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Stigma Makes Psychiatrists Report Their Patients to the Police: Advocacy of the Rights of People Who Use Drugs

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Abstract

When psychiatrists learn that their patients use illicit drugs, they often report them to the police. At this time, at least three patient rights are neglected, which are the right to confidentiality, right to self-determination, and right to medical care of good quality. Reports to the police are at the doctor's discretion, and they are not required. Furthermore, they often report drug offences, but are not likely to report other crimes. The reason is not simply personal prejudice or discrimination but structural stigma, which is deep-rooted in society. Those who are more vulnerable, such as women and children, face greater hardships. Stigma among healthcare professionals related to substance use is created or reinforced through punitive enforcement worldwide. Therefore, advocacy of the rights of people who use drugs is to demand that people with social privilege use it to make a fair society.

Keywords: illicit drug use, advocacy, rights of the patient, stigma, gender

Introduction.

The rights of people who use drugs are being disparaged 6).

This paper advocates for the rights of

people who use drugs. Advocacy in this context means putting people who use drugs at the center by supporting and representing their rights and needs that have been neglected in the medical setting.

First, using a fictitious example described from the patient's perspective, I would like to examine a situation in which a psychiatrist reports a patient's controlled drug use to the police.

It makes sense that people want to visit a doctor when they feel something wrong and are afraid of having a disorder. It could be due to their use of controlled drugs such as stimulants or marijuana, or non-medical use of prescription or over-the-counter drugs. But it is not sure whether the drug use is related to the disorder or not. Therefore, the patient told the doctor about their drug use, trying to be as accurate as possible because she wanted to get better. She talked about anything that came to mind, not only in their lives, but physically and psychologically as well, hoping that the doctor would give her some kind of treatment suggestion or diagnosis. She thought that she would be able to decide for herself what to choose and how to do it from what would be offered to her.

What really happened, however, was that the psychiatrist called the police. She did not know that a report had been made, did not ask for it, and did not receive an explanation beforehand as to why it had happened.

I. Patients' rights being taken away

I believe this describes how easily and arbitrarily patient's rights are being taken away, although many health care institutions ostensibly stand for patients' rights. These often comply with the World Medical Association (WMA) Lisbon Declaration on Patients' Rights 9). Among several rights listed, I will focus on the most relevant ones here.

First, there is the right to confidentiality, the right to have information disclosed for the purpose of treatment maintained privately. Secondly, the patient has the right to self-determination. Information should not be provided to the outside world at the unilateral discretion of the physician without prior consent if the patient is able to confirm his or her intentions. It is often said that the case was reported to police for the benefit of the patient. Then why the patient could not be involved in the decision making? I have often heard it justified as a matter of public safety. However, even if the psychiatrist personally believes it is for the benefit of society rather than the individual patient, the right to make decisions of one's own volition should be respected.

Further violations of rights are

occurring at the societal level. If the use of controlled drugs is reported, the person concerned will either avoid access to medical care or will not tell the doctor or other health care provider about it, and as a result, will not be able to receive proper medical care. In other words, they are deprived of their right to medical care of good quality.

II. Two choices concerning the notification of drug use

It would not be accurate to understand that the issue of patients' rights violations happens because of the nature of individual psychiatrists. Rather, I would like to consider what is behind it. It has been often interpreted that reporting patients' controlled drug use is in accordance with the law. However, according to the law, doctors are not required to report such acts even if they are in opposition to their own personal beliefs. In fact, not all psychiatrists do report their patients. According to their interpretation of the law, some doctors do report, while others do not. In other words, there is a choice whether to report or not, and doctors that report have arbitrarily chosen to do so.

Secondly, do doctors report all kinds of illegal activities conducted by their patients? The "illegal activities" that patients tell doctors about are likely not limited to methamphetamine or marijuana use. For example, a patient may tell you that he or she is into gambling and sometimes uses underground casinos, that he or she took a 1,000 yen bill out of his or her parents' wallet to buy alcohol or over-the-counter drugs, or that he or she crossed a street against the red light when coming to the hospital. These are all acts that could be considered violations of the law. However, it is unlikely that the physician would have reported everything to the police.

In other words, among the many types of "illegal activities" that may be conducted, activities related to drug use are often selected as "the misconduct" that should be reported. The law does not specify which illegal activities must be reported and which ones do not need to be reported.

Why on earth would psychiatrists single out illegal drug use among the many types of illegal activities, and why would they choose to report it when they are not required to? Sometimes these choices are even glorified as being made from a humanitarian standpoint. These choices, however, are not humanitarian, but on the contrary, disrespectful of patients' rights.

