

Compulsory admission in Hong Kong: the balance between paternalism and patient liberty?

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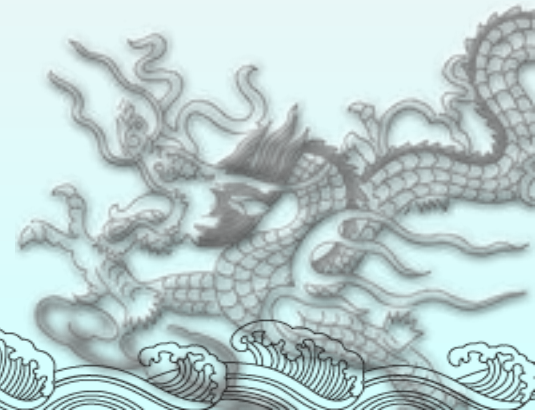
Mental Health Ordinance (MHO) (Cap. 136, Laws of Hong Kong)

- ◆ Part III - Reception, detention and treatment of patients
- ◆ Part III - Sections 31, 32, 36



31. Detention of a patient under observation (Effect)

- ◆ Has the effect of removing a patient to a mental hospital for **the purpose of detention and observation during the period not exceeding 7 days**
- ◆ Such order also has the effect of authorising the applicant and every public officer to use **reasonable force as may be necessary, in order to remove** the patient to a mental hospital or to detain him **in a place of safety** for a period **not exceeding 48 hours (Accident and Emergency Department)**
- ◆ Form 1/2/3 (Prescribed Forms)



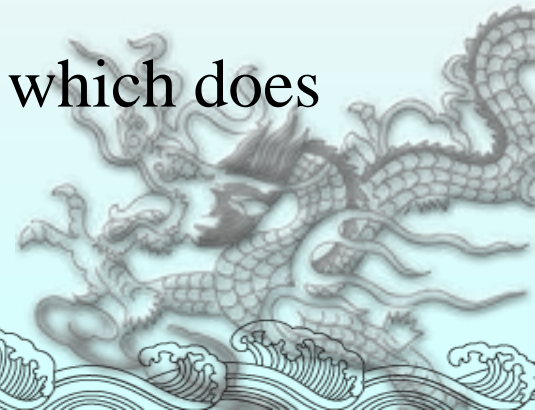
31. Detention of a patient under observation (Grounds)

- ◆ (1) (a) is suffering from **mental disorder of a nature or degree** which warrants his detention in a mental hospital for observation (or for observation followed by medical treatment); and
- ◆ (b) ought to be so detained in the interests of his **own health or safety or with a view to the protection of other persons**



31. Detention of a patient under observation (Grounds)

- ◆ **Section 2 (1) Mental Disorder**
- ◆ (a) mental illness;
- ◆ (b) a state of arrested or incomplete development of mind which amounts to a significant impairment of intelligence and social functioning which is **associated with abnormally aggressive or seriously irresponsible conduct** on the part of the person concerned;
- ◆ (c) psychopathic disorder; or
- ◆ (d) any other disorder or disability of mind which does not amount to mental handicap



31. Detention of a patient under observation (Procedures- Form 1)

- ◆ **35A (1)** an **application for Form 1** may be made by—
 - ◆ (a) a relative of the patient;
 - ◆ (b) a registered medical practitioner;
 - ◆ (c) a public officer in the Social Welfare Department
- ◆ (defined by **Section 2 (1)**)

- ◆ **35A (3)** The applicant needs to have **personally seen the patient within the period of 14 days** prior to the date of application and needs to state the reasons for his belief on the grounds for detention



31. Detention of a patient under observation (Procedures- Form 2)

- ◆ **(1A) Form 2 should contain the written opinion of a registered medical practitioner who has examined the patient within the previous 7 days, and the statement that in the opinion of the practitioner, the grounds for detention are satisfied as well as a statement of the reasons for that opinion**



31. Detention of a patient under observation (Procedures- Form 3)

- ◆ (1B) **Form 3** is to be completed by the **District Judge or Magistrate** to authorise the removal of the patient to a mental hospital for the purpose of detention and observation



31. Detention of a patient under observation (Procedures)

- ◆ **35A (2)** Before an application under section 31 (1) for the detention, the **registered medical practitioner or public officer** in the Social Welfare Department **shall take reasonable steps to inform the relative of the patient**



31. Detention of a patient under observation (Procedures)

- ◆ (3) The patient should be informed that he has the right to **see the District Judge or Magistrate**



32. Extension of period of detention of a patient under observation (Effect)

- ◆ **Is an extension of detention of not more than 21 days upon expiry of Section 31**
- ◆ **Only one extension shall be made**
- ◆ **Form 4 (Prescribed Form)**



32. Extension of period of detention of a patient under observation (Grounds and Procedures)

- ◆ (1) The opinion of **2 registered medical practitioners on the necessity of further detention** for observation, investigation and treatment, is required to be stated in the **prescribed form**



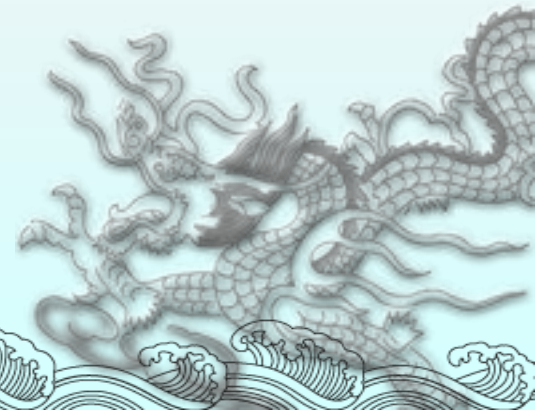
32. Extension of period of detention of a patient under observation (Grounds and Procedures)

- ◆ (2) If a **District Judge** is of the **opinion** that it is **necessary** for the patient to be **detained** for a further period, he shall **countersign** the form and **forward to** the **medical superintendent** of the mental hospital in which the patient is detained



36. Detention of certified patients (Effect)

- ◆ Has the effect of further detention of a **patient liable to be detained** in a **mental hospital** or in the **Correctional Services Department Psychiatric Centre** (i.e., Siu Lam Psychiatric Centre) upon expiry of a **hospital order** or a **sentence of imprisonment**
- ◆ Can also be put into force for further detention of a **voluntary patient** who gave due notice of his intention to leave the hospital (30 (2)(a))
- ◆ Form 7 (Prescribed Form)



36. Detention of certified patients (Grounds)

- ◆ (1) **2 registered medical practitioners having examined the patient either separately or together are of the opinion that—**
- ◆ (i) **the patient is suffering from mental disorder of a nature or degree which makes it appropriate for him to receive medical treatment in hospital; and**
- ◆ (ii) **it is necessary for the health or safety of the patient or for the protection of other persons that he should receive such treatment and it cannot be provided unless he is detained under this section**



36. Detention of certified patients (Grounds)

- ◆ (5) This section—
- ◆ (a) applies to a patient who suffers from **mental illness** or **psychopathic disorder**; **and**
- ◆ (b) a patient who is neither suffering from mental illness nor psychopathic disorder may not be certified under Section 36 unless he is **abnormally aggressive** or that **his conduct is seriously irresponsible**



36. Detention of certified patients (Procedures)

- ◆ The **2 registered medical practitioners** complete a certificate in the **prescribed form** and forward it to a **District Judge**



36. Detention of certified patients (Grounds and Procedures)

- ◆ (2) A **District Judge** shall **countersign** the prescribed form if he is **satisfied** that the **certificate in the prescribed form is in order** and there are **no grounds for rejecting it**



36. Detention of certified patients (Grounds and Procedures)

- ◆ (a) in respect of a **voluntary patient**, the **District Judge shall countersign** if he is **satisfied that it would likely be dangerous to the voluntary patient or to other persons** if the voluntary patient were discharged from the mental hospital



Mental Health Ordinance (Cap. 136, Laws of Hong Kong)

- ◆ Part IV
- ◆ Admission of mentally disordered persons concerned in criminal proceedings, transfer of mentally disordered persons under sentence and remand of mentally incapacitated persons



