Point of View

The rights of the patient in art therapy
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Artistic activities are widely used in mental health care for both diagnostic and therapeutic purposes. The art produced in this process is often recognized as a valuable commodity in its own right, and this raises questions of ownership, self-determination, privacy, respect and psychic integrity.

Almost everything seems to have been written about the relationship between insanity and artistic creation. Almost everything and hardly anything, in fact, since this theme has been explored mainly by psychoanalysts, psychiatrists, neuropyschiatrists, philosophers or art historians, rather than the artists themselves. It is rare for people whose mental health is severely impaired to try and describe the supposed correlations between their pathology and their works of art. It may perhaps be argued either that the production of those works is enough for them, or that their indifference to nosographic terminology has kept them from engaging in any explicit discussion of the immense power of their imagination, their extraordinary sensorial receptivity or their prodigious memory.

Several principles must be observed if art therapy programmes are to be conducted in a manner that respects the right of patients to self-determination, privacy and psychic integrity. These aspects of the personality, as defined in the rules of civil law and constitutional provisions, should provide a means of protecting patients when their works are offered to the public before the end of their treatment. Making these creations public frequently involves the concurrent violation of a number of patients' rights. The potential damage is increased by the current popularity of art depicting violence, anguish or mystical rapture. There is a strong case for protecting those who produce these works in the context of health care from being dominated by social and economic pressures.

Art therapy as experimental treatment

Unlike rehabilitation therapy, art therapy is not designed primarily to restore a physical function or skill. For several decades now it has been a common feature of clinical treatment as a way for patients to express and communicate their emotions and thus make them more understandable to themselves and those providing care, thereby increasing the possibilities for improving their health. This form of psychotherapy uses media
such as painting, drawing, sculpture, modelling, collage, writing, theatre, photography and video, and in doing so produces abundant collections of material often wrongly referred to as art brut ("raw art"). In a society geared to the production of goods and services it is often difficult to see these "products" in terms of health as distinct from cultural and economic opportunities.

In institutional practice, art therapy takes many forms. At its simplest it can take place on a one-to-one basis involving the patient and a specially trained therapist, as in the drawing completion and thematic apperception tests devised by F. Mohr and D.W. Winnicott. More complex activities may involve large workshops in which the patients express themselves individually or in groups, as for instance in the programme devised and commercialized by A. Stern, in which a particular spatial concept, ritual and colour range are used. Whatever approach is taken, creative activity is usually seen as a personal projection of the freest possible kind but intended to afford an extensive insight into the preoccupations and fantasies of patients.

**Clinical interpretation**

In the conduct of art therapy sessions, supervision is assumed to be essentially receptive and objective. The therapist accepts what is produced, and tries to guide the work towards greater clarity. Though the principle is simple, the process itself can be complex where the patient, for example, either refuses to draw a single line or covers hundreds of sheets of paper with jade bats, magic keys or parrot aeroplanes. Stateless parachutists, infinitely variable wild animals, stereotyped Nijinskys, sacred cows, royal weddings, flying bishops, sexual violence and less recognizable images may also appear in bewildering profusion. Faced by such images, it is preferable for the therapist to avoid the danger of simplistic interpretations, affirming for instance that a particular element necessarily denotes death or pleasure, or, following Freud's famous interpretation of Da Vinci, that the image of a vulture with its tail in a person's mouth has to be a fellation fantasy, or describing the images merely as "morbid", "mad", "monstrous" or "regressive" (I).

Works produced in creative art sessions are also seen as a means of facilitating collaboration between the members of the therapy team. At internal symposia, the art therapist may submit a report comprising various observations such as a tentative interpretation of a work, verbal communication, body language and movements, interest displayed towards people and objects, the abstractness or concreteness of the patient's attitude, negation reactions, humour, and the effects of medication on the condition and behaviour of the patient.

**The rights of ownership**

The cost of the physical materials and facilities used in art therapy is usually seen as part of the overall cost of treatment and as such does not present difficult questions of rights or ownership. However, as soon
as these materials are transformed into products that meet the minimal copyright criterion of originality, the person who produced them, regardless of his or her legal standing in other respects, has exclusive rights to ownership of them. Therefore, to prevent confusion, it would seem desirable for the material used to be marked with the name of the patient, a reference number, the date and the place of production. It would seem equally essential for such works to be regarded as unique components of the medical file and for them to be subject to the corresponding rules. As a general principle, all the works produced in experimental therapy should remain at the disposal of the therapist until the end of the treatment, when they are automatically returned unless the patient specifically authorizes the clinician to make copies or keep any of them.

