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**17th-20th
of September 2024**
TARANTO
Via Duomo, 259

Summer School Presidents: Prof. Felice Carabellese, Prof. Mary Davoren, Dr. Shadé Olajubu Prof. Harry Kennedy
Scientific Organization: Prof. Felice Carabellese, Dr. Fulvio Carabellese, Prof. Anne Doherty, Prof. Mary Davoren, Dr. Shadé Olajubu, Dr. Lia Parente, Prof. Harry Kennedy, Prof. Sandy Simpson, Dr. Lisbeth Uhrskov Sørensen

***Human Rights and Model Codes in Europe And Beyond:
How does a human rights approach impact psychiatric care.***

Prof. Massimo Montisci

Full Professor of Legal Medicine

University of Padova - Italy

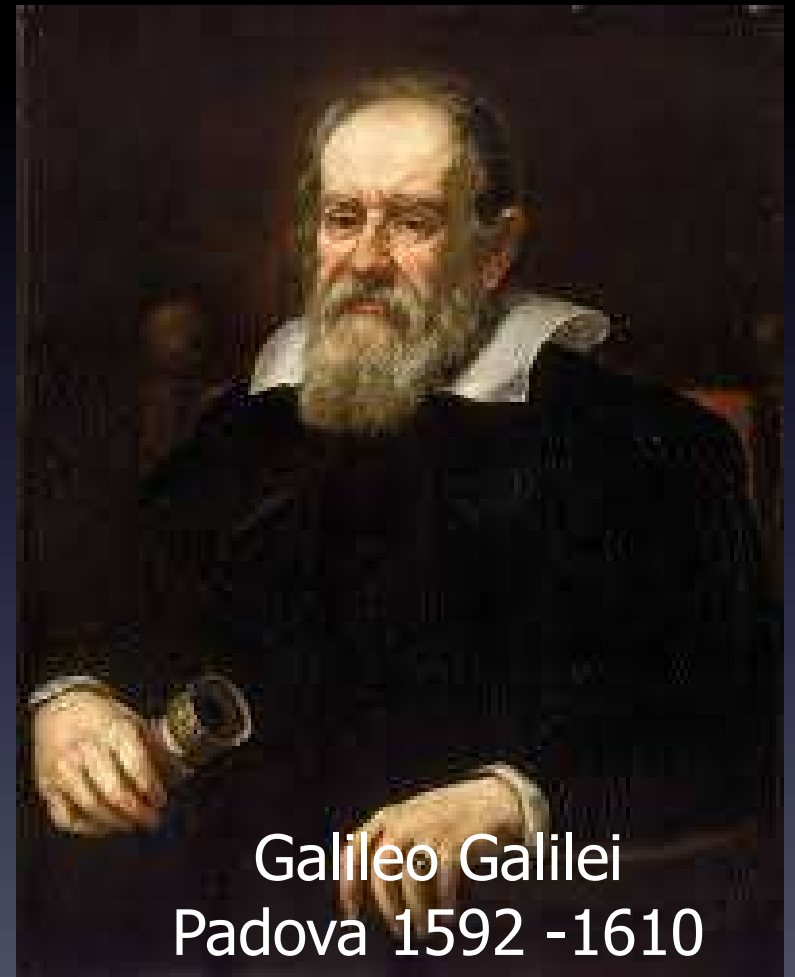
[*massimo.montisci@unipd.it*](mailto:massimo.montisci@unipd.it)



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human rights and psychiatric care



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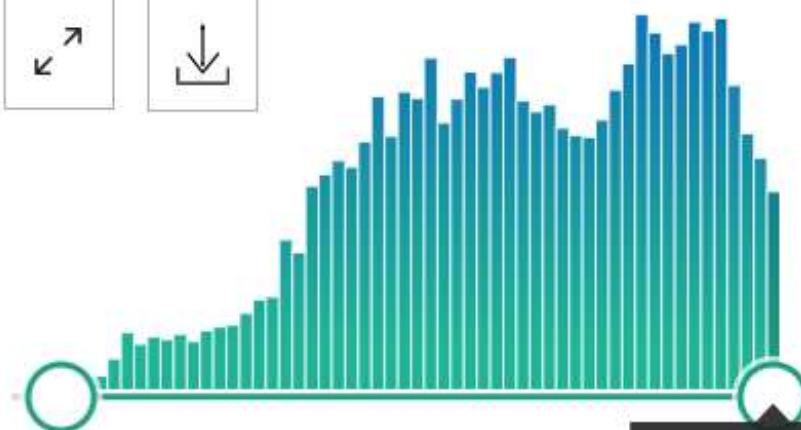
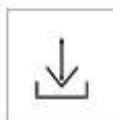
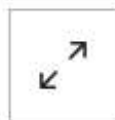
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RESULTS BY YEAR