III. Structural stigma

The disregard for the rights of people using controlled drugs is not a phenomenon unique to Japan. It is

occurring in many parts of the world, and has therefore been the topic of various studies 10). The causes of this phenomenon have also been identified. Discrimination and prejudice against the use of controlled drugs are the cause. These biases do not arise intrinsically at the individual level, but are a structural stigma that exists embedded in society, such as norms, rules, laws, and values 2).

In Japan today, there are severe criminal penalties for controlled drug use, and the message that controlled drug use can ruin one's life has been communicated for many years in the name of crime prevention. However, this approach to prevention has not been scientifically proven and has been indicated by the United Nations to be ineffective 15). I would like to consider the impact of this social environment on all people living in the community, including people who use drugs. In this paper, I will focus on women and children, who are more vulnerable in society, in order to protect their rights 3).

IV. Mothers and children living in a society where physicians report drug use

I'd like to describe a fictitious example of a woman who we're likely to meet at the shelter for women who use drugs. She is a single mother living in the community who is taking care of her young child. She has a part-time job. She is in a relationship with a man and sometimes uses stimulants when she is with him. The man controls her psychologically and restricts her behavior. She is being subjected to domestic violence by him. Her original family also had a history of violence, with the father hitting the mother in front of the children and intimidating the children. The woman visited a psychiatric outpatient clinic complaining of strong anxiety, but she never talked about her drug use there, because if she did, she would be reported. She wonders what will happen to her child if she is reported to the police and thinks that she cannot trust her child to the care of her parents or to the man she is dating. She is worried about her child-rearing and her partner's violence, but is unable to talk to anyone about it.

There is a concern that her mental health problems, such as anxiety and depression, may worsen further, and violence from her partner may have a strong impact not only on her but also on her child. Methamphetamine may be used in combination with other psychotropic drugs or alcohol, which brings the risk of overdose (or in the worst case, accidental death). On the other hand, she may be reported at some point, when she visits a doctor because she feels too sick and is found

her drug use. If she was arrested and detained, she may lose her job and be separated from her child. If she has been arrested two or more times, she is likely to be sentenced to prison. Eventually, she may be released from prison, and may or may not be connected to a treatment program through probation. Then, this becomes a situation in which various welfare, health, medical, and psychological needs are known, and the provision of care and support, such as the restoration of physical health, psychiatric treatment, psychological care, daily life training, and relationship building with the separated child, are considered to be essential 5). In reality, however, people tend to be just ordered to abstain from drug use, find housing on welfare, receive employment training, etc., and become self-sufficient as soon as possible. People who work with women who use drugs see that the various troubles that originally existed may become multilayered and even more profound due to her arrest and imprisonment 7).

V. Mothers and children living in a society where doctors do not report drug use

Suppose that the society in which the mother and child live is one in which doctors, welfare caseworkers, and other health care workers do not report drug use and maintain the patient's confidentiality. In fact, there are countries around the world that have strict punishments for the use and possession of controlled drugs, but in most cases I have seen and heard of, doctors and other health care workers do not report to the police. This is not the case in Japan. In a society where such reports are not made, this woman might be able to talk to her doctor about her drug use. The medical consultation could lead to participation in treatment/recovery programs or any other health-based support she voluntarily wants to take, such as child-rearing support, lifestyle counseling, and/or counseling support for male violence. Drug use may stop, or it may continue, or it may increase. However, in any case, it is easier to live without interruptions to relationships with medical and other support institutions. If she continues to work part-time, she will not need welfare such as employment support. The public burden of criminal justice would not be a factor.

For this mother and child, which society is easier to live in, the former or the latter? Which would be better for the residents of the community? It is clearly the former that creates more complicated problems related to drug use and increases the public burden of criminal justice, welfare, and medical

care. In other words, the latter would lead to a safer and more comfortable society, not only for the person who uses drugs, but also for the community as a whole. The aforementioned structural stigma is strengthened in the former type of society where severe punishment is applied.

VI. International stigma concerning gender and drug use

Again, deep-rooted structural stigma is not limited to Japan. Let us examine the international situation. The United Nations Office on Drugs and Crime (UNODC) has warned that the situation of people who use drugs is worsening. For example, between 2000 and 2015, the number of people who lost their lives as a direct result of drug use increased by 60% worldwide 13). Furthermore, they warn about the vulnerability of women who use drugs 14). Many women with substance use disorders suffer from trauma and difficulties such as prison sentences, infectious diseases including HIV and Hepatitis C, PTSD, gender-based violence, dysfunctional families, social inequality, stigma, and adverse childhood experiences. Therefore, although men use drugs in greater numbers, once use begins, women develop symptoms of substance use disorders at a faster rate. In other words, this is not due to biological reasons, but rather, social reasons. This is a clear indication that women are in a social environment where it is overwhelmingly more difficult for them to ask for support. When women use controlled drugs, they are blamed more because there is a large gap between the image of women and the biased image of women created by the male-dominated social structure.

