The Use of Seclusion for Psychiatric Inpatients: Legal and Ethical Argumentation

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Abstract

Aggression and violence toward self and/or others are common behaviors among psychiatric inpatients. Seclusion is the most controversial intervention to control those behaviors. The use of seclusion is one of the most decisive decisions, but it has many legal and ethical arguments. Legally, many policies and laws in various countries support the use of seclusion for aggressive patients in psychiatric settings. While, the use of seclusion is approved in mental health services, many patients’ rights are violated. Ethically, seclusion is used exclusively to prevent expected harm. Therefore, the use of seclusion for that purpose will not violate patients’ autonomy and human dignity. Conversely, it is argued that nurses have to respect and preserve human dignity; those are interfering with seclusion. From proponents and opponents’ point of views, despite that the use of seclusion is a controversial intervention, it remains commonly used for psychiatric inpatients to prevent aggression and violence.

Key words: seclusion, aggressive behaviors, violence, legal aspects, ethical aspects, proponents, opponents.

Introduction

Aggressive behavior and violence against self and others among inpatient with psychiatric disorders are common, and the risks of these behaviors are increasing (1). The use of seclusion is one of the common and the most controversial intervention to control the violent behavior toward the self and others (2).

Although there is no therapeutic evidence for the use of seclusion (3), it is necessary in some cases to prevent injuries (4). Furthermore, the decision on using seclusion has many ethical arguments as it is against the basic principle of patients’ autonomy and human dignity (4).

Violence and aggressive behaviors are any undesirable action of physical force that cause injury to self or others including suicide attempt (5, 6). Seclusion is considered as a therapeutic measure (7), and is defined as locking the patient inside a safe room alone until he/she has the permission to leave it from the staff (8). This is usually done to maintain the safety of patients and others in psychiatric settings (2).

An argumentative essay is a style of writing and a challenging communication task in which the writer takes a position and tries to convince the reader to perform an action or to adopt a point of view regarding a controversy via evidence based resources (9).
The purpose of the current paper is to argue the use of seclusion for psychiatric inpatients from legal and ethical aspects of both proponents and opponents. The current paper is organized as follows: the literature review including the proponents and opponents’ arguments from both legal and ethical sides, and an argumentative statement on the authors’ position. The position of the authors on this issue is that seclusion is one of the effective ways to reduce the violent behaviors of psychiatric inpatients as it maintains a safe treatment environment, thus it can’t be eliminated.

Background

The use of seclusion has many legal and ethical arguments (4). As it restricts patients’ autonomy, it raises a complex ethical dilemma in psychiatric facilities (10).

Worldwide, despite there being a tendency to reduce the use of seclusion in psychiatric settings, seclusion is still used (11). During the 12-month period of data collection in New Zealand, 9.1% of admitted patients to psychiatric units were secluded (12). Over a six-month period of data collection, seclusion was used in 11 mental health services in Australia, 6.8% of inpatients were secluded at least once (13). In some cases, the use of seclusion is the only way to prevent injuries and trauma (14). In the next section, proponent and opponent studies about seclusion, from both legal and ethical aspects, are presented.

Legal Arguments

In all situations, the safety and dignity of the secluded patient should be protected (15). Seclusion as intervention is regulated by the Mental Health Act 1986 (15). This policy regulated the use of seclusion for all inpatients with various ages in psychiatric settings (15).

Proponents. The Mental Health Act is the main law that decides the use of seclusion in mental health services to protect the health and safety of the individuals (15). The act sets out the requirements that staff applying seclusion must obey. Secluded patient’s safety, health care delivered, dignity (self-respect), privacy, and continuous assessment must be guaranteed (15).

Findings summary are presented in Table 1.

Opponents. Since 1990, the New Zealand Bill of Rights Act prohibited the use of seclusion. This Act aimed at protecting the following rights: the right not to be subjected to torture or cruel treatment, the right to refuse medical treatments, and the right to freedom that includes the right not to be subjectively detained (17). Since 1983, United Kingdom Mental Health Act stressed that seclusion should be used only as a last resort, and the decision for seclusion should be based on knowledge of patient and their preferences, and only in order not to cause injury to others (18).