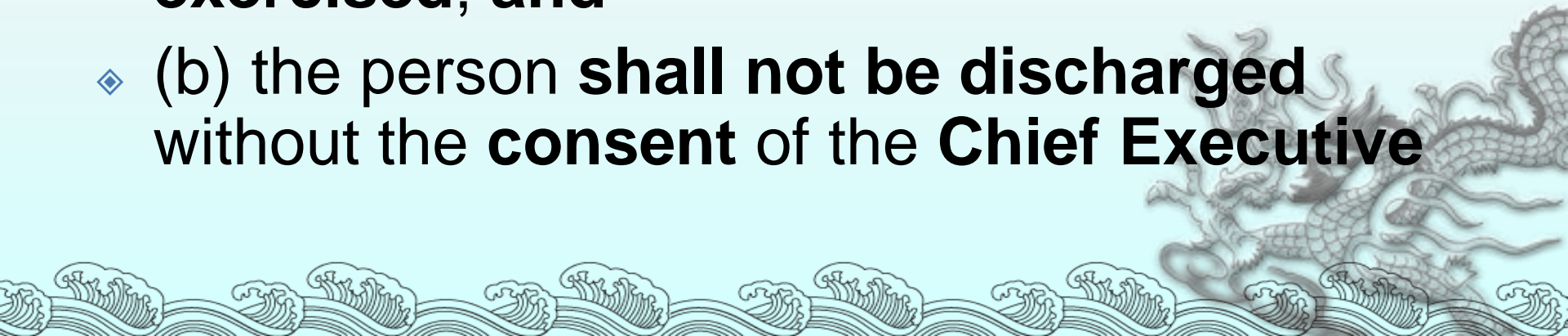
Part IV - 45., 52., 53.

- ◆ 45. Powers of court or magistrate to make a hospital order for the detention of a patient in the Correctional Services Department Psychiatric Centre or a mental hospital with specified or unspecified period
- ◆ 52. Removal to a mental hospital of a person serving a sentence of imprisonment
- ◆ 53. Removal to a mental hospital of other prisoners (e.g., remand prisoners)



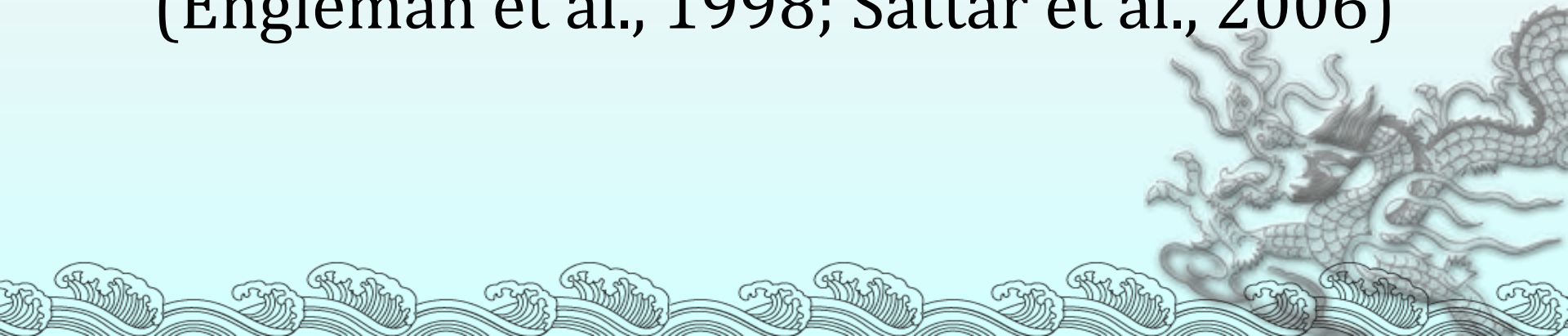
Effect of 45., 52., 53.

- ◆ (2) A person who has been admitted to a mental hospital in pursuance of Sections 45, 52, 53 shall be treated **as if he had been detained in a mental hospital in accordance with Section 36 except that:**
 - ◆ (a) the power of the medical superintendent to **permit absence on trial** shall **not be exercised; and**
 - ◆ (b) the person **shall not be discharged** without the **consent** of the **Chief Executive**



Compulsory Admission (rate)

- ◆ Rates of compulsory admission are widely considered to be an indicator for underlying characteristics of national mental health care laws (Salize & Dressing, 2004)
- ◆ Practice of compulsory admission by different mental health care professionals (Engleman et al., 1998; Sattar et al., 2006)



Compulsory Admission (rate) (Salize & Dressing, 2004)

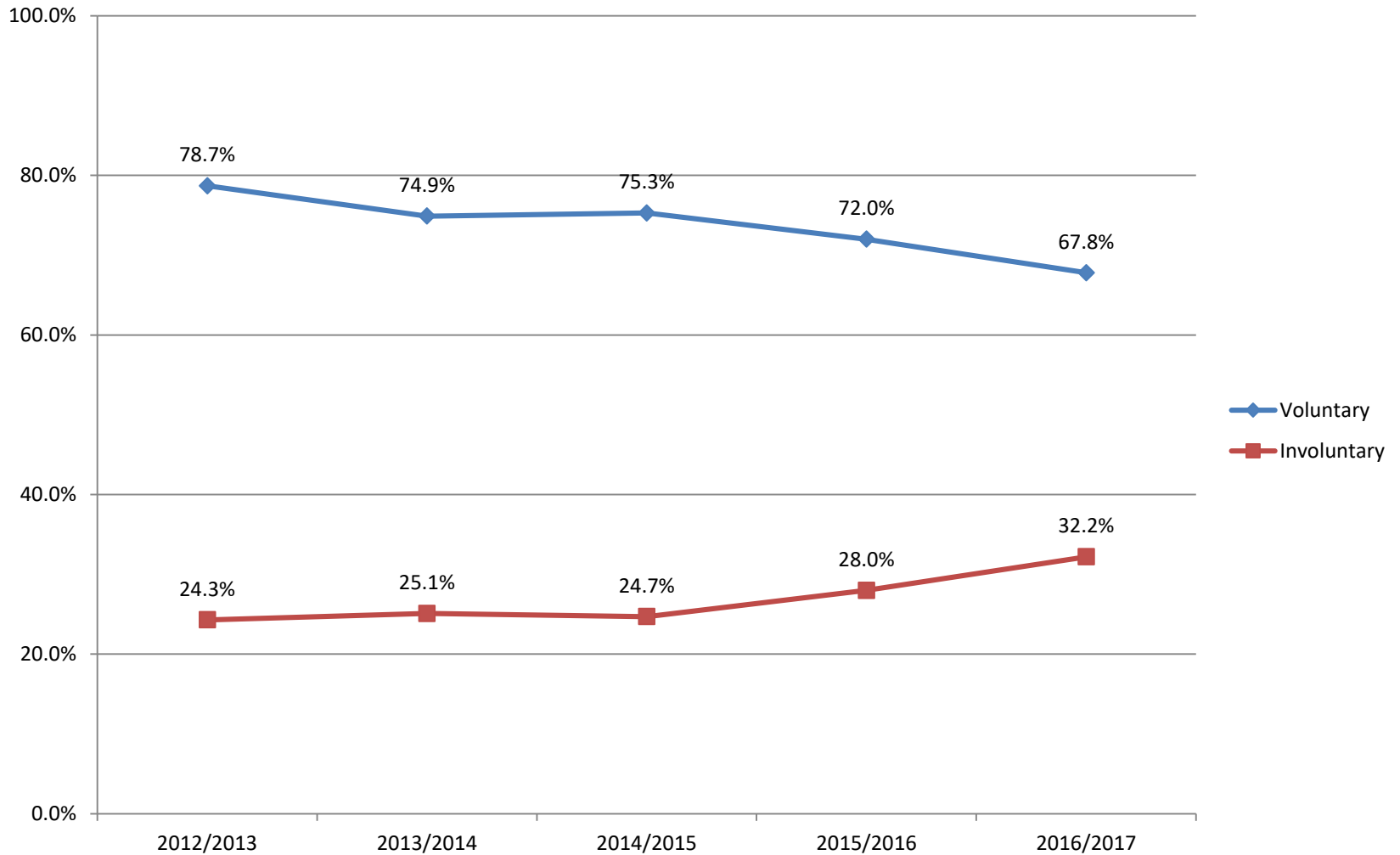
Country	Year	Compulsory Admission (Percentage of all in-patient episodes)
Austria	1999	18
Belgium	1998	5.8
Denmark	2000	4.6
Finland	2000	21.6
France	1999	12.5
Germany	2000	17.7
Ireland	1999	10.9
Luxembourg	2000	26.4
The Netherlands	1999	13.2
Portugal	2000	3.2
Sweden	1998	30
United Kingdom	2000	13.5

