

removed under civil provisions of the Mental Health Law before trial and/or conviction? There also do not appear to be provisions equivalent to those of our "consent to treatment".

The MHL 1988 also contains a few features which have no corresponding leaf in the MHA 1983, such as Chapter IV containing Articles 52 to 57, entitled 'Penal Provisions' which deals largely with the punishment meted out to the possible misdemeanours of mental health professionals (*The Mental Health Law*, 1988). While it is the case that in the United Kingdom, professional staff are legally liable for non-compliance with duties specified under the respective mental health laws of the United Kingdom, in Japan, breach of confidentiality, for example, specifically attracts imprisonment with hard labour for a period of not longer than one year, or a fine not exceeding yen 3000,000\* (239.5 yens to the £) as per Article 53. It may be of some interest to NHS managers auditing the medical services in their newly-formed trust hospitals, that according to Article 55 Para. 3 of the Mental Health Law of Japan, "The superintendent of a mental hospital who did not make a report . . ." shall be punished with a fine not exceeding yen 100,000. Such explicit financial penalties in the United Kingdom might certainly expedite any dilatory psychiatric report writing—such as of reports for Mental Health Review Tribunals and Home Office Annual Statutory reports for "restricted" patients. They may not yet have "security units", but they certainly seem to have been provided with an incentive powerful enough to maintain their characteristic efficiency!

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\*See the following letter from Dr Sakuta.

#### References

- SAKUTA, T. (1991) New mental health legislation in Japan. *Psychiatric Bulletin*, 15, 559–561
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DEAR SIRS

I read the letter from Dr Gandhi and Treasaden with great interest. I agree with them that the Mental Health Law of Japan (MHL 1988) has similarities with the Mental Health Act of England and Wales (MHA 1983) and that the MHL 1988 was influenced by the MHA 1983. Yet, historically speaking, the MHL 1988 has its foundation in the Mental Hygiene

Law of Japan enacted in May 1950 (MHL 1950). A Designated Physician of Mental Health in MHL 1988 was called A Physician of Judgement of Mental Hygiene in MHL 1950. According to the MHL 1950, two Physicians of Judgement of Mental Hygiene had to judge when a mentally disordered person was involuntarily admitted by the Prefectural Governor, as in the MHL 1988.

A "temporary admission" and an "involuntary admission by the Prefectural Governor" were in the MHL 1950.

An "emergency admission" was newly introduced in the MHL 1988. The MHL 1988 also newly allowed the detention for not more than 72 hours of a voluntarily admitted patient seeking discharge, if "... the physician considers it necessary to continue the admission". Drs Gandhi and Treasaden referred to the lack of detail regarding the provisions for mentally disordered offenders. Certainly, there are few articles concerning mentally disordered offenders in MHL 1988. But in Japan too, the mentally disordered who committed crimes are regarded as either criminally irresponsible or of reduced responsibility. Suspected mentally disordered offenders are examined by psychiatrists at the request of public prosecutors, barristers or judges. Mentally disordered offenders in need of in-patient psychiatric treatment are removed before trial and/or conviction and sent to designated psychiatric wards for "Involuntary admissions by the Prefectural Governor". They can be discharged any time when the doctor in charge considers they do not need further hospitalisation.

This ease of discharge and repeated offences by the same mentally disordered offender are regarded as a current problem in Japan.

Breach of confidentiality attracts imprisonment with labour for a period of not longer than one year, or a fine not exceeding 300,000 yen (not 3000,000). Article 53 is rather a moral statement for mental health professionals. I have never heard of any case of the practical application of the article. There are patients difficult to treat. They tend to be refused inpatient treatment by most psychiatric units. For these reasons, the idea of "security units" is being discussed now in Japan.

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#### *Learning about management through observation*

DEAR SIRS

Higher psychiatric trainees need management training as part of their preparation to become NHS