraint in psychiatric patients? Considerations concerning the longest physical restraint ever performed”.

We want to congratulate the authors for this article and make a contribution.

In the article the “Mastrogiovanni case” is analyzed and it is stated that the absence of specific guidelines could be the cause of these deaths in patients subjected to physical restraint during Involuntary Health Treatment (IHT) (1). We agree with this consideration and we want to point out that the same Italian Court of Cassation has ruled recently on this case with the sentence n.50497-18. The judges expressed two fundamental concepts that represent an important evolution of Italian jurisprudence: the first is that nurses are not mere executors of the “orders” of doctors (as they are not subordinate figures but have their own professional autonomy) and therefore have an equal, if not greater, responsibility towards the patients, also because they are, among health workers, those who work more closely with patients and may, indeed must, detect any problems related to the treatment. The second concept is that the physical restraint can’t be considered a therapeutic device but only a precautionary measure aimed at avoiding events linked to self-and/or hetero-aggressive behavior; moreover, it can’t be applied in the in the suspicion of “dangerous” behaviors, but it can only be applied if there are imminent dangers for the patient or for those around him. This sentence is certainly a further step towards the abandonment of “custodial psychiatry” and the acquisition of “social psychiatry”, intended as a discipline whose main objective is the treatment of patients with mental illnesses and not their control and humiliation (2,3). About the physical restraint guidelines, it will be crucial to establish the application criteria. First: the application must be allowed only in cases of imminent danger of self-aggression or even in cases of hetero aggressiveness? Second: in case of serious mental alteration, the justification for the use of mechanical restraint will only be possible in IHT cases or even in cases of voluntary treatment (in the Italian jurisprudence this point is not univocally defined: judgments of the court of cassation n.13241/2005 and n. 48292/2008)? This point is particularly important because, at least for Italian law, there is the risk of incurring a series of crimes (violation of articles 571, 605, 610 of the criminal code). Third: whenever possible, instruments of seclusion or pharmacological restraint should be preferred to that of mechanical restraint? We think that establishing these criteria is fundamental both for the protection of the psychiatric patient and for defining the limits of the duties of the mental health worker (4-7).

References