Voluntary and Compulsory Admissions Statistics 2012/2013 – 2016/2017 Castle Peak Hospital (CPH)

Admissions include:

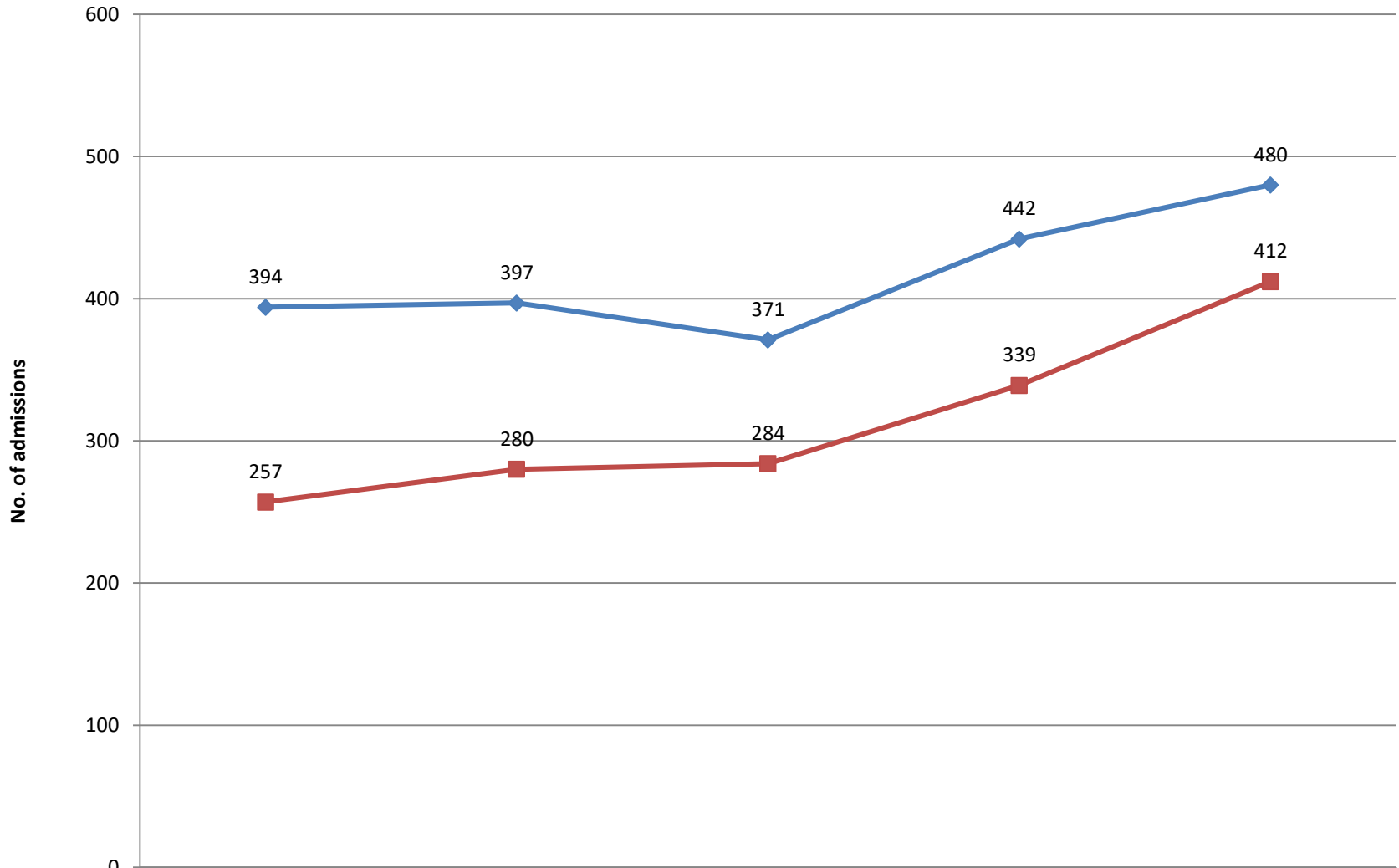
- New Cases
- Readmissions from general hospital after medical treatment for physical problems
- Readmissions from Home Leave

Voluntary and Compulsory Admissions (2012/13 – 2016/17)



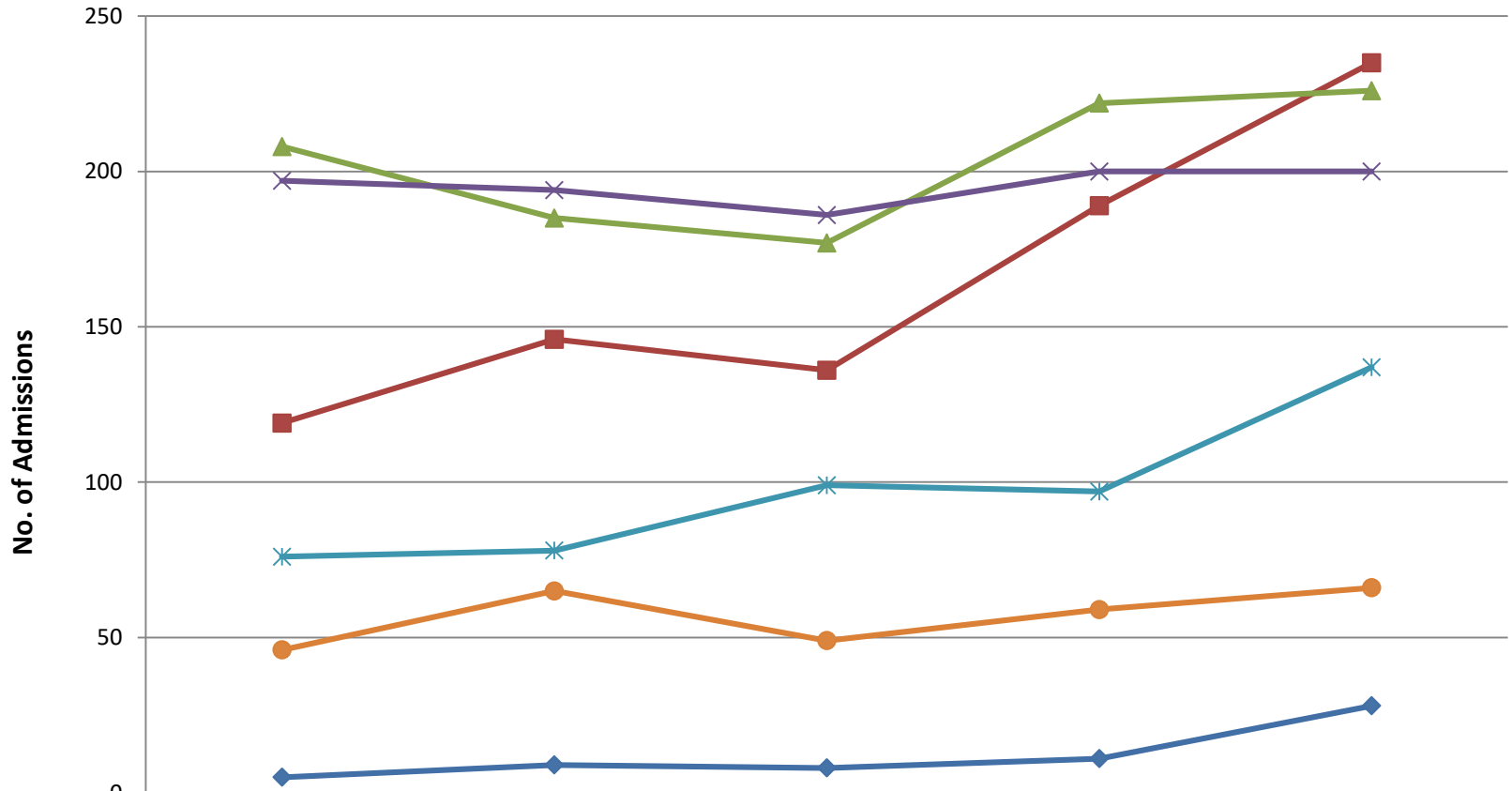
	2012/2013	2013/2014	2014/2015	2015/2016	2016/2017
Total Admissions	2680	2695	2650	2792	2770
Voluntary	2029 (78.7%)	2018 (74.9%)	1995 (75.3%)	2011 (72.0%)	1878 (67.8%)
Compulsory	651 (24.3%)	677 (25.1%)	655 (24.7%)	781 (28.0%)	892 (32.2%)