1970

2024:210



human rights and psychiatric care and Europe



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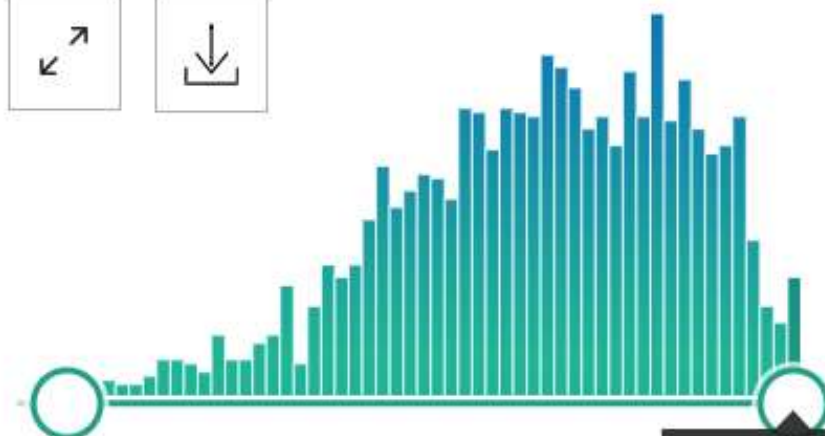
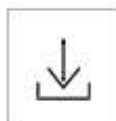
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RESULTS BY YEAR



1971

2024: 27



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- 4. Integration of Themes**
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MAIN POINTS

- 1. Importance of human rights in healthcare settings, focusing on psychiatry and correctional health***
- 2. Brief overview:***
 - a) Psychiatry and its evolving relationship with human rights**
 - b) Correctional healthcare within the framework of European human rights law**

Neuropsychiatr (2015) 29:106–111
DOI 10.1007/s40211-015-0157-7

**neuro-
psychiatrie**

vereinigt mit
psychiatrie & psychotherapie

Psychiatry and human rights: a difficult relationship, but with a growing potential

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Human rights and correctional health policy: a view from Europe



Mary Rogan

INTERNATIONAL JOURNAL OF PRISONER HEALTH VOL. 13 NO. 1 2017, pp. 3-9



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PART 1: PSYCHIATRY AND HUMAN RIGHTS

Psychiatry's Complex Relationship with Human Rights



- Historical tensions between psychiatry and human rights
- Psychiatry's role in social control *versus* the emerging human rights-based approach
- Recent shifts towards recognizing patient autonomy and dignity

