

日本における精神鑑定と強制的な医療

金澤由佳

人間社会学部 社会福祉学科

Compulsory Psychiatric Examination and Medical Treatment in Japan

Yuka Kanazawa

Faculty of Human and Social Studies, Social Work Department

Abstract

Persons with mental disorders are required to undergo compulsory medical care. This system will most likely continue.

In the case of an offender without severe mental disorders, the sentence of guilty or innocent is determined after the criminal act. However, in Japan, an offender with severe mental disorders and admitted insanity or those who possess a diminished capacity at the time of the crime, or those who perform harmful acts are required to be admitted as an inpatient and outpatient under the Medical Treatment and Supervision Act (MTSA), a designated clinical treatment system.

In Japan, even those with mental disorders who have not committed a crime but are at risk of self-harm or harm to others are required to be hospitalized under the designated involuntary admission system. Under this system in Japan, compulsory medical treatment is carried out for those with specific mental disabilities and for those who are likely to commit a crime or self-harm in the future.

The involuntary admission and MTSA will be discussed including the authors' psychiatric examination experience.

Keywords: persons with mental disorders, involuntary admission, MTSA

【要旨】

精神障害者に対しては医療を強制的に行うことができる。このことは、今後も続くことであろう。

精神の障害に罹患していない人は、犯罪行為後に有罪か無罪を考える。しかし、精神障害に罹患し、犯行時に心神喪失、心神耗弱状態であった者は、強制的に入院、通院させられることがある（MTSA「医療観察法」指定医療機関入院、指定医療機関通院）。さらに言えば、犯罪を行っていない精神障害者であっても、つまり（自傷）他害のおそれのある精神障害者に対しても強制的に入院させる仕組みが日本には存在する（「精神保健福祉法」措置入院）。罪が問われない人、減刑される人、罪を犯す可能性のある人には強制的な医療を行うのである。

本日は、自身の精神鑑定の経験を踏まえながら強制的な医療の2つのシステムについて発表させていただきたい。

キーワード：精神障害者、措置入院、医療観察法

1. Outline of Forensic Psychiatric System and crime rate

In Japan, as outlined in the Forensic Psychiatric System, involuntary admission is carried out under the Act of Mental Health and Welfare and Hospitalization and outpatient system under the Medical Treatment and Supervision Act (MTSA).

Comparing mental disorder crime rates to general criminal crime, it was reported that the mental disorder crime rate was lower than the general criminal crime rate. However, some mental disorder crime rates are higher than the general ones. And there are many unsolved crimes.

2. Involuntary admission Under the Act on Mental Health

~The Sagamihara Incident~

Involuntary admission under the Act of Mental Health was established in 1950 and has never been eliminated. Under this system, a person forcibly hospitalized with a mental disorder has two designated physicians who determine whether the person will be admitted due to risk of self-harm or harm to others. A matching diagnosis by both physicians is required to carry out the involuntary admission. Both diagnoses must match in order to minimize forced hospitalization. It is generally agreed that this system is in need of big changes.

In Japan, medical conditions and the state image of potentially self-injurious or other harmful acts has been reported by the Ministry of Health, Labor and Welfare(1988.4.8), but does not exist as a formal risk assessment tool.

Still fresh in our memory, on July 26, 2016, at a facility in Sagamihara City, Kanagawa Prefecture, a man with a past history of compulsory hospitalization killed 19 and injured 26 people with disabilities. I interpreted this system as having no major legal reform for involuntary admission. However, this may change in the future.

3. Hospitalization and Outpatient System Under Medical Treatment and Supervision Act (MTSA)

MTSA has been enforced since 2005. The purpose of this law is to provide medical care with the objective of promoting social reintegration to persons who have carried out serious or other harmful acts in a state of insanity or diminished capacity including cases of murder, arson, robbery, rape, indecent assault, or injury.

As an example of this process, a prosecutor will make a statement, in the district court. After the statement, a decision for hospitalization is carried out and a determination whether or not it is necessary for the MTSA to make a petition to the district court. In addition, a psychiatric examination is also done. Judgement for the necessity of MTSA care is determined by a conference consisting of one doctor and one judge.

As a result of the arbitration, the person will be hospitalized and will be given general mental health outpatient care under the MTSA.