Compulsory Admissions Categorised by Sex



	2012/2013	2013/2014	2014/2015	2015/2016	2016/2017
Male	394	397	371	442	480
Female	257	280	284	339	412

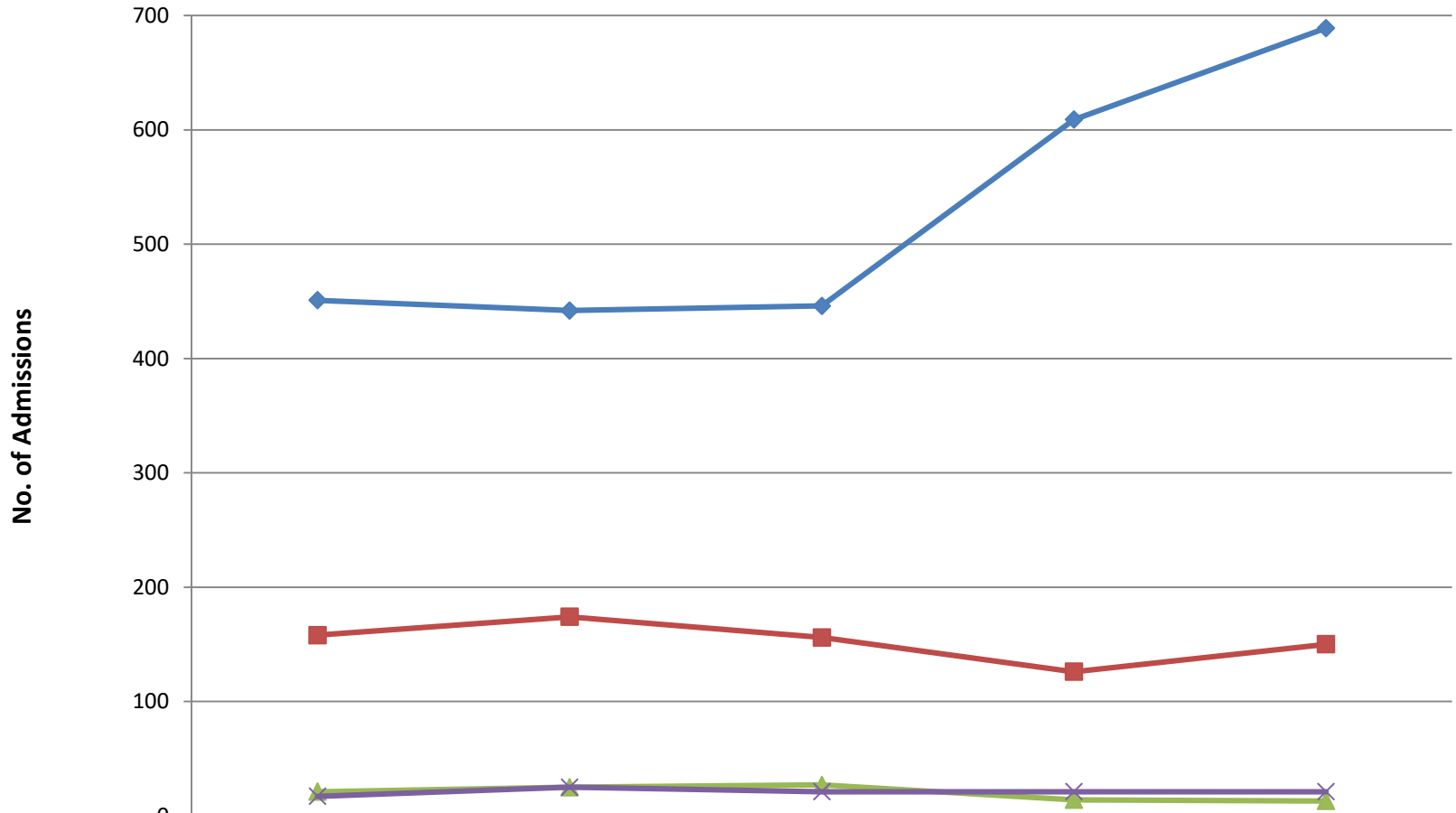
Compulsory Admissions Categorised by Age Groups



	2012/2013	2013/2014	2014/2015	2015/2016	2016/2017
◆ 20 or below	5	9	8	11	28
■ 21-35	119	146	136	189	235
▲ 36-50	208	185	177	222	226
✕ 51-65	197	194	186	200	200
* 66-80	76	78	99	97	137
● 81 or above	46	65	49	59	66

Age

Compulsory Admissions Categorised by Legal Status



	2012/2013	2013/2014	2014/2015	2015/2016	2016/2017
Form 1/2/3	451	442	446	609	689
Certified	158	174	156	126	150
Hospital Order	21	25	27	14	13
Recall/Recapture	17	25	21	21	21

Legal Status

Diagnoses of Compulsory Admissions

Snapshot of All Active Inpatients on 20-July-2017 of
Castle Peak Hospital of Hong Kong

Diagnoses of Active Inpatients from Compulsory Admissions

Snapshot on 20-July-2017

Number of Inpatients hospitalised: 751

Number of Inpatients who were admitted compulsorily : 337

Number of Inpatients who were admitted voluntarily : 414

	Form 1/2/3 (Section 31)	Certified (Section 36)	Hospital Order (Sections 45/59E, 52B)	Recall (Section 42B (3))	Others*
Severe mental illness (F20-29)	70	77	20	11	6
Affective disorders (F30-39)	4	4	1	0	1
Stress-related disorders (F40-48)	2	0	0	0	0
Dementia (F00-03)	2	0	0	0	0
Pervasive developmental disorders (F84)	12	4	0	0	0
Mental retardation (F70-F79)	25	31	0	0	0
Other psychiatric diagnoses	7	10	3	0	1
Diagnosis pending	41	4	0	1	0
Overall	163	130	24	12	8

* Others include: Form 4 (Section 32), Removal Order, and Section 76(2)(a) Criminal Procedure Ordinance

Compulsory Admission (legal criteria)

- ◆ Legal criteria regulating compulsory admission vary considerably between different jurisdictions (Appelbaum, 1997; Fistein et al., 2009)
- ◆ Appelbaum, 1997: USA – emphasis on dangerousness criteria and stringent procedural rights; England and Wales – focus on the “health and safety” of patient, as well as protection of other persons



Compulsory Admission (legal criteria)

- ◆ The MIND Report, written by an American lawyer (Gostin, 1975)
- ◆ Dangerousness and
- ◆ Grave disablement (inability of some mentally disordered people to provide for basic personal needs such as food, clothing, and shelter) are indispensable grounds
- ◆ There ought to be additional grounds such as treatability and lack of insight



Compulsory Admission (legal criteria)

- ◆ Compulsory admission to psychiatric hospitals or psychiatric wards is allowed in many countries as a measure to prevent self-harm or suicide (Salize & Dressing, 2004)