In this context consideration must be given to one of the main sources of error with respect to the authorship of works produced under the supervision of a therapist. Therapists may suggest to patients that they should give formal expression to an idea or an obsession, or use colour to express a feeling or a dream or a hallucination, or draw a person or a tree or the Indian Ocean. This activity must not be confused with that of artists who pass tasks on to their assistants, who in that capacity are acting as people assigned to carry out specific technical instructions (2).

**The right to self-determination**

The right to self-determination within a therapeutic relationship means that the patient can decide freely on the use of a form of treatment on the basis of a clear and comprehensive description of it. However, to be in a position to take a legally valid decision, the patient must be capable of discernment, a term which refers to a set of cognitive and volitional faculties with respect to a particular action. In practice, the more complex the action is, the more likely it is to be determined by an external subjective influence, as is the case, for instance, in the massive transfer of responsibility inherent in surrendering to psychotherapy. Thus it is also true that the more important the action is, the more likely a judicial authority is to find the person who submits to it incapable of discernment.

It is acknowledged theoretically that the patient may decide to give up taking medicines which have disturbing side-effects. Such a prerogative is accepted even where the psychiatrist is convinced of the efficacy of the treatment, provided such an exercise of will does not constitute a direct threat, under his responsibility, to the life of the patient or of third parties. The same principle should apply to experimental therapeutic methods in which the professional asks patients to externalize their suffering and their difficulties of adaptation through forms, colours, verbal associations or sounds. This too can have undesired side-effects, particularly in

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exposing the patient to unwanted or positively harmful scrutiny.

It has been rightly claimed that no work of art is a total and authentic expression of the self, and that artists only reveal a part of themselves, keeping the rest as hidden
as possible (3), but the special circumstances of art therapy consistently contradict this rule. It appears, indeed, that the mentally ill have great difficulty in concealing their innermost personality in their creative work, and that they are frequently less likely to be aware of the full implications of what they may be induced to say about what they hold most sacred. For this reason, consent to put on public display the results of diagnostic and therapeutic investigations through art should be viewed all the more restrictively. Such decisions can have unexpected and unwelcome results for the social identity and the health of the patient.

The right to privacy

There are several incentives for psychotherapists to put the works and existential image (4) of their patients on public display. By doing so they can benefit from the current public interest in the contemporary arts and at the same time gain public recognition for their psychoanalytical work by showing it to a large audience. With their direct access both to medical data and to complex works of art whose production they to some extent control, they can make a richly illustrated “pathogenic” reading of the work. Such essays may include general reflections on art, biographical anecdotes, critiques, accounts of the impact of schizophrenia on creativity (5), and observations on the therapeutic benefits of artistic expression. However, although they recognize the artist’s status as a patient, they tend not to take into account the respect due to a person suffering from a mental illness.

Although it can be argued that the private lives of famous people are a matter of legitimate public interest, it is not acceptable that therapists should present their patients in the same way, as artists living outside the context of health care. It can be argued that any act of creation stems from the temperament and destiny of its author, but this does not justify the examination of works of art on that basis alone. Such an approach, already questionable, becomes illegal when it clearly violates the duty of medical confidentiality.

It might be fair, on the other hand, and would undoubtedly be extremely interesting, if patients were to collaborate with their therapists in the presentation of their own work. Such an approach could be seen as an ideal version of the therapeutic partnership, and would do away with the feeling that the patient’s individual history had been taken over by an analyst or biographer. In such an endeavour it would be desirable for therapists to indicate how they were involved in the treatment, their doubts and possible errors, and the reasons which prompted them to take the action they took. This is the naturalistic approach taken by the neurologist Oliver Sacks, who describes the prodigious talents and the mental disorders of his subjects with precision, respect and empathy, and uses the expression of one of them, who says she feels like “an anthropologist on Mars” as the title of his book (6). Lastly, it is desirable for the therapist to wait until the patients’ institutional treatment is over before presenting their works in an exhibition, television documentary or publication.
The right to respect

Respect in contemporary Western society is usually reserved for people who possess the basic requirements for survival, such as employability, intellectual and physical abilities, solvency, social adjustment and mental health. Mental health is not only one of the qualities generally referred to in legal works on this concept, but is also seen as indispensable for almost all components of social standing. Thus to establish scientifically that someone is a psychopathological case usually amounts at the same time to discrediting that person. Indeed, the Cartesian way of seeing things which still characterizes our institutions has made clinically treated mental illness a kind of obstacle to social integration.