Seclusion of individuals with disabilities in psychiatric settings is an absolute ban, and prolonged seclusion may represent torture and poor treatment (19). Legal protection against torture or other forms of cruel, inhuman or humiliating treatments is essential in protecting people with disabilities, and ensuring that they maintain their physical and psychic integrity regardless as to where they stay (20). Findings summary are presented in Table 2.

Ethical Arguments

Proponents. The use of seclusion in psychiatric settings is an ethical dilemma as well as of legal concern (14). Although seclusion has a major role in preventing aggressive and violent behaviors and maintaining patients’ safety particularly in emergency cases, it is still controversial (2). Yan (21) in 2012 concluded that seclusion might not interfere with the ethical principles regarding humanity such as autonomy and human dignity when it is used with a good intention. Based on beneficence and non-maleficence principles of ethics, the researcher reported that seclusion is to be used to protect the patients and others from expected injuries, maintain the treatment environment, decrease the patients’ external stimulation, and create a therapeutic situation (21).

Findings summary are presented in Table 3.

Table 1: Summary of Findings of Proponents

<table>
<thead>
<tr>
<th>Author</th>
<th>Year</th>
<th>Setting</th>
<th>Outcome</th>
</tr>
</thead>
<tbody>
<tr>
<td>Victorian Government Department of Health (15).</td>
<td>2011</td>
<td>Victoria, Australia</td>
<td>In all situations, the safety and dignity of the secluded patient should be protected.</td>
</tr>
<tr>
<td>National Center for Mental Health (16).</td>
<td>2013</td>
<td>Jordan.</td>
<td>Ensure the patients’ safety and reduce violent behaviors throughout the seclusion technique, while protecting patient’s rights and human dignity.</td>
</tr>
</tbody>
</table>
Table 2: Summary of Findings of Opponents Legal Arguments

<table>
<thead>
<tr>
<th>Author</th>
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<th>Outcome</th>
</tr>
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<tbody>
<tr>
<td>New Zealand Governmental Legislation (17)</td>
<td>2013</td>
<td>New Zealand</td>
<td>Prohibited the use of seclusion. This act aimed at protecting the following rights: the right not to be subjected to torture or cruel treatment, the right to refuse medical treatments, and the right to freedom that includes the right not to be subjectively detained.</td>
</tr>
<tr>
<td>Department of Mental Health, United Kingdom (18)</td>
<td>2014</td>
<td>United Kingdom</td>
<td>Stressed that seclusion should be used only as a last resort, and the decision for seclusion should be based on knowledge of patient and their preferences, and only in order not to cause injury to others.</td>
</tr>
<tr>
<td>New Zealand Governmental Legislation (19)</td>
<td>2014</td>
<td>New Zealand</td>
<td>Seclusion of individuals with disabilities in psychiatric settings is an absolute ban, and prolonged seclusion may represent torture and poor treatment.</td>
</tr>
<tr>
<td>Quinn et al (20)</td>
<td>2002</td>
<td>United Nations</td>
<td>Legal protections against torture or other forms of cruel, inhuman or humiliating treatments is essential in protecting people with disabilities, and ensuring that they maintain their physical and psychic integrity regardless as to where they stay.</td>
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Table 3: Summary of Findings of Proponents Ethical Arguments

<table>
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<th>Setting</th>
<th>Outcome</th>
</tr>
</thead>
<tbody>
<tr>
<td>Tekkas et al (14)</td>
<td>2010</td>
<td>Turkey</td>
<td>The use of seclusion in psychiatric settings is an ethical dilemma as well as of legal concern.</td>
</tr>
<tr>
<td>Recupero et al (2)</td>
<td>2011</td>
<td>USA</td>
<td>The use of seclusion is still controversial.</td>
</tr>
<tr>
<td>Yan et al (21)</td>
<td>2012</td>
<td>Australia</td>
<td>Seclusion is to be used to protect the patients and others from expected injuries, maintain the treatment environment, decrease the patients’ external stimulation, and create a therapeutic situation.</td>
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</tbody>
</table>
Opponents. Although the use of seclusion may reduce the risk of aggression and violence (2), many staff who use seclusion and patients who were secluded perceived that seclusion interferes with human dignity and autonomy (22). In this study, several patients who were secluded described the seclusion room as like a prison, and they perceived seclusion as an offensive intervention, feeling of inferiority, and feeling they are not a human being. Furthermore, the staff who used seclusion described it as using a military style and feelings like offender and guilty (22). Patients described seclusion as a form of punishment, and they reported feelings of helplessness, anxiety, distress, shame, and loss (3). As a result, staff-patient relationships are breached, and poor treatment outcomes resulted (3).