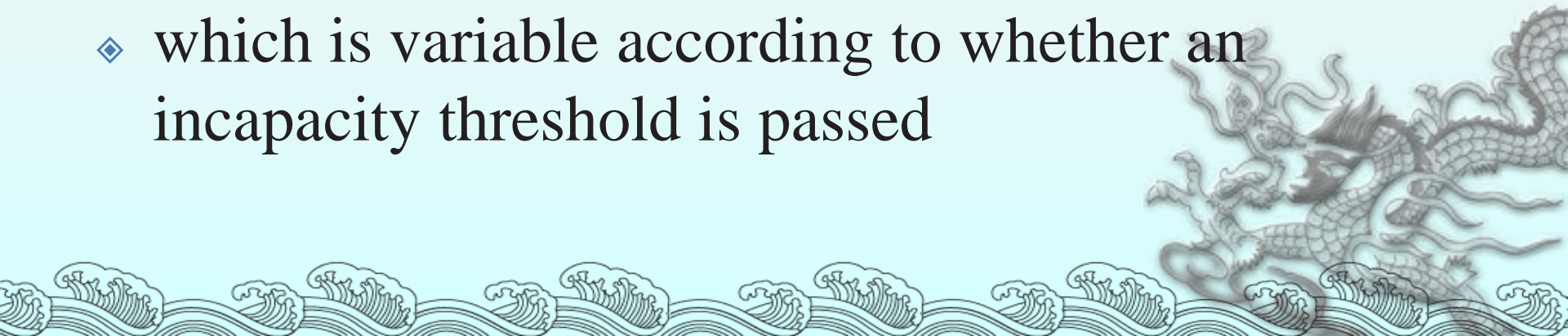
Compulsory Admission (legal criteria)

- ◆ Two consensus statements regarding the regulation of compulsory admission:
- ◆ WHO Mental Health Policy and Service Guidance Package – Mental Health Legislation & Human Rights (World Health Organisation, 2003) and
- ◆ Recommendations of the Council of Europe (Council of Europe, 2004)



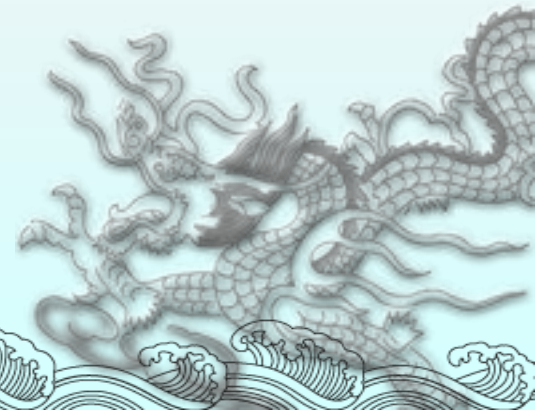
Compulsory Admission (legal criteria)

- ◆ WHO guidelines, with reference to the Universal Declaration of Human Rights, propose four key principles for compulsory admission:
- ◆ a review process must be in place,
- ◆ a diagnostic threshold must be passed, and
- ◆ a risk threshold should be set,
- ◆ which is variable according to whether an incapacity threshold is passed



Compulsory Admission (legal criteria)

- ◆ Council of Europe (CE) recommendations, with reference to the interpretation of instruments such as the European Convention on Human Rights (Council of Europe, 1997):
 - ◆ a review process,
 - ◆ a diagnostic threshold,
 - ◆ a therapeutic aim, and
 - ◆ a fixed risk threshold



Compulsory Admission (legal criteria)

- ◆ In 2009, Fistein et al. developed a multi-axial framework from WHO guidelines and Council of Europe recommendations for comparative analysis of the legislation governing compulsory admission of Commonwealth countries



A multi-axial framework (5-axis) (legal criteria)

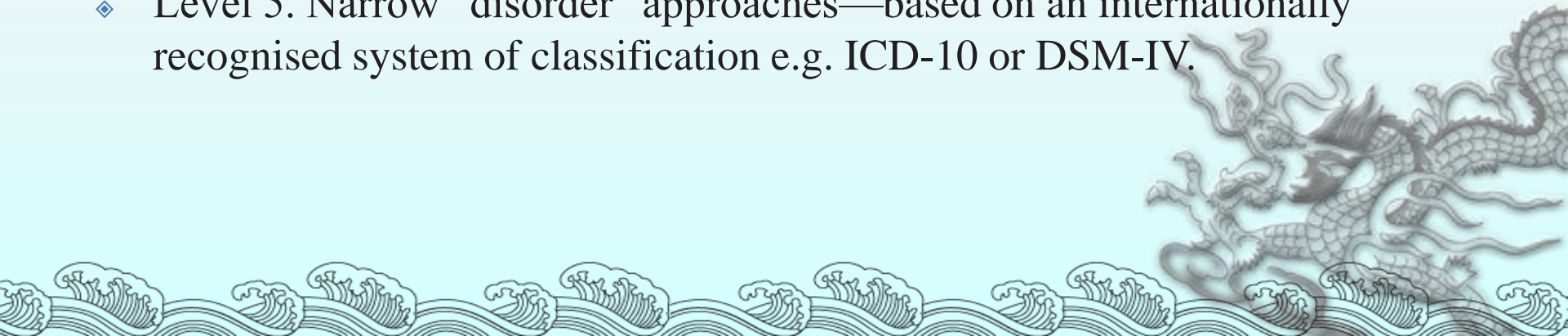
- ◆ **Axis 1. Diagnosis (Supplement to Axis 1—exclusion criteria)**
- ◆ **Axis 2. Therapeutic aim**
- ◆ **Axis 3. Risk (harm principle)**
- ◆ **Axis 4. Capacity**
- ◆ **Axis 5. Review process**



A multi-axial framework (5-axis) (legal criteria)

◆ **Axis 1. Diagnosis**

- ◆ Level 1. No definition of mental disorder in the legislation, and no standard set for determining its presence.
- ◆ Level 2. “Unsoundness of mind” approaches, determined by legal professionals and emphasise a perceived need for control or containment.
- ◆ Level 3. “Disability” approaches—based on the presence of phenomena that impair mental functioning.
- ◆ Level 4. Broad “disorder” approaches—based on the diagnosis of particular syndromes or classes of syndrome.
- ◆ Level 5. Narrow “disorder” approaches—based on an internationally recognised system of classification e.g. ICD-10 or DSM-IV.



A multi-axial framework (5-axis) (legal criteria)

- ◆ **Supplement to Axis 1—exclusion criteria**
- ◆ If the legislation excluded conditions from being considered grounds for involuntary treatment, these were also noted and classified as follows:
- ◆ Group a) ethnicity; religious, political, cultural or philosophical beliefs or practices.
- ◆ Group b) criminal, irresponsible or antisocial behaviour.
- ◆ Group c) sexual preference, identity or practices.
- ◆ Group d) misuse of alcohol or drugs.
- ◆ Group e) intellectual disability.
- ◆ Group f) personality disorder (may be limited to cluster B or to anti-social personality disorder).



Axis 1. Diagnosis (Hong Kong)

- ◆ Section 2 (1) Definition of Mental Disorder
- ◆ Section 2 (5) Exclusions (by reason only of promiscuity or other immoral conduct, sexual deviancy or dependence on alcohol or drugs)



A multi-axial framework (5-axis) (legal criteria)

◆ **Axis 2. Therapeutic aim**

- ◆ Level 1. No therapeutic intent required —detention justified by public interest.
- ◆ Level 2. Requirement for therapeutic intent for involuntary admission.
- ◆ Level 3. Requirement that treatment for the condition is available.
- ◆ Level 4. Treatment must be likely to alleviate the condition or prevent deterioration.