Historical Background of Psychiatry and Social Control



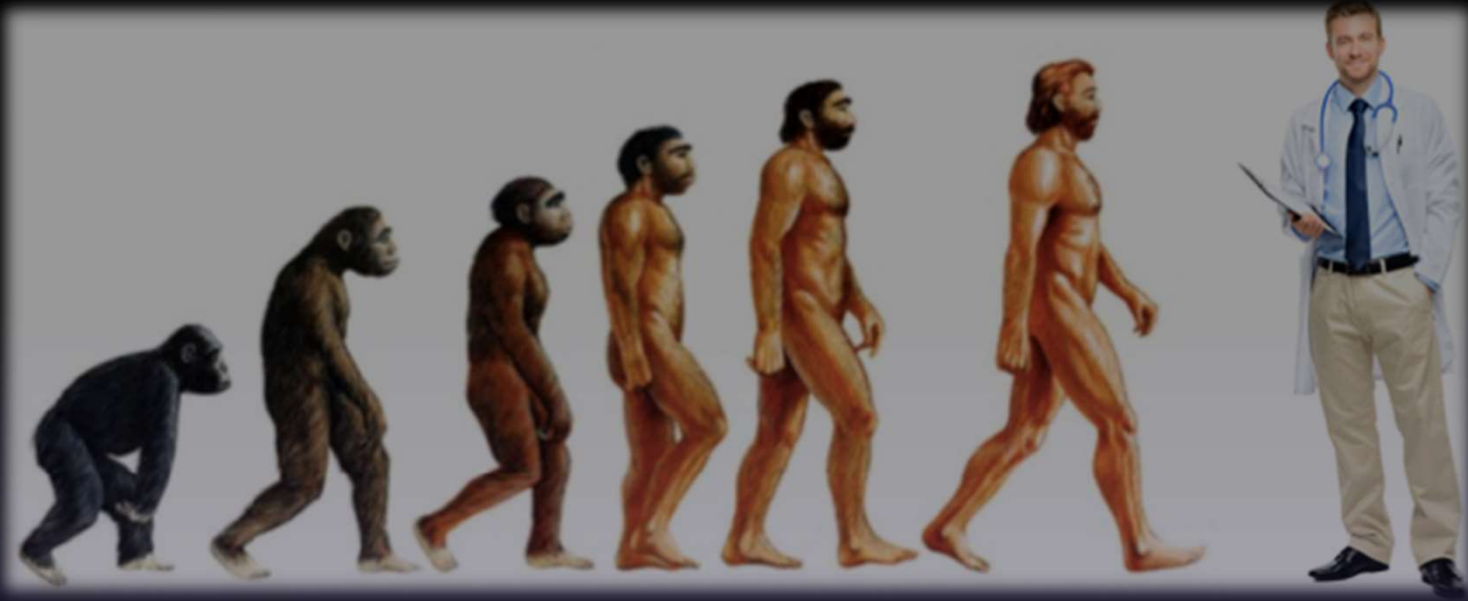
- Origins of psychiatry during the Enlightenment
- Influence of utilitarian ethics: Jeremy Bentham's Panopticon
- Contrast with human rights philosophies emphasizing individual dignity

The United Nations Convention on the Rights of Persons with Disabilities (CRPD)



- ✓ Overview of CRPD and its impact on the rights of persons with psychosocial disabilities
- ✓ Key provisions: Article 12 (legal capacity) and Article 14 (liberty and security)
- ✓ Implications for psychiatric practice

Evolution: from Paternalism to Rights-Holders



Disease Centered Medicine

**Health = Objective
Paternalistic Model**



Patient Centered Medicine

**Health = «Empowerment»
Informed Consent Model**

- ✓ Shift from viewing patients as passive recipients to active rights-holders
- ✓ Impacts on consent to treatment and involuntary hospitalization
- ✓ Examples of this shift in various jurisdictions

Challenges in Aligning Psychiatry with Human Rights



- Ongoing challenges in aligning psychiatric practices with human rights
- Tensions between medical necessity and patient autonomy
- Ethical dilemmas faced by mental health professionals

Franco Basaglia e la riforma psichiatrica: una legge per i diritti

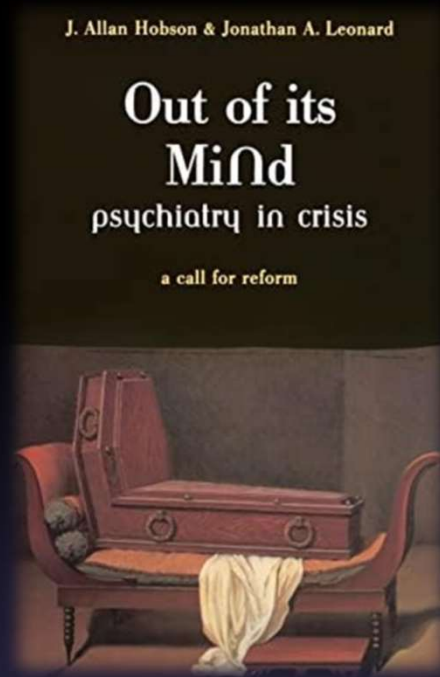
REBECCA DE FIORE^{1,2}

Riassunto. La legge di riforma psichiatria approvata in Italia nel 1978 – nata anche sull’onda del lavoro di Franco Basaglia – aveva tra le proprie principali finalità la restituzione di dignità e diritti alle persone sofferenti di disagio psichico e la chiusura dei manicomi e di altre istituzioni totalizzanti. In occasione del centenario dalla nascita di Basaglia, è opportuno riflettere sullo stato dell’assistenza sociale e sanitaria non solo nel campo della salute mentale. Infatti, anche i diritti delle donne intenzionate a interrompere una gravidanza, della comunità LGBTQIA+, della popolazione carceraria, dei migranti sono sotto scacco. Se quella guidata da Franco Basaglia in Italia è stata una rivoluzione, non potrà dirsi compiuta finché non saranno restituiti i diritti di cittadinanza a tutte le persone alle quali questi stessi diritti non sono riconosciuti.