While certain societies have accorded an important place to the madman, for instance as “the dancing master of the spirit”, the dominant view in most large societies today seems to be that uncontrolled behaviour is undesirable and dangerous. Partly for this reason, the relation between psychiatry and justice is a subject of fascination, and the angle usually chosen by the press and the pictorial media helps to project a reductionistic and threatening image of mental illness. It might therefore be supposed that it is the hope of rehabilitating mental illness and making it culturally acceptable that prompts certain psychiatrists to present madness in a more positive light to the public. This may sometimes be so but there is nothing inherently humane about presenting the work of an artist through the narrow prism of nosology.

The recognition of symptoms, particularly when it interacts with the interpretation of the works of a patient, encourages the reduction of a set of complex and evolving elements to oversimplified and demeaning forms. An example of this among innumerable others is the list given by L. Navratil by way of introduction to his article *Psychose und Kreativität* (7), in which he offers to show the difference between “healthy geniuses” and “psychopathological personalities”. He puts many well-known historical figures into the latter category including Baudelaire, Beethoven, Burns, Byron, Chopin, Goethe, Hölderlin, Kierkegaard, Michelangelo, Napoleon, Newton, Pascal, Plato, Poe, Rimbaud, Robespierre, Rousseau, Schopenhauer, Swift, Verlaine, Voltaire, Wagner and many others. “Diagnoses” of this sort tend to depend on fragmentary evidence and speculation. They are perhaps harmless when applied to people who died long ago, but they can needlessly stigmatize living patients and, in fact, compromise the potential benefits of the treatment.

The right to psychic integrity

The right to psychic integrity can be defined as the legal right of psychiatric patients to protection from treatment that makes their condition worse instead of better. Although a clear causal relationship between inappropriate medical treatment and the deterioration of the psychiatric condition of the patient is generally difficult to prove, it is worth drawing attention to some of the ways in which this can happen.
Particular risks of collapse or of the disturbance of a more or less stabilized emotional equilibrium arise in connection with publicizing the patient’s work. Such reactions are especially common when the publicity given to the work has not been agreed to by the patient or where its consequences have not been evaluated in advance and explained to him or her. For intrinsic neurobiological and cognitive reasons which are often unpredictable, patients may be unable to tolerate the showing of their work and the exposure of their personalities to public criticism. Because it influences self-perception and thus affects the personality, such publicity can have a decisive effect on a person’s psychic condition.

Being published, exhibited in art galleries, discussed in the press or interviewed on television are usually seen by health personnel as a form of recognition which is essentially beneficial for their patients. However, this tends to disregard the fact that art exposes the sensibility and originality of a person to public judgement in ways that other activities such as swimming and tennis do not. Similarly, although artistic expression may in the context of therapy be a means of self-discovery and affirmation, the patient needs protection when this work takes on a public or commercial dimension. Because of the inherently fragile state of patients (8), it is usually risky, and therefore ill-advised, to encourage them to get involved in the vicissitudes of the art market before the end of their treatment.

This restrictive view will perhaps be better appreciated when one considers that the creative abilities of patients, which are frequently induced by delirium and hallucinations, tend to subside on remission. There is thus a risk that nurturing ambitions of an artistic career will conflict with attempts to stabilize the patient’s condition and provide relief from suffering. Therapists should therefore not be over-hasty in assessing their patients’ ability to understand and accept the turbulent world of contemporary artistic creation. They should always respect a patient’s unwillingness to adapt to the requirements of producing and competing in such a setting.

It would seem much more reasonable (and more therapeutic) for patients to promote their own work when they leave the establishment, if they still feel like doing so. This could help to restore independence, avoid the stigma of psychiatric diagnosis and allow former patients to take their place in the world of free artists. Long-term patients who wish to have their work shown to the public should have a guardian to help protect them from infringements of the rights outlined above.

References


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**Prevalence of personality disorders**

In terms of the sociodemographic characteristics of people diagnosed as having a personality disorder, the prevalence rate is higher in urban populations and lower socioeconomic groups. It also seems to vary between different age groups, with a slight decrease in older groups. Although the sex ratio is different for specific types of personality disorders, these differences tend to cancel each other out, with total rates of personality disorders being about equal for the two sexes.