Axis 2. Therapeutic aim (Hong Kong)

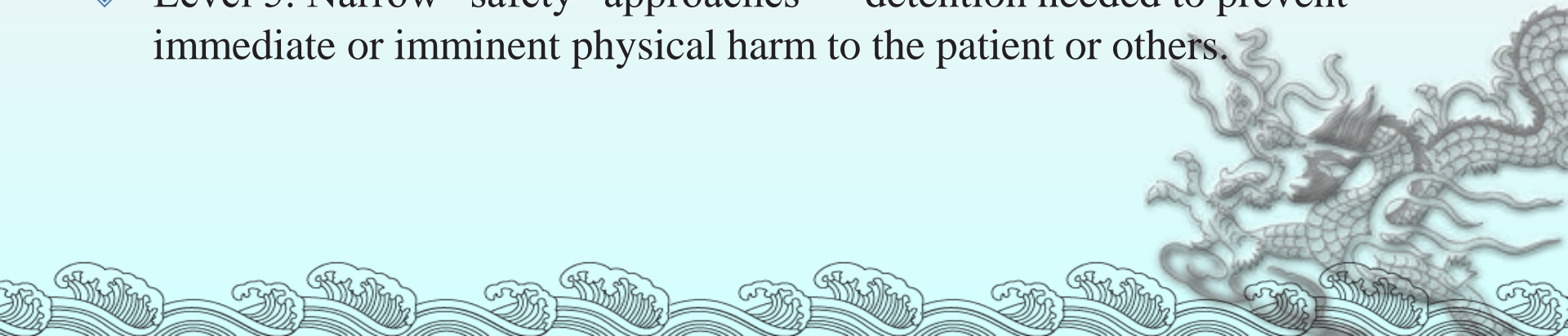
- ◆ Section 36 (1) (b)
- ◆ (i) the patient is suffering from **mental disorder of a nature or degree which makes it appropriate for him to receive medical treatment in hospital; and**
- ◆ (ii) it is necessary for the health or safety of the patient or for the protection of other persons that he should receive such **treatment and it cannot be provided unless he is detained under this section**



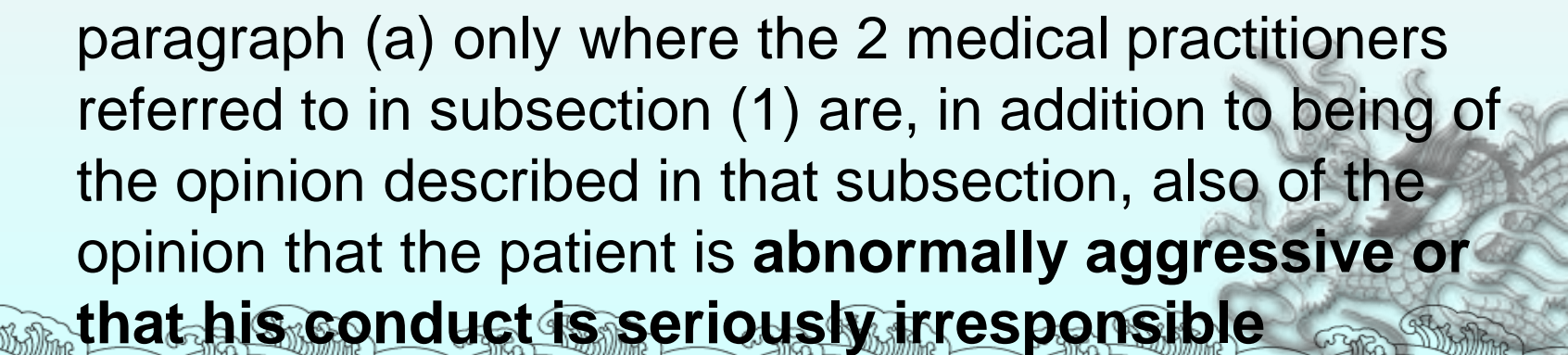
A multi-axial framework (5-axis) (legal criteria)

◆ **Axis 3. Risk**

- ◆ Level 1. Detention permitted when degree of risk is unknown.
- ◆ Level 2. Broad “health” approaches—detention needed to bring about an improvement in health or ability to function.
- ◆ Level 3. Narrow “health” approaches—detention needed to prevent deterioration.
- ◆ Level 4. Broad “safety” approaches—detention needed to prevent a significant or serious deterioration or psychological harm to the patient or others.
- ◆ Level 5. Narrow “safety” approaches — detention needed to prevent immediate or imminent physical harm to the patient or others.



Axis 3. Risk

- ◆ Section 36 (1) (b)
 - ◆ (ii) it is necessary for the **health or safety of the patient** or for the **protection of other persons** that he should receive such treatment and it cannot be provided unless he is detained under this section
 - ◆ Section 36 (5) (b)
 - ◆ applies to a patient other than a patient referred to in paragraph (a) only where the 2 medical practitioners referred to in subsection (1) are, in addition to being of the opinion described in that subsection, also of the opinion that the patient is **abnormally aggressive or that his conduct is seriously irresponsible**
- 

A multi-axial framework (5-axis) (legal criteria)

- ◆ **Axis 4. Capacity (a. for hospitalisation and b. for other treatment)**
- ◆ Level 1. No capacity threshold—treatment permitted without a capacity assessment or when the patient is able to make a treatment decision.
- ◆ Level 2. Outcome approaches—the patient makes an irrational choice or the outcome of the patient's treatment decision is deemed unreasonable.
- ◆ Level 3. Ability approaches—the patient is found to lack the ability to make the treatment decision.



Axis 4. Capacity

- ◆ Mental Health Ordinance (Chapter 136, Laws of Hong Kong) - the need of a capacity test is not overtly mentioned in the legal principle
- ◆ Practically - lack of insight



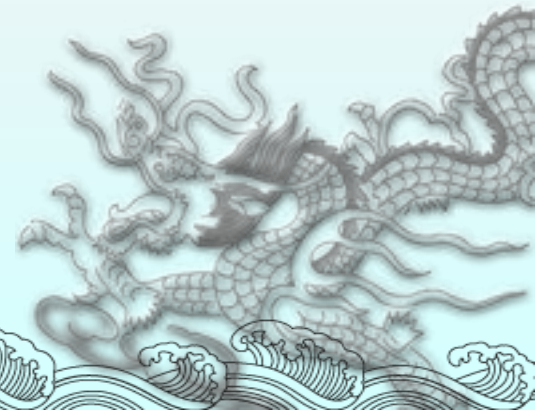
A multi-axial framework (5-axis) (legal criteria)

- ◆ **Axis 5. Review process**
- ◆ Level 1. No review or appeal process.
- ◆ Level 2. Right of appeal but no automatic independent legal review.
- ◆ Level 3. Regular automatic independent legal review.
- ◆ Level 4. Monthly automatic independent legal review.



Axis 5. Review process

- ◆ Section 59A. Mental Health Review Tribunal with regular automatic review every 2 years as long as the patient is detained under Section 36 (if the patient/relative does not apply for review which can be applied once every year)
- ◆ More frequent review by the Tribunal ?
- ◆ Multidisciplinary review by the clinical team with involvement of relatives



Compulsory Admission (practical criteria)

- ◆ Research based on clinicians' accounts of their decision-making processes suggests that a complex constellation of factors might influence the decision to detain (Bagby et al., 1991; Engleman et al., 1992; Hoge et al., 1997; Fistein et al., 2016)



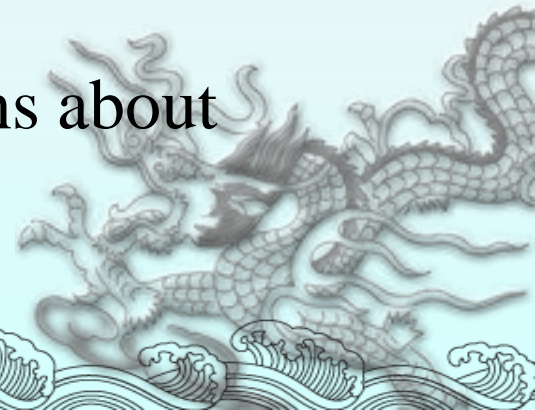
Compulsory Admission (practical criteria)

- ◆ Bagby et al. (1991) studied decision making in compulsory admission in Ontario, Canada:
- ◆ legal committability (i.e., dangerousness to self and/or others, inability to care for self);
- ◆ clinical treatability;
- ◆ alternative resources; and
- ◆ psychotic symptoms were the significant factors



Compulsory Admission (practical criteria)

