Sane or Insane: When the Mentality Disabled become Involved in the Justice System of China

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Abstract A mentally disabled person might get involved with the justice system under two occasions: either he/she committed antisocial behaviour or he was compulsorily hospitalized. In the former case, a psychiatric examination should be conducted to ascertain his/her criminal responsibility, fitness to stand trial or eligibility for execution, etc. In the latter case, a judicial review should intervene to ensure the hospital doesn’t put a sane patient into custody for care. However, the mentally disabled in China have not secured the proper rights protection they should have enjoyed. This paper will identify problems with substantive law, procedural safeguards and mental health assessment in China, analyze the causes underlying the unequal treatments for mentally disabled persons by the whole society, and put forward recommendations for further legal reforms. Among others, the author holds whenever an alleged mentally disabled person is involved in criminal justice system, there should be a cooperation and mutual supervision between psychiatrists and judges, i.e., a psychiatric assessment should form the basis of judicial decision, and a decision to detain a mentally ill person, whether in police custody or in psychiatric hospital, needs to be approved by judicial authorities.

KEYWORDS: Mental Health Law, Psychiatric Evaluation, Involuntary Commitment, Case Study

Introduction

Mental health problems have become increasingly significant for Chinese society over the last decades. According to the statistics released by the China Centre for Disease Control and Prevention in 2009, there were an estimated 100 million (16 million severe) mainland Chinese who suffered from mental illness. As a result, there has been a remarkable increase of individuals with mental health problems entering the (criminal and civil) justice system. A mentally disabled person might get involved in the justice system under two occasions: either he committed antisocial behavior or he was compulsorily hospitalized without due process of law. In the former cases, the mentally disordered person becomes suspect, defendant, convict or even prisoner. In the latter cases, anyone with mental health problems, whether he committed an antisocial act or not, could become a victim of illegal detention and involuntary medication. In August 2008 China ratified the United Nations Convention on the Rights of Persons with Disabilities. In March


In October 2012 China adopted another very important new law. This new law was China’s first modern comprehensive mental disabilities law. Although these legislative reforms have provided for some protections, the legal protection afforded to this vulnerable group is still weak.

There are many issues that deserve close examination on the rights protection of mentally disabled persons, but this paper only touch upon some key issues need further reform. Part II will discuss the problems with the procedures and mechanisms of determining one’s mental status in mainland China by way of case studies. Part III will analyze the causes underlying the unequal treatments for mentally disabled persons by the wholesociety. The author holds, although discrimination against the insane is an important reason, the primary cause is still the loopholes with the legal institutions.

This part will also put forward some recommendations for further legal reform in this area. Among others, the author argues whenever an alleged mentally disabled person is involved in justice system, there should be a cooperation and mutual supervision between psychiatrists and judges, i.e., a psychiatric assessment should form the basis of judicial decision, and a decision to detain a mentally ill person, whether in police custody or in psychiatric hospital, needs to be approved by judicial authorities.

II. Problems with Current Legal Institutions on Determination of Mental Status in China

Of all legal institutions targeting mental disabled persons, a significant one is to determine whether the said person is sane or insane. As mentioned above, a mentally disabled person might enter the criminal justice system either as a defendant or as a victim. In the former case, it’s a common practice across the world to conduct a psychiatric examination to ascertain his/her criminal responsibility, competence to stand trial or eligibility for execution, etc. In the latter case, apart from psychiatric examination, a judicial review is usually required to ensure the hospital doesn’t put a sane patient into custody for care. However, it seems the mentally disabled or alleged mentally disabled in mainland China have not secured the proper rights protection they should have enjoyed.

In mainland China, with the rapid development of non-traditional media such as internet blogs, online forums, or micro-blogs, more and more high profile cases have been available to the general public in recent years. There are mainly two lines of cases involving mentally disordered persons in the media coverage of last decade.

One line of such cases focus on the rights protection, especially the right to be professionally examined, of criminal defendants who alleged to be mentally disabled, and another line of cases focus on those who were involuntarily hospitalized without due process of law. Below are some examples for each line of cases.

A. Problems with Mental Examinations in Criminal Cases

In the context of criminal cases, mental examination is a procedure to ascertain whether or not the defendant has a mental disability (or disorder) to the degree that his/her criminal responsibility is totally deprived or at least diminished, or whether he has the capacity to stand trial or fit to be executed.

3. For more details, see Zhiyuan Guo, Deprivation of liberty against one’s will in mental health institutions in contemporary China, in Elissa Nessoi et al (eds), Legal Reforms and Deprivation of Liberty in Contemporary China, Routledge Publishing, 2016.