VII. Stigma concerning gender in local communities

In addition, the major support for people who use drugs available in the community in Japan is basically limited to treatment and recovery programs, which are often designed for men who use drugs, and are led by male doctors and health care workers. As a result, it is difficult for women to ask for support, and even when they do, they are forced to follow a male-dominated structure 16). For example, let's say you consult a psychiatrist. The overwhelming majority of psychiatrists will be male. It would be good if the doctor (not necessarily male) had a good understanding of toxic masculinity and feminism, but it is difficult to expect him or her to have any knowledge of gender unless he or she is actively studying.

In addition, female patients often meet male doctors, who have an advantage as socially powerful men, falling in a dual power relationship

between doctors and patients, and males and females. Under this structure, male doctors and workers who support female patients may try to manipulate the relationships in the way they want or show inappropriate attitudes toward the patients. It is a violation of professional ethics for a health care provider, and it is clear that the person in the stronger position should take this into consideration. Even when a female patient perceives some inappropriate behavior (even a facial expression or a way of speaking) from a male worker, she is already vulnerable to discrimination and prejudice because she is a woman who uses drugs, and it is often socially difficult for her to speak up. Worse, even when patients do speak up, male workers often continue to repeat inappropriate behaviors towards other patients or clients without being held fully accountable by their employers. If you work with women who use drugs or have been victims of violence, you must face such situations often and feel upsetting.

There are various situations in which stigma and a lack of gender perspective can lead to abuse. In the case of single mothers who use drugs and who has young children, it is reported that "substance abuse" is also a risk factor for child abuse. While this may be true, it is worrisome that "drug-abusing" mother often faces the strong accusation that they are a bad person who should not be in a position to take heavy responsibility for the upbringing of her child (unequally with the father), an attitude that seeks to divide the mother and child in the name of the child's welfare.

It is obvious that the safety of the child comes first. For this reason, in support settings, it is important to know how to support the mother (caregiver) in order to ensure the safety of the child. If we take the stance that we want to separate the child from the “bad mother who cannot stop using drugs”, which is a typical expression described by many people including male health care workers, the mother will become more isolated and will not be able to freely ask for support when she needs it. As a result, the welfare of the child may be threatened. It is necessary to start thinking from the perspective of how to ensure that children are not separated from their mothers and that mothers are able to connect with support in a safe manner 1). Those who support mothers who use drugs in the community are likely to provide support based on this perspective, although such support is very limited, and many people do not know it.

Although I have used women and children as examples, there are naturally cases where men are in a vulnerable position. In addition to

gender, there are various factors that increase vulnerability in the social structure of contemporary Japan, such as sexuality, disability, age, economic status, nationality (status of residence), and ethnic identity.

VIII. International trends

The existence of discrimination and prejudice against patients who use controlled drugs by physicians and other health care providers, as well as the stigma that gives rise to such discrimination and prejudice, has been evidenced 10). In Japan, too, there has been increasing attention towards structural stigma 8).

At the United Nations, 12 UN agencies, including the World Health Organization (WHO), the Joint United Nations Programme on HIV/AIDS (UNAIDS), the United Nations Entity for Gender Equality and the Empowerment of Women (UN Women), the Office of the High Commissioner for Human Rights (OHCHR), made statements pointing out that laws and regulations based on punishments that degrade and negatively affect public health should be reviewed and abolished 11). In response to these developments by UN agencies, the UN Headquarters also released a report in March 2019 in which it stated that discriminatory attitudes brought about by drug policies and laws have spread to health care providers, preventing them from responding effectively to drug problems and interfering with the realization of a fair society 12).

Conclusion.

The rights of people who use drugs are being violated. Even if the law does not change, it should not mean that change cannot occur. There are actually health care providers who do not report their patients' controlled drug use even when they know about it. There is no need to make a choice to disrespect the rights of patients. This choice has a negative impact not only on patients, but also on the safety of the community. Patients are not the position to choose to report, but psychiatrists and other health care professionals are. The fact that only one side can choose means that health care professionals are in a strong and advantageous position.

At the end of this article, I would like to include the "Rights of People Who Use Drugs" 4) published by an international network of people who use drugs (Table). The table is full of elements common to the objections to rights violations that have been raised by people from various communities who have been relegated to a vulnerable position. Vulnerability arises because of the presence of the powerful, who have various social privileges. In advocating for the rights of people who use drugs in

this country, people who have social privileges must use their advantage to speak out for the realization of a fair society.