Franco Basaglia and the Italian mental health act: a law aimed to restore the rights of citizenship.

Summary. The psychiatric reform act passed in Italy in 1978 – which was born in the wake of Franco Basaglia’s work – had among its main aims the restoration of dignity and rights to people suffering from mental disorders and the closure of asylums and other totalizing institutions. On the centenary of Basaglia’s birth, we must reason on the state of social and health care not only in the field of mental health. In fact, the rights of women seeking for abortion, the rights of the LGBTQIA+ community, the prison population, and migrants are also on the take. If the one led by Franco Basaglia in Italy was a revolution, it cannot be said to have been accomplished until the rights of citizenship are restored to all the people to whom these same rights are not recognized.

The Role of Reform-Minded Psychiatrists



- Contributions of reform-minded psychiatrists to human rights-friendly practices
- Example: Franco Basaglia and the Italian psychiatric reforms
- Impact of these reforms on patient care and human rights

The Importance of Independent Living



- ✓ Focus on Article 19 of the CRPD: right to independent living and community inclusion
- ✓ Challenges and successes in implementing this principle
- ✓ Importance of community support systems

The Ethics of Psychiatry and Human Rights

have evolved



- Evolution of psychiatric ethics from paternalism to interactive ethics
- Importance of ***informed consent*** and respecting patient autonomy (“empowerment”)
- Ethical challenges in balancing care with rights

Psychiatry's Evolution: Key Case Studies



- Case studies of significant psychiatric reforms: Italy and beyond
- Positive and negative outcomes of these reforms
- Lessons learned and their relevance to current practice



Barriers to Human Rights in Psychiatry



- ✓ Current barriers: institutional resistance, resource limitations, societal stigma
- ✓ Importance of education and training for mental health professionals
- ✓ Policy recommendations to align psychiatric practices with human rights

Collaboration Between Psychiatry and Human Rights Advocates



- Potential for greater collaboration between mental health professionals and human rights advocates
- Examples of successful collaborations
- Importance of continued dialogue and partnership

Conclusion of Part 1

1. Summary of the challenges and opportunities in aligning psychiatry with human rights
2. Transition to the next part of the presentation: correctional health and human rights





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PART 2: CORRECTIONAL HEALTH AND HUMAN RIGHTS

Human Rights in Correctional Healthcare



1. Importance of human rights in correctional healthcare
2. Focus on European legal frameworks
3. Role of healthcare in prison reform

Human rights and correctional
health policy: a view from Europe

Mary Rogan

The European Legal Framework for Correctional Health



- Overview of the European Convention on Human Rights (ECHR) and its relevance to correctional healthcare
- Key articles: Article 3 (prohibition of torture), Article 2 (right to life).
- Role of the European Court of Human Rights (ECtHR) in setting standards

Human Rights Principles in European Correctional Health



- ✓ Principles of dignity, respect, and humane treatment
- ✓ The principle of equivalence of care: healthcare in prison vs community
- ✓ Role of oversight bodies like the Committee for the Prevention of Torture (CPT)

Access to Healthcare in Prisons



1. Legal and ethical obligations to provide timely healthcare to prisoners
2. Examples from ECtHR case law on healthcare violations in prisons
3. Challenges in providing adequate care in overcrowded or under-resourced prisons

The Role of the Council of Europe



- Role of the Council of Europe in setting and promoting prison standards
- The European Prison Rules and other relevant guidelines
- Importance of regular inspections and monitoring by bodies like the CPT

The Principle of Equivalence of Care



- In-depth discussion of the principle of equivalence of care
- Challenges in implementing this principle in prisons
- Examples where the principle has been upheld or violated

Case Studies: Violations of Human Rights in Prisons



- ✓ Examples from ECtHR rulings on inadequate medical care in prisons
- ✓ Cases involving chronic illnesses, mental health issues, and infectious diseases
- ✓ Implications for prison healthcare policy and practice

Mental Illness in Prisons



1. Challenges of addressing mental health needs in prisons
2. European legal framework's approach to mental health in prisons
3. Risks associated with inadequate mental health care, such as suicide and self-harm