However, most mental examinations in China address the problem of criminal responsibility. Few mental examinations are conducted to evaluate capacity to stand trial.

Fitness to be executed is almost irrelevant in China because no prisoner on death row would be examined by psychiatric experts before execution. Therefore, the following cases only involve mental examinations to determine criminal responsibility.

**Qiu Xinghua’s Case**

On July 16, 2006, Qiu Xinghua, a 47 year-old Shaanxi villager who suspected that the head of a Taoist Temple had an affair with his wife, killed the man and went on to kill ten other innocent people for no apparent reason. Qiu was convicted and sentenced to death for murder and robbery in the trial of first instance. Prior to appellate hearing, both Qiu’s wife and his defense lawyer filed applications for a professional examination of Qiu’s mental status because of the probability that he may have suffered from a mental illness. On December 8, in the hearing of second instance, the defense lawyer applied again for a mental examination of Qiu, but failed to obtain the court’s approval because [according to the court] the defense didn’t provide sufficient evidence of probative value. Although Qiu Xinghua’s case attracted enormous attention and moral support from both the medical professions and the legal academics, he was still executed on December 28 without a single chance of mental examination. During and after Qiu’s case, a nationwide debate over who should be entitled to initiate mental examinations was incited, and the Qiu Xing Hua case was thus listed among the top ten influential cases for the year of 2006.

**Yang Jia’s Case**

Qiu Xinghua was surely not the last victim who was denied opportunity for an independent mental examination. In 2008, Yang

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6. The killings were so vicious that Qiu Xinhua had even removed and fried the deceased’s intestines before feeding them to a dog, see Yuan Xiaobing, “Murder Case in Jiayin, Shannxi: the deceased’s intestines were removed”, Southern.com, http://news.sina.com.cn/a/2006-08-08/091910662894.shtml, 2006, (Accessed 28 February, 2017).

7. Burden of proof and standard of proof in establishing a defendant’s insanity are also controversial issues, brief discussion of these issues could be found in later part of this article, but it deserves a full article to address them.

8. Prof. Liu Xiwei, a doctor from Mental Health Center at Wuxi City, Jiangsu Province, asserted that Qiu must have suffered from some form of mental illness and he suggest authorities urging the Higher People’s Court in Shannxi to conduct a mental examination of Qiu Xinghua during the trial of second instance, alleging that if not, it will produce a wrongful conviction. See “Qiu Xinghua case is tried by the appellate court today, psychiatric experts appeal to overturn his death sentence”, http://news.xinhuanet.com/legal/2006-12/08/content_5454291.htm, 2006(Accessed 28 February, 2017). Prof. Yang Deseng, a leading authority in the field Reflections of China mental examinations, pointed out that if the appellate court doesn’t grant the mental examination, the general public won’t accept and respect the court judgment; irrespective of public opinion, it’s not humane for a society to execute mentally ill person from the perspective of human rights. See Sun Daming, on Qiu Xinhua’s Case from a Perspective of Forensic Science, Crimes Study, Vol.5 (2008), p.51.


Jia, a jobless 28-year-old Beijing resident, was convicted and executed for murdering six police officers and injuring four others. Unlike other police-killing cases, Yang Jia’s case not only received unusually sympathetic media coverage, but also aroused public protests during his trials. There were many special factors that led to the sentiment, but the core problem remained mental examination. In this case, the right to an independent psychiatric evaluation was critically overlooked. Only the prosecution had an opportunity to have Yang Jia professionally evaluated, and this only examination was problematic. The defense never had a chance to retain experts of its own choosing despite of repeating requests. It is clearly unfair for the defense to be unable to offer expert testimony, particularly in the trial of second instance where the insanity defense was raised.

Akmal Shaikh’s Case

The debate went beyond China and obtained concerns from international community in 2009 when another high-profile case came to light. A British man named Akmal Shaikh was convicted of drug smuggling and sentenced to death. He was arrested after a suitcase he was carrying was found to contain 4 kg of heroin, with a value of £ 250,000. In this case, although Akmal Shaikh was said to be severely mentally ill, the Chinese courts never sought psychiatric evaluation of his mental condition despite enormous efforts were made by both the British government and human rights organizations. There was also a serious question as to his fitness to stand trial, because it was reported that the appellate judges laughed openly in court at Mr. Shaikh’s bizarre behavior in the courtroom, but they still found that Mr. Shaikh was not mentally ill, not to mention fitness to stand trial. This case was another vivid reminder of the flaw that the criminal suspect or defendants who claim to be mentally ill don’t have the right to initiate the mental examination process themselves.