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References

1) 弁護士ドットコムニュース: シングルマザーが薬物依存，子どもと引き離される困難—支援者「SOS 出せる社会に」—. 2019 (https://www.bengo4.com/c_23/n_10117/) (参照 2020-05-13)

2) BuzzFeedNews: スティグマにどう対処するのか？—当事者の語りに触れること—. 2018 (https://www.buzzfeed.com/jp/naokoiwanaga/stigma-3) (参照 2020-05-13)

3) ダルク女性ハウス: 最も困難な状況の母子の支援. ファイザープログラム 心とからだのヘルスケアに関する市民活動・市民研究支援女性事業 薬物依存女性の子育て支援報告書. 2018

4) International Network of People who Use Drugs: Consensus statement on drug use under prohibition. Human rights health and the law, 2015 (https://www.inpud.net/consensus_statement_2015.pdf) (参照 2020-05-13)

5) 上岡陽江，大嶋栄子: その後の不自由—「嵐」のあとを生きる人たち—. 医学書院，東京, 2010

6) 上岡陽江+ダルク女性ハウス: 生きのびるための犯罪. イースト・プレス，東京, 2012

7) 上岡陽江: ダルク女性ハウスの当事者研究—多重スティグマを超える「記憶の共有化」—. 当事者研究をはじめよう(熊谷晋一郎責任編集，臨床心理学増刊第11号). 金剛出版，東京, p.14-26, 2019

8) 熊谷晋一郎責任編集: 当事者研究と専門知—生き延びるための知の再配置—. 臨床心理学増刊第 10 号. 金剛出版，東京, 2018

9) 日本医師会訳 : 患者の権利に関するWMA リスボン宣言. (https://www.med.or.jp/doctor/international/wma/lisbon.html) (参照 2020-05-13)

10) Substance Abuse and Mental Health Services Administration, U. S. Department of Health & Human Services: "Reducing discriminatory practices in clinical settings". (https://www.samhsa.gov/sites/default/files/programs_campaigns/02._webcast_3_resources.pdf) (参照 2020-05-13)

11) UNAIDS, UNHCR, unicef, et al.: Joint United Nations Statement on Ending Discrimination in Health Care Settings.

(https://www.unaids.org/sites/default/files/media_asset/ending-discrimination-healthcare-settings_en.pdf) (参照 2020-05-13)
12) United Nations: What we have learned over the last ten years: a summary of knowledge acquired and produced by the UN system on drug-related matters, UN system coordination Task Team on the Implementation of the UN System Common Position on drug-related matters. 2019 (https://www.unodc.org/documents/commissions/CND/2019/Contributions/UN_Entities/What_we_have_learned_over_the_last_ten_years_-_14_March_2019_-_w_signature.pdf) (参照 2020-05-13)
13) United Nations Office on Drug and Crime: Global overview of drug demand and supply. Latest trends, cross-cutting issues. World drug report, 2018 (https://www.unodc.org/wdr2018/prelaunch/WDR18_Booklet_2_GLOBAL.pdf) (参照 2020-05-13)
14) United Nations Office on Drug and Crime: Women and drugs. Drug use, drug supply and their consequences. World drug report, 2018 (https://www.unodc.org/wdr2018/prelaunch/WDR18_Booklet_5_WOMEN.pdf) (参照 2020-05-13)
15) United Nations Office on Drug and Crime: World Health Organization: International standards on drug use prevention, second updated edition. 2018 (https://www.unodc.org/documents/prevention/standards_180412.pdf) (参照 2020-05-13)
16) World Economic Forum: The global gender gap report. 2018 (http://www3.weforum.org/docs/WEF_GGGR_2018.pdf) (参照 2020-05-13)

表　薬物使用がある人の権利

1．権利をもつ権利．薬物使用がある人には人権があり，それは法令により守られるものである．
2．薬物使用がある人は，差別されない権利をもつ．
3．薬物使用がある人は，生命と身体の安全についての権利をもつ．
4．薬物使用がある人は，拷問や，残酷，非人道的，または尊厳が蔑ろにされるような扱いを強要されない権利をもつ．
5．薬物使用がある人は，到達可能な最高水準の健康を享受する権利をもつ．
6．薬物使用がある人は，勤労し，職業を自由に選択し，公正かつ有利な勤労条件を確保し，そして失業に対する保護を受ける権利をもつ．
7．薬物使用がある人は，恣意的に逮捕されたり，抑留されない権利をもつ．
8．薬物使用がある人は，身体がありのままの状態であることについての権利をもつ．
9．薬物使用がある人は，法令により保護された家族関係を築き，プライバシーが保護され，恣意的な干渉を受けない権利をもつ．
10．薬物使用がある人は，集会し，連携し，団体を組む権利をもつ．

（文献4より和訳して引用，仮訳：日本薬物政策アドボカシーネットワーク）