The Canadian Nurses Association (CAN) Code of Ethics in 2008 stressed that nurses have to respect and preserve the human dignity of their patients, and that patients have the right to receive treatment and care while maintaining their dignity and humanity (23).

In summary, despite that the use of seclusion is a controversial intervention, it remains a common practice in psychiatric inpatient settings to prevent and control aggressive and violent behaviors toward themselves and others. Patient’s safety and maintaining the therapeutic environment are to be the main pillars of using seclusion. Concurrently, patient’s right and human dignity must be protected. Findings summary are presented in Table 4.

Table 4: Summary of Findings Opponents Ethical Arguments

<table>
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<th>Author</th>
<th>Year</th>
<th>Setting</th>
<th>Outcome</th>
</tr>
</thead>
<tbody>
<tr>
<td>Voskes et al (3)</td>
<td>2014</td>
<td>Netherlands</td>
<td>Staff-patient relationships are breached, and poor treatment outcomes resulted.</td>
</tr>
<tr>
<td>Larsen et al (22)</td>
<td>2014</td>
<td>Norway</td>
<td>Many staff who use seclusion and patients who were secluded perceived that seclusion interferes with human dignity and autonomy.</td>
</tr>
<tr>
<td>Canadian Nurses Association (23)</td>
<td>2008</td>
<td>Canada</td>
<td>Stressed that nurses have to respect and preserve the human dignity of their patients.</td>
</tr>
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Legally, many countries support the use of seclusion to control aggressive and violent behaviors of psychiatric inpatients (15, 16). However, this was not done haphazardly; policies were developed to guide health care providers who use seclusion (15, 16). That is done to ensure safety and efficient treatment of patients (4). Even in the seclusion room, those policies ensured that patient’s rights and human dignity, medical assessment, and patient’s observation and monitoring was maintained (15, 16).

Ethically, seclusion is to be used only for certain reasons such as to prevent expected harm to self or/and others, prevent disturbance of the treatment plan, assist in treatment as part of enduring behavior therapy, and decrease the external patient stimulation (21). Therefore, the use of seclusion, for the previous indications, will be not violate or interfere with patient’s autonomy and human dignity. Contrary, if the previous aims of seclusion not warranted, the patient’s and others’ autonomy and human dignity will be violated resulting in harm for both parties (21).

Findings summary are presented in Table 5.

Recommendations

Although the use of seclusion is a complex ethical decision, seclusion is a common intervention in psychiatric inpatient settings. For clinical settings, seclusion is to be used only to prevent and control aggressive and violent behaviors. Secluded patient’s rights and human dignity, medical assessment, and continuous patient’s observation should be assured.

For research, studies have to be conducted in Jordan and be about seclusion in psychiatric inpatients to identify the influence of seclusion on both health care providers and patients.

For education, teaching and training programs have to be implemented for psychiatric nurses about seclusion and how to deal with aggressive and violent inpatients in psychiatric settings.

The use of seclusion is a controversial intervention in psychiatric inpatient settings from both legal and ethical perspectives. ?
aspects. Guided by the ethical principles of beneficence and non-maleficence, the current authors encourage the use of seclusion to control for aggressive and violent behaviors of psychiatric patients against self and/or others.

**Summary and Conclusions**

The purpose of this paper was to argue the use of seclusion for psychiatric inpatients concerning the legal and ethical aspects of viewpoints of proponents and opponents. The authors are for the use of seclusion for psychiatric inpatients while considering ethical principles beneficence and non-maleficence and covered by a formal policy to ensure patient’s rights and human dignity.

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**References**