Despite all distinguished enough in many aspects, these three high-profile cases shared a common feature, i.e., the defendants all have been denied the opportunity for an independent mental examination and executed even though questions of their mental health were openly debated by the legal community as well as by the general public. This line of cases indicated that the initiating mechanism of mental examinations in criminal cases is quite problematic especially from the perspective of human rights protection.

B. Problems with Involuntary Hospitalizations

Statistics suggest that people with real mental health problems could not get

13. According to court records, on July 1, 2008, Yang Jia armed himself with tear gas, a knife, hammers, a hiking stick, plastic gloves, and eight beer bottles filled with gasoline before launching an all-out assault on a local police station. At about 9:40AM, after starting a fire at the front gate of police headquarters in Zhabei, a Shanghai suburb, Yang slipped inside and began his rampage. He stabbed the security guard who tried to stop him, and then charged onward, stabbing nine unarmed officers at random before police managed to subdue him. See “The Higher People’s Court in Shanghai publicize the criminal judgment (full text) for Yang Jia’s case”, Chinanews.com, http://www.chinanews.com/ gn/news/2008/10-20/1418701.shtml, 2008, (Accessed 28 February, 2017).


15. Id., pp. 24-29.

16. Under Article 347 of the Chinese Criminal Law, trafficking more than 50 grams of heroin into China is subject to a prison term of 15 years, a life sentence, or the death penalty; here Shaikh brought in over 80 times that minimum amount – four kilograms of heroin. Considering China takes a harsh stance against drugs and often gives the maximum sentence of death for drug trafficking, given the amount trafficked, Akmal Shaikh’s death sentence is far from surprising.

necessary treatment due to a lack of adequate resources, and this often causes further problems: people with severe mental illness are more often than not permanently confined at home by family members, or are abandoned and left to wander the streets. This neglect of the mentally ill, sometimes referred to as “loose cannons,” is an imminent threat to public safety and a cause of frequent tragedy.

In contrast, some sane people were reportedly locked up for years in mental facilities by families for the sake of pecuniary interest or by local governments that regarded them as troublemakers or persistent petitioners. The former problem involves broader issues on cooperation between criminal justice system and mental healthcare system, including medical treatment, supervision system, and crime prevention mechanism, which is beyond the capacity of this paper. The latter problem relates closely to the rights protections of mentally disabled person as a victim of illegal detention. Therefore, this paper will focus on those who were wrongfully hospitalized rather than those who were refused treatment.

Zhu Jinhong’s Case

Zhu Jinhong was a respectable white collar woman with a successful career. She owned three real properties in mainland China. When she worked in Japan, the properties which brought in a large income of rental were in her mother’s charge. When she returned to China in 2008, she started taking care of the properties herself. To get control over her properties, Zhu Jinhong’s mother and sister spread rumors of her being mentally ill, and attempted to “kidnap” her twice, but Zhu managed to flee with the help of her friends. On March 8th, 2010, Zhu’s mother seized and sent Zhu to the Nantong No. 4 People’s Hospital by asking her elder son-in-law, who is a policeman, to fabricate a certificate letter stating Zhu is mentally ill. Then immediately after sending her to the mental hospital, Zhu’s mother submitted a request to Chongchuan District People’s Court of Nantong Municipality, demanding the court to declare her daughter has no capacity for civil conducts.

Despite the Nantong No. 4 People’s Hospital insisted Zhu Jinhong is mentally ill, the court was careful enough to entrust another hospital to give Zhu Jinhong the necessary examination. On May 18, 2010, Zhu Jinhong, accompanied by her mother and her lawyer, went to Guangji Hospital in Suzhou for a forensic test of her mental condition. However, the Forensic Test Center of Guangji Hospital of Suzhou never gave out a clear and confirmative examination result for unknown reasons.

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18. Seventy per cent of mental patients cannot get effective treatment because of the lack of funding, the report said. Seven municipalities in Guangdong, one of the most affluent provinces, did not even have city-level mental institutions, it said. Eighty per cent of the serious mental cases in Guangzhou and 90 per cent of those in Qingyuan could not get treatment. ‘Even in Guangdong, which ranked No1 in economic output, its government’s financial input could not meet the basic demand for treating mental illness. We can see our country has a really low level of treatment for mental disorders,’ the report said. See Zhuang Pinghui, “NGO report faults lack of treatment for mentally ill”, South China Morning Post, 12 October, 2010.