The Importance of Rehabilitative Programs



- **Role of rehabilitative programs in supporting prisoner health**
- **Importance of access to rehabilitation as part of comprehensive healthcare**
- **Challenges in implementing effective rehabilitation programs in prisons**

Early Release Based on Health Grounds



1. Legal and ethical considerations for early release on health grounds
2. Examples from ECtHR case law where early release was necessary
3. Criteria for determining when early release is appropriate

The Role of Independent Monitoring Bodies



- ✓ Importance of independent monitoring bodies like the CPT in overseeing prison conditions
- ✓ Their role in identifying and addressing deficiencies in healthcare
- ✓ Examples of how monitoring has led to reforms in prison healthcare

Recommendations for Improving Correctional Health



- Practical recommendations based on European human rights law
- Need for increased funding, staff training, and better integration with public health
- Adoption of a human rights-based approach to prison healthcare reform

Comparative Perspective



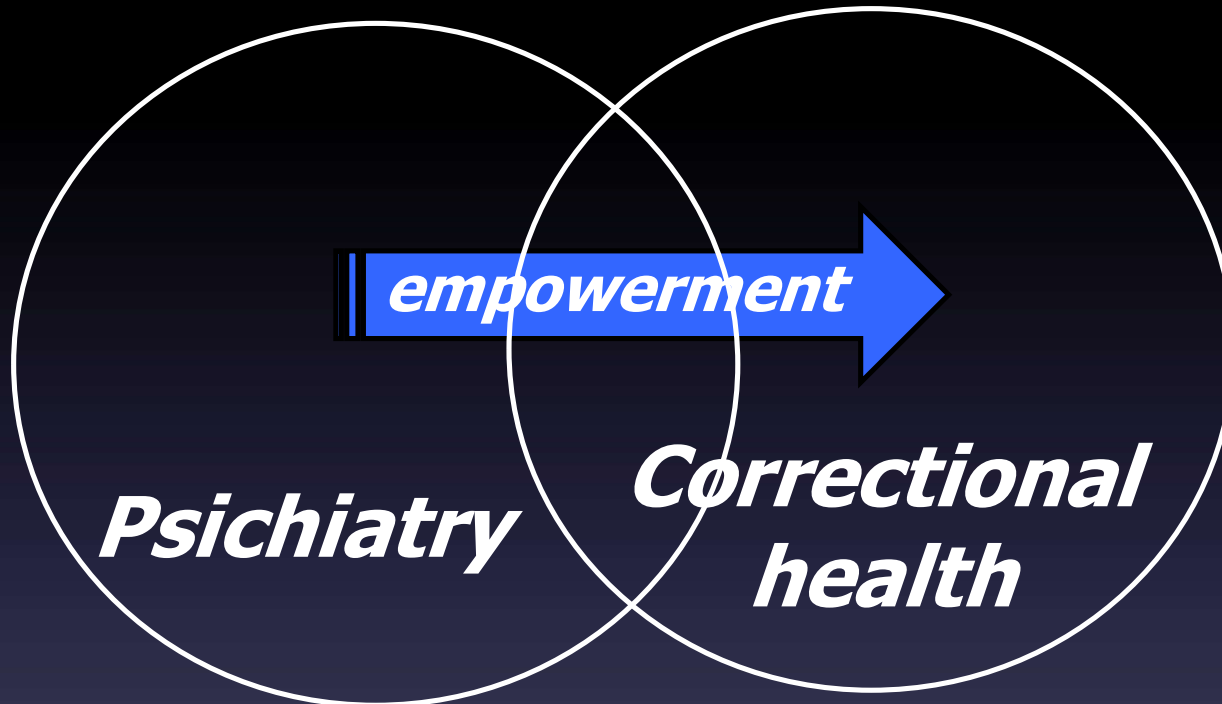
1. Comparison of the European approach to correctional healthcare with other international frameworks
2. Similarities and differences in how regions approach prison healthcare and human rights
3. Lessons that can be applied in Europe from other jurisdictions



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INTEGRATION OF THEMES

Common Themes Between Psychiatry and Correctional Health



- ✓ Identify common challenges and solutions in both fields
- ✓ Shared importance of dignity, autonomy, and access to care
- ✓ Role of legal frameworks in shaping practices

The Role of Legal Frameworks



- ✓ How legal frameworks uphold human rights in both psychiatric and correctional settings
- ✓ Examples of laws and court rulings that have led to reforms
- ✓ Importance of legal advocacy to protect vulnerable populations