- ◆ Fistein et al.(2016) - observational and interview data to describe how decisions to detain are made in practice in England and Wales
- ◆ Thematic analysis - 5 key themes of decision making:
 - ◆ (i) diagnosis,
 - ◆ (ii) availability of alternatives to detention,
 - ◆ (iii) likelihood of response to treatment,
 - ◆ (iv) risk assessment, and
 - ◆ (v) the patient's capacity to make decisions about treatment



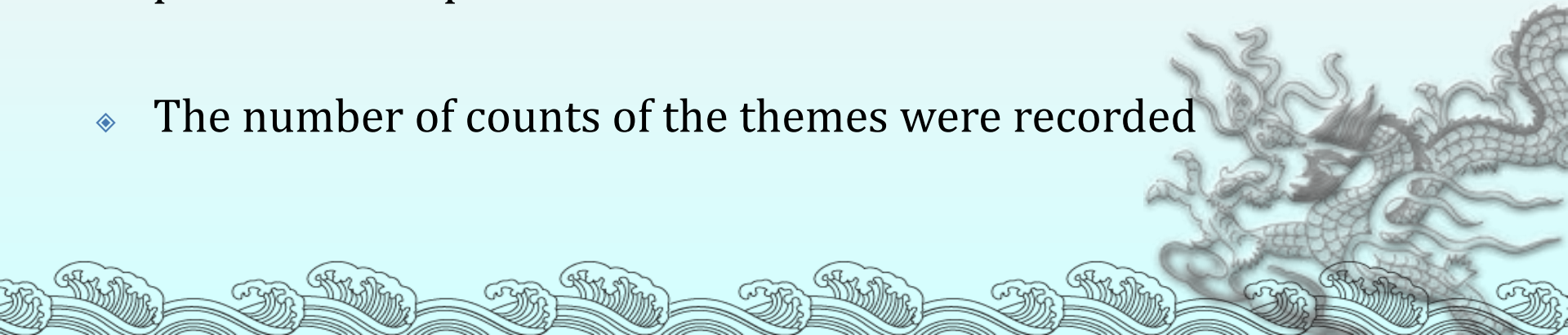
Compulsory Admission (practical criteria)

- ◆ Clinicians mould the law into “practical criteria” that appear to form a set of operational criteria for identifying cases to which the principle of soft paternalism may be applied

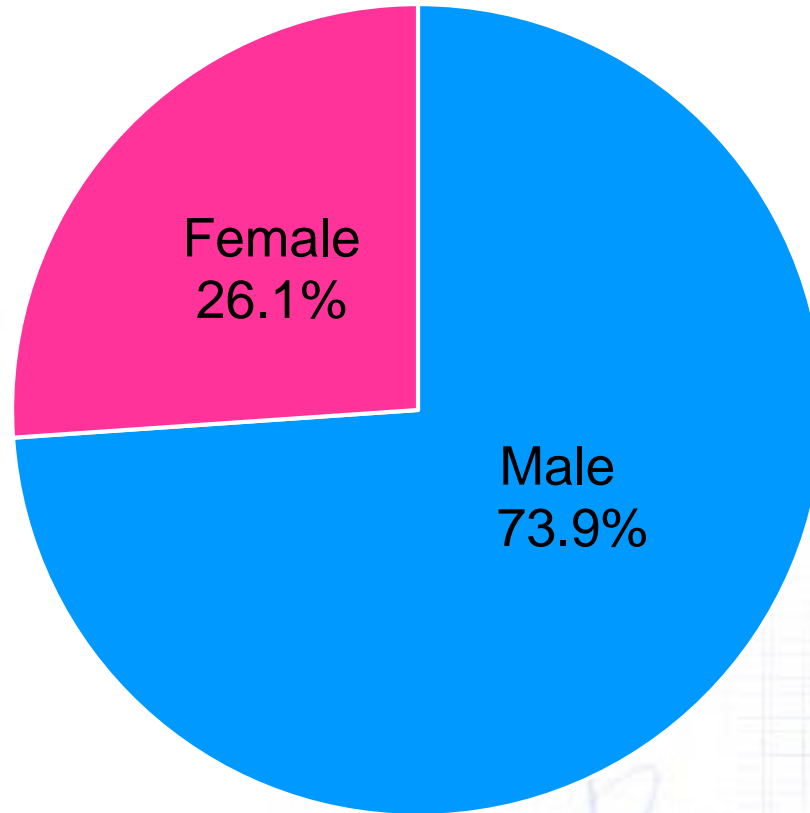


Practical Criteria (Castle Peak Hospital)

- ◆ No presentative data in Hong Kong yet
- ◆ Patients staying on 17-July-2017 at 5 wards of the Forensic Psychiatric Department of Castle Peak Hospital under Section 36 (Form 7) have their prescribed forms (Form 7 completed by 2 registered medical practitioners) reviewed
- ◆ The grounds (categorised by different themes) for Section 36 printed in the prescribed forms were reviewed and counted
- ◆ The number of counts of the themes were recorded



Total number of Form 7 (Section 36) patients: 69



Mean age: 49.8 years (range: 21-80 years)



Psychiatric Diagnosis	%	No. of Patients
Schizophrenia	68.1%	47
Personality Disorder	10.1%	7
Mental Retardation	8.7%	6
Bipolar Affective Disorder	2.9%	2
Alcohol Dependence	1.4%	1
Asperger's Syndrome	1.4%	1
Autism	1.4%	1
Delusional Disorder	1.4%	1
Organic Brain Syndrome	1.4%	1
Organic Psychosis	1.4%	1
Psychosis	1.4%	1



Reasons for Detention	%	No. of Count
Insight Problem	65.2%	90
Psychotic	55.1%	76
Risk of Aggression / Violence	53.6%	74
Social Support Problem	24.6%	34
History of Aggression / Violence	21.7%	30
Compliance problem	18.8%	26
Aggressive / Violent	10.9%	15
Self-neglect	8.7%	12
Mood Disorder	2.9%	4
Risk of Suicide / Self-harm	2.2%	3
History of Suicide / Self-harm	1.4%	2
Suicidal / Self-harm	0.0%	0
Others	17.4%	24



Reasons for Detention	%	No. of Count
Insight Problem (e.g. no / lack of / partial / limited)	65.2%	90
Psychotic (e.g. active / florid / residual symptoms)	55.1%	76
Risk of Aggression / Violence	53.6%	74



Others Reasons	%	No. of count
Rehabilitation	28.0%	7
Substance Abuse	24.0%	6
History of indecency	12.0%	3
Need to live in a supervised accommodation	8.0%	2
Compulsive water drinking leading to severe electrolyte disturbance	4.0%	1
Erroneous judgment	4.0%	1
High risk of absconding	4.0%	1
High risk of sex-related offence	4.0%	1
Mentally unfit to make consent for psychiatric treatment	4.0%	1
Nuisance to public	4.0%	1
Talk non-sense	4.0%	1



Compulsory Admission (Duty of care and Liberty)

- ◆ Ethical dilemma:
- ◆ Right to be at liberty (Human Rights)
- ◆ A need for care and treatment
- ◆ Society has a right to be protected



Compulsory Admission (Duty of care and Liberty)

- ◆ In the context of patient's liberty and autonomy, the importance of informed consent was stressed
- ◆ The justifications for limiting liberty and autonomy rights include the prevention of harm to the person himself/herself (paternalism) or of harm to others (Fistein et al., 2009)



Compulsory Admission (Duty of care and Liberty)

- ◆ Many authors have argued that paternalism is only justifiable if decision-making capacity is significantly impaired (McMillan, 2007; Fistein et al., 2009)
- ◆ Interference to prevent harm to others is justified because interference with an assailant's autonomy preserves both the autonomy and the physical integrity of any potential victims (Feinberg, 1984; Mill, 1998; Fistein et al., 2009)



Compulsory Admission (Duty of care and Liberty)

- ◆ In the regulation of compulsory admission, a balance must be found between duties of care and protection and the right of liberty and self-determination (Fistein et al., 2009)
- ◆ Rights to be treated and protected are as important as the rights to liberty (Chodoff, 1975)