19. Many mental patients were locked up and put into a cage due to poverty and worries, for example, there are over 100 thousand such people in cage in Hebei province. See People in Cage, http://www.bjnews.com.cn/feature/2013/07/11/272800.html (Accessed 28 February 2017)


23. No hospital is willing to offend their peers by producing an opposite result; this was probably the main reason.
On June 24, 2010, Chongchuan District People’s Court of Nantong Municipality held a session on the case. But the hospital denied Zhu Jinhong’s chance to attend the court session because of her mother’s refusal to sign her consent.

Even if the Nantong No. 4 People’s Hospital thought Zhu’s condition improved greatly after some treatment, Zhu Jinhong couldn’t leave the hospital because of lack of her mother’s agreement. According to hospital, nobody but her mother has the power to get her discharged from the hospital. But the mother was exactly the one who committed her in the first place. Zhu Jinhong was kept in the psychiatric ward for almost 200 days before she was rescued by a group of lawyers and journalists.

She was one of the outrageous examples of those who were victimized by China’s flawed mental healthcare system.

Wen Xiuqin Case and the like

Qiu Guoshi, a Taiwan businessman living in Shanghai, has had a bad relationship with his wife, Wen Xiuqin for years, but he couldn’t get rid of her because Wen never agreed to divorce. On September 23, 2001, Qiu called the Shanghai Mental Health Center, alleging his wife was suffering from serious mental illness and requesting help. The doctor and several nurses went to Wen Xiuqin’s workplace and forced her to Shanghai Mental Health Center for treatment. Qiu signed a consent letter to hospitalize Wen for compulsory mediation and Wen was confined.

Three days latter, Wen sought help from her daughter. With the intervention of Strait Exchange Foundation and Association for relations across the Taiwan Strait, Wen was rescued and able to returned to Taiwan to file a complaint for his husband’s criminal conduct. Qiu was convicted for impairing other’s liberty and was sentenced 14 months in prison.24

In another similar case, Li Yuping, a 51 year old doctor, was sent to mental hospital for 5 days of detention and forced medication in 2003 after she detected his husband, a vice president of high school, had affairs with others.

Then, Li’s husband sent his wife to mental hospital three more times whenever they had a bitter quarrel. Li Yuping was hospitalized four times from 2003 through 2007, with a confinement of 127 days in total. During the period, she was forced to take a great deal of antipsychotics, which resulted in gastrorrhagia and other physical harms to her. The worse is, she was psychologically harmed and couldn’t get rid of the nightmare of being confined in mental health ward.

To seek justice, Li Yuping went to more than one hospital for mental examinations. On August 12, Li Yuping received a final examination report, which states that “although Li Yuping was confined by mental hospital for a period of 127 days, she was diagnosed mentally right.” Li sued the mental hospital for a compensation of ¥ 100,000 for lost wages in the last three years and emotional damages. She also filed a divorce case against her husband.25

Although Chinese Criminal Law also provides for the offenses like illegal detention, and depriving the personal freedom of others by taking advantage of mental hospital should fall under this offense, it seems no one in mainland was ever put into prison even if their criminal conducts were more heinous than that of Qiu Guoshi. It’s manifest that few people in mainland regard the malignant involuntary hospitalization as a serious offense which jeopardizes the freedom and personal rights of everyone. On the other hand, it has also exposed

24. See “Taiwan Businessman Sent his Wife to Psychiatric Hospital in Order to Seek Divorce”, http://china.findlaw.cn/falvchangshi/yiliashigu/

the loopholes in the procedural safeguards for involuntary hospitalization in that the admission is at the hands of hospital and the one who send the alleged mentally ill person.

Xu Lindong’s Case26

Xu Lindong, a villager of Henan province, was incarcerated in the Madian Municipal Psychiatric Hospital after he tried to take the complaints of his disabled neighbor to a higher level. Xu was then transferred to the Luohe City Psychiatric Hospital.

He was held against his will for a total of 6-1/2 years, was put under physical restraints 48 times, and given electric shocks on 54 occasions during his confinement. Having tried several times to escape, and twice attempted suicide, Xu was released because of pressure resulting from media coverage of his case. Two days after he was freed, a local department responded to the case by removing the several officials involved in the case from their offices. Eight months after his release, Xu Lindong has got his compensation worth 300,000 yuan.27 This is another illustration of how involuntary hospitalization could be abused as a tool of restraining a citizen’s freedom. And again, compensation was the sole remedy and no one thought it as an offense of illegal detention. It could be seen from above mentioned cases that many people with low-grade mental condition or none at all, are forced into psychiatric institutions and receive so-called “treatment” because of the deficiency in the current system. The misallocation and waste of precious medical resources exposes the public to two-fold risks: the threat of harm by the neglected mentally ill, with little hope of civil compensation for those harmed; and the threat to every individual that he or she may be committed to a mental hospital as a result of personal conflict or for any other reason.