Importance of Dignity and Autonomy



- Central role of dignity and autonomy in healthcare
- Impact on health outcomes and human rights protection
- Examples of practices that enhance or undermine these principles

Recommendations for Policy Makers



1. Key recommendations for policymakers to improve human rights protections in healthcare
2. Need for comprehensive policies that integrate human rights principles
3. Importance of stakeholder engagement and input from healthcare professionals, advocates, and patients



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CONCLUSIONS

Final Thoughts



1. Recap of the importance of integrating human rights into both psychiatry and correctional health
2. Progress made and challenges that remain
3. Encouragement for continued efforts to align healthcare practices with human rights standards

Call to Action



1. Encouragement for participants to engage in promoting human rights in healthcare
2. Specific actions that can be taken to support these efforts
3. Importance of continued advocacy and vigilance



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CASE STUDIES



Refusal of Treatment by Inmates



1. Inmates have the right to refuse medical care
2. This refusal is respected if the inmate is capable of making informed decisions
3. In emergencies or cases of incapacity, treatment may be imposed with legal authorization

Hunger Strike in prison





The hunger strike in prison: bioethical and medico-legal insights arising from a recent opinion of the Italian national bioethics committee

Francesco De Micco^{1,2}  · Vittoradolfo Tambone¹  · Rosa De Vito¹ · Mariano Cingolani³  · Roberto Scendoni³ 

Accepted: 29 May 2024 / Published online: 12 June 2024

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However, self-determination must be balanced with the obligation and duty of prison authorities to protect the life and health of prisoners. The potentially dangerous nature of the hunger strike raises ethical questions about the extent to which self-determination should be guaranteed, especially when it can put the lives of those involved at risk.

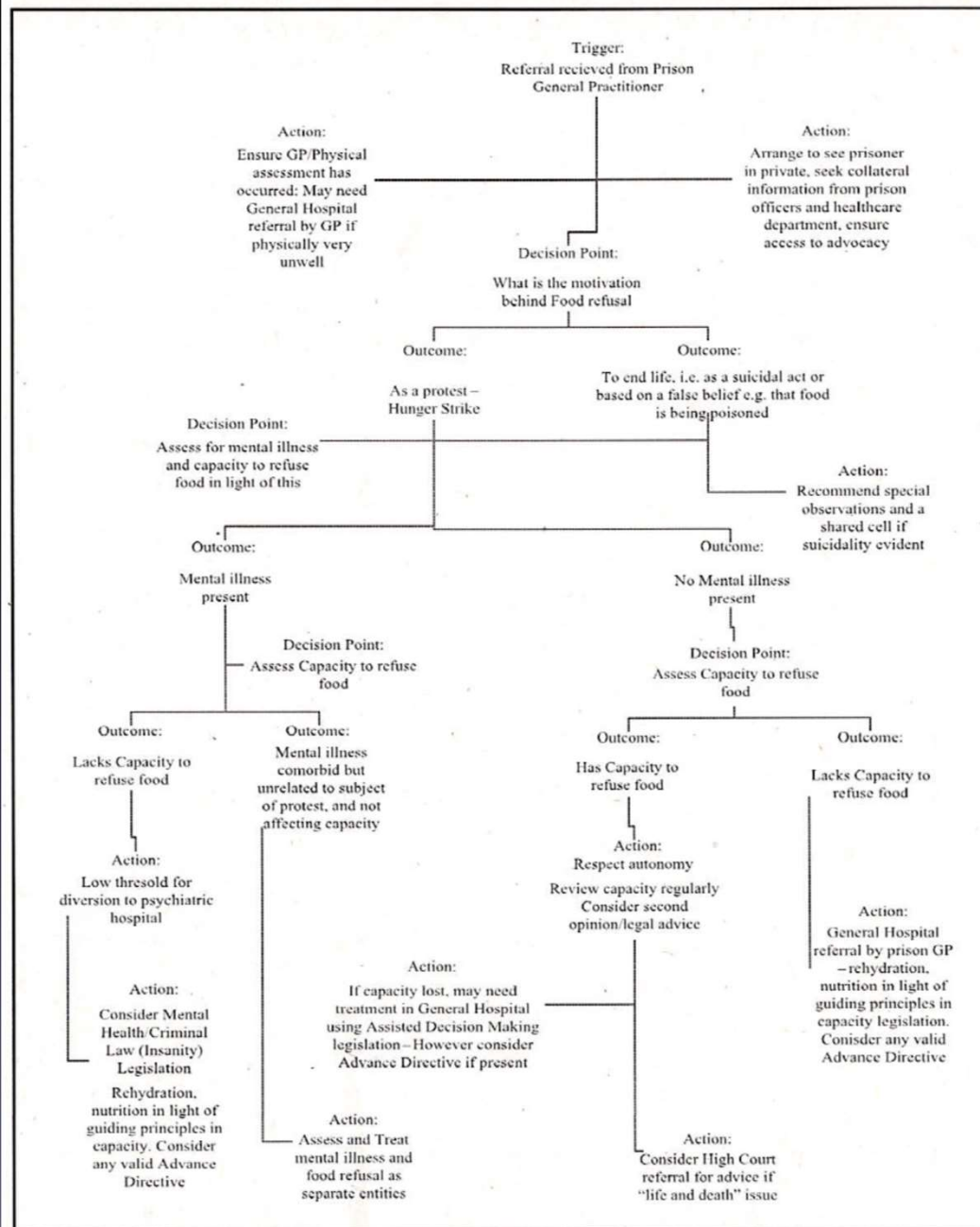
When should a hunger striker be forcibly fed? What should the hunger striker be fed? And how should the hunger striker be fed? These are the questions doctors face when prescribing nutrition against the prisoner's will, operating within an ethical dilemma that highlights a conflict between the prisoner's protest and the state's intent to safeguard life (Shah 2018).