III. Underlying Causes and Possible Reforms

What factors caused the above mentioned cases? It surely is a complex question, but the following explanations might help to understand it from a perspective of legal institutions.

A. The rights protection for mentally disabled person never became the priority factor when determining the sanity issue.

It could be seen from the cases cited above that the rights of mentally disabled were seriously neglected in determining whether they are sane or insane. In Chinese society, when an alleged mentally disordered person commits a crime, crime control always prevails over due process as a dominant value. Therefore, the right to initiate a mental examination in criminal cases is a monopoly of official agencies (gong jian fa), only the court, the prosecutors and the police could decide to conduct a mental examination. This allocation of rights to initiate mental examinations enables the state authorities to easily manipulate mental examination, i.e., they can deny the defense the opportunity of a mental examination whenever they see the need to punish, or execute the offender greatly overweighs the individual’s rights and interests.

The pursuit of profit is always the priority in admitting mental patients for involuntary medication and treatment. This problem has deep roots in both the mental health service system and the social support model for persons with mental illness.

There are three types of psychiatric hospitals in China provided by different government systems: general psychiatric hospitals provided by the Public Health System


(Ministry of Health); psychiatric hospitals run by the Civil Administration System (Ministry of Civil Affairs); and Ankang Hospitals run by the Public Security System (Ministry of Public Security). Ankang hospitals are mainly for those with a record of offences. Psychiatric hospitals run by the Civil Administration System are mainly for a special group of people known as the ‘three no’ persons: i.e., those with no family, no legal guardian, and no steady income; most are elderly, chronic psychiatric patients and/or the disabled. General psychiatric hospitals play the most important role in the Mental Health Service because they are for the ordinary psychiatric patient—one with no record of offences who can pay the fee. Due to shortage of psychiatric beds, psychiatric wards have opened in comprehensive hospitals and private psychiatric hospitals and community hospitals have appeared as complement, but the quality of their service varies greatly.28

Both Ankang hospitals and psychiatric hospitals run by Civil Administration system are only for special patients29 and thus have a stricter admission procedure.30 Hence, arbitrary involuntary hospitalizations usually take place in general psychiatric hospitals or comprehensive hospital with psychiatric wards, especially those private psychiatric hospitals, all of which are for-profit hospitals without sufficient financial support from government.

On the other hand, the family is still the basis of all social support networks. The main responsibility for seeking, providing and paying for healthcare for all those who are mentally ill rests with the family,31 correspondingly, the family members enjoyed the absolute power to dispose their mentally ill families. As illustrated in some cases cited above, the psychiatric hospitals are only responsible for those who pay the bill, so both the admission and discharge are actually decisions of family members who pay the bill. Psychiatric hospitals would admit those with low grade mental illness, or none at all in exceptional cases, rather than to admit those with severe mental illness who can not afford the treatment. This pursuit of profit led to tragedies in above mentioned cases.

To sum up, financial or political consideration has taken the place of rights protection as the dominant, influential factor in determining the sanity issue. The cause behind this phenomenon is the indifference to the welfare of mentally disabled person. Like elsewhere, there is “a culturally rooted stigma about mental illness”32 in Chinese society. The general public, including some professionals, merely regarded mentally disabled person as imminent threat to public safety or a burden upon society anyway. In the opinions of many, even if an offender is mentally disabled, he deserves punishment or even execution because they feel safer to kill them or keep them in the hospitals. In the context of hospitalization, the doctors follow a presumption of illness. According to them, everyone could have mental health problem to different extent, so they don’t feel inappropriate to hold a sane person for treatment. The psychiatric hospitals also assume that no one would do harm to their families. Thus, psychiatric hospitals always admit a patient as long as his family members claim him to be mentally ill. Psychiatric evaluations are said to be conducted before admitting a patent, but few of such evaluations produce a negative result.

29. Special patients here refer to those with a record of offense or ‘three no’ people.
30. However, neither procedure nor standards are publicized yet.
31. Chinese government now encourages medical insurance, but the insurance still can not cover a lot of mentally disordered persons, especial those living in countryside.
B. Mechanisms to protect the rights of persons with mental disability are missing from the current legal system.

Although the discrimination against mentally ill and indifference to their welfare play directly to the unsatisfactory situation, the loopholes in current legal system are primary factor that cause the problem.

In criminal proceedings, the defense could neither initiate an evaluation, nor apply to the judicial agencies for one; it could only apply for supplementary evaluations or re-evaluations after the official-initiated examination produced a conclusion, and there is still probability that official agencies reject the applications. More importantly, this restricted right can be easily ignored due to the lack of remedy. There are no mechanisms such as reconsideration or appeal on which the applicant can rely if he/she disagrees with the disapproval by official agencies. These deficiencies have generated an unbalanced structure in which the fates of mentally disordered defendants are subject to the mercy of official agencies. Without any rights and remedies, the mentally disordered defendants are put in a greatly disadvantaged circumstance.

For those facing involuntary hospitalization, the situation is even worse. Whenever a person is claimed to be mentally ill by his family, legal guardian or even his affiliating institution, he has no way to rebut. The more often he insists he is sane, the more severely he is thought to be mentally ill, because according to the doctors, it’s a common symptom for an insane person to deny his mental illness. Once in a psychiatric hospital, the alleged mental patient has no right to challenge the decision of involuntary hospitalization because he has been presumed to be no civil capacity. A few of lucky ones who left the hospital tried to sue the psychiatric hospitals, but no success of this kind of case was ever heard. In this circumstance, the psychiatric hospital, sometimes those who send the people to hospitals, become the actual decision maker who can arbitrarily deprive one’s freedom for a considerable period.

C. There is no external control or supervisory mechanism to prevent abuse of power.

In determining whether the alleged mentally ill person is sane or insane, there is a common problem with both the mental examination in criminal cases and the admission procedure of involuntary hospitalization, i.e., neither external control nor supervisory mechanism is in place to ensure the authorities exercise their power properly. On one hand, police, prosecutors and judges might misjudge the necessity of a mental examination without professional assistance because of ignorance of psychiatry, or simply abuse their power and deny the defense an opportunity of professional evaluation for political reasons without any external control. On the other hand, psychiatric professionals have the absolute power to put anyone into hospital when they believe the said person is mentally ill after examination. No external control, usually in the form of judicial review, exists in the current legal system of China. As involuntary hospitalization involves deprivation of one’s freedom and forced medication, it should be decided by a neutral entity without conflict of interests. It’s a common practice across the world that the court would conduct a hearing to review the issue, ensuring there is a reasonable ground for detaining a mentally disabled person for treatment. Judicial review is a frequently used approach to prevent the abuse of power. But it is absent from current civil commitment law in China. It is the lack of external control or supervisory mechanism that leave too much discretionary power to judicial agencies or psychiatric experts, which in turn proved to be a potential danger to anyone because whether a person is sane or insane would be arbitrarily decided either by ignorant judicial agencies or by non-disciplined psychiatric experts.
Concluding Comments
Determination of mental health status might be one of the most significant moments for anyone in the criminal justice system, whether a defendant or a victim, because it will decide about crucial issues such as detention or liberty, death or life. Therefore, due attention should be paid to make sure the power of determining mental health status is not arbitrarily excised. For the reasons mentioned above, a set of rights-oriented mechanisms should be established to accommodate the needs of protecting the rights of mentally disabled who become involved in criminal justice system. For determination of sanity issue, the alleged mentally disabled person should not only be able to play a role in initiating an examination process by professionals, but also to confront the result by challenging the official-initiated examination or by requesting an independent examination by the experts of his own choice. To supplement the ignorance of police, prosecutors and judges, expert consulting system should be established to assist the official agencies to make reasonable decisions as to the necessity of mental examination. While in admitting an alleged mental patient for involuntary hospitalization, judicial review should intervene to ensure the decision of psychiatric experts grounded and satisfactory. In another word, whenever an alleged mentally disabled person is involved in criminal justice system, there should be a cooperation and mutual supervision between psychiatrists and judges, i.e., a psychiatric assessment should form the basis of judicial decision, and a decision to detain a mentally ill person, whether in police custody or in psychiatric hospital, needs to be approved by judicial authorities.

Apart from improving and building relevant legal institutions, supporting reforms are also needed. For instance, Professional Ethics Rules for Psychiatrists should be issued to regulate the professional behavior of psychiatric experts and enhance the public trust on their evaluation opinions. The substantive fairness can be achieved only if the psychiatric experts are more self-disciplined.

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