A state cannot be indifferent to the values of life and liberty in consideration of its citizens. *Favor vitae* is not just one option among others available, but a foundation of civilised living that has a basic ethical value (De Micco and Scendoni 2024).

The psychiatric management of prisoners on hunger strike: developing a management algorithm using the Delphi technique

Gautam Gulati, Brendan D. Kelly, Conor O'Neill, Paul O'Connell, Sally Linehan, Eimear Spain, David Meagher and Colum P. Dunne

Figure 1 Algorithm for psychiatric management of a prisoner on hunger strike



In the decision tree outlined in this paper, the situation arising from hunger strike as a protest with no mental illness can be particularly challenging. In effect those clinicians engaged with a hunger striker who reaches this point could find themselves juggling capacity vs forced treatment. This could go on with episodic restoration of capacity followed by resumption of hunger strike followed by loss of capacity potentially until death. Clinicians whose role it is to preserve life are therein arguably placed in a situation where they are themselves forced to confront an irreconcilable affront to the dignity of life. In order to offset what can be anticipated to cause psychological injury to the clinician(s) involved, a process of shared decision making, changing treating team composition, post incident debriefing and construction of a specialist skill set may be of benefit. Algorithms, such as the one proposed in this study, have value in guiding objective decision making.

The assessment of a prisoner on hunger strike is perhaps one of the most complex clinical situations faced by a prison psychiatrist, who needs to consider clinical, ethical and legal aspects of management carefully. The duty of care remains to the patient at all times, to allay whose suffering remains the central premise of involvement.

Hunger Strike

«*Suggestions*»

1. Hunger strikes are recognized as a form of protest
2. Medical staff must monitor the inmate and maintain communication
3. Forced feeding is permitted only in extreme cases (hospitalization) with legal approval

Overview of Health Conditions

- ♂ aa 48
- Schizoaffective disorder
- Drug addiction (methadone treatment since 1998)
- Deep vein thrombosis (DVT)
- Hepatitis C (HCV positive)
- Gallstones (cholecystolithiasis)

Key Medical Events

- June 5, 2024: Psychiatric hospitalization (psychotic episode)
- July 8, 2024: Emergency admission for overdose (methadone and benzodiazepines)
- Ongoing psychiatric instability with poor treatment adherence
- Regular episodes of severe anxiety, paranoia, and hallucinations

PROBLEMS



- Detention worsens both physical and mental health??
- Inadequate control of psychiatric symptoms despite multiple medications??
- Suspension of detention and transfer to house arrest for better healthcare access??

Legal Context (Italy)

- Penal Code Articles 146 & 147: Detention suspension for *severe health conditions*
- Article 47ter Penitentiary system (Law n. 663/1986): House arrest for those with *serious medical needs*
- Medical condition qualifies under these laws due to the *gravity and deterioration in prison*

Thank you for your attention