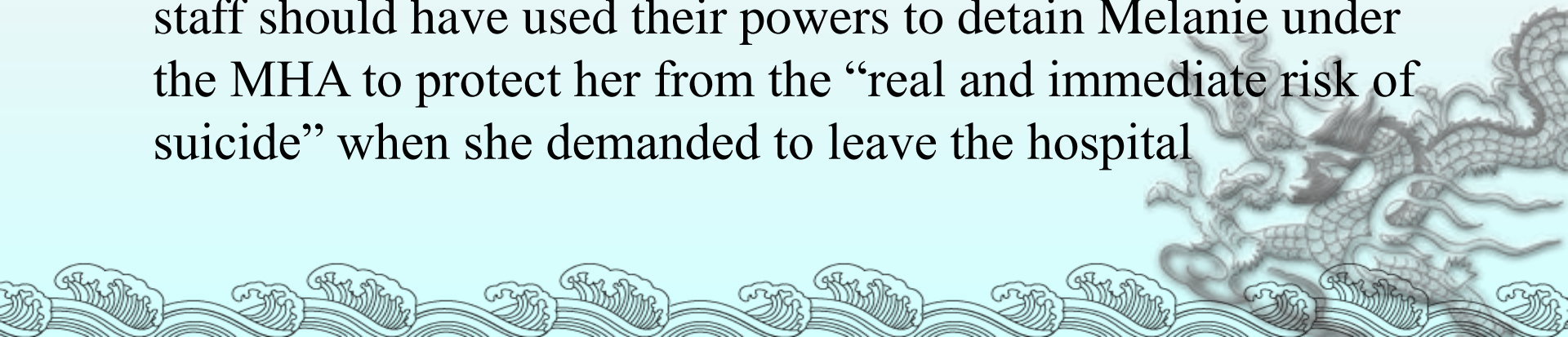
Compulsory Admission (Duty of care and Liberty)

- ◆ Some would interpret the authorisation to detain as actually a duty to detain when there is a high and immediate risk of a person taking their own life, a failure to do so can be considered medical negligence and may also be a breach of human rights (Wang & Colucci 2017)



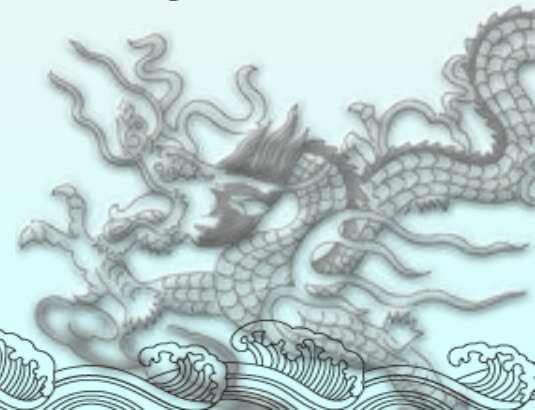
Compulsory Admission (Duty of care and Liberty)

- ◆ Rabone & Anor v Pennine Care NHS Foundation Trust, 2012
- ◆ Melanie, a voluntary psychiatric patient, hanged herself from a tree after being allowed to spend the weekend with her family
- ◆ The Supreme Court unanimously held that the failure of the hospital staff to detain Melanie was a breach of her right to life under Article 2 of the European Convention on Human Rights
- ◆ According to the Court, given her history of depression and self-harm, including a previous suicide attempt, the hospital staff should have used their powers to detain Melanie under the MHA to protect her from the “real and immediate risk of suicide” when she demanded to leave the hospital



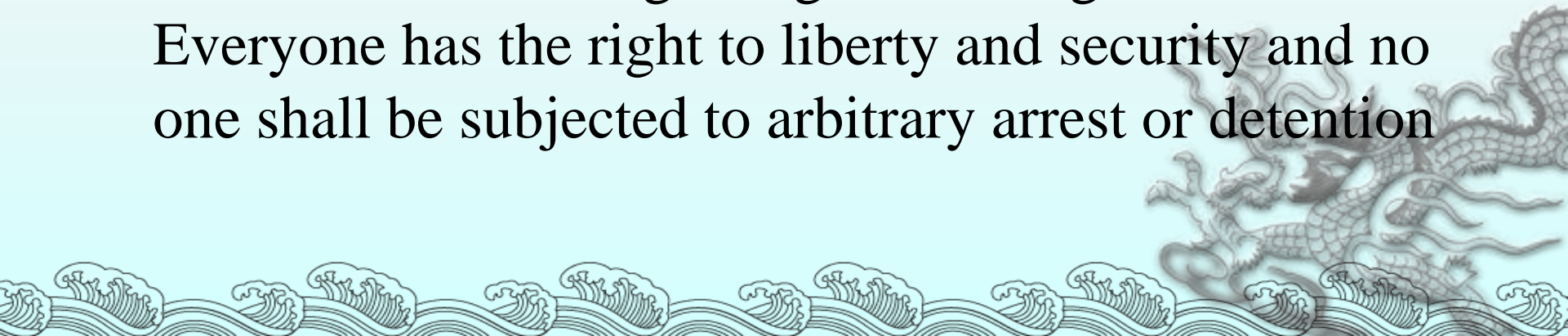
Compulsory Admission (Duty of care and Liberty)

- ◆ Duty of care, medical negligence (Bolam test, Bolitho test)
- ◆ European Union (EU) Countries with reference to the European Convention on Human Rights - Article 5 (Right to Liberty)
- ◆ The “Bournewood” Case in UK (Article 5 of the European Convention on Human Rights was repeatedly mentioned)



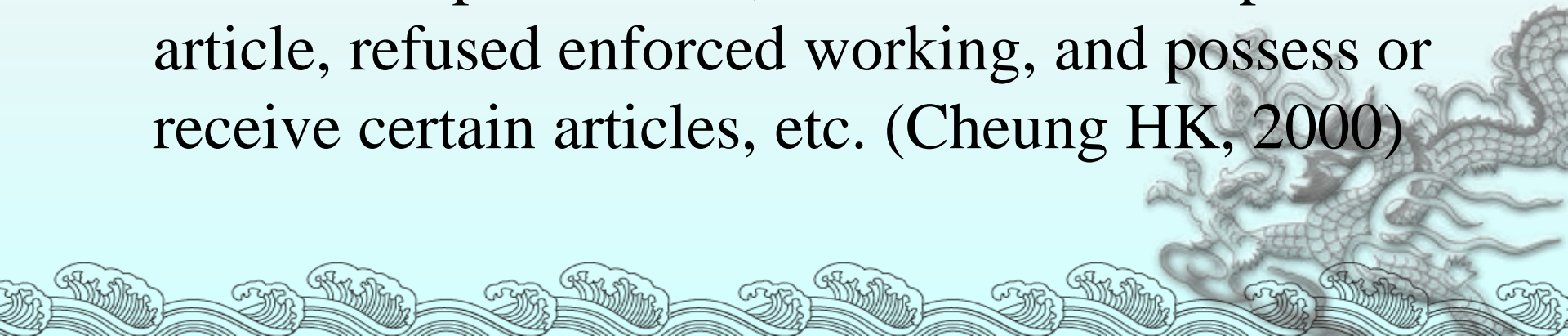
Compulsory Admission (Duty of care and Liberty)

- ◆ In Hong Kong, two sources of constitutional rights can serve to protect patients who are to be compulsorily detained (Cheung D, 2017):
- ◆ Article 28 of the Basic Law: No Hong Kong resident shall be subjected to arbitrary or unlawful arrest, detention or imprisonment
- ◆ Article 5 of the Hong Kong Bill of Rights Ordinance: Everyone has the right to liberty and security and no one shall be subjected to arbitrary arrest or detention



Compulsory Admission (Duty of care and Liberty)

- ◆ MHO Part V: General provisions
- ◆ The most important spirit of the amendments to the Mental Health Regulations under Part V is to re-emphasise the patient's human rights while he/she is an inpatient of a mental hospital, regarding rights to receive visitors, make or receive telephone calls, send or receive a postal article, refused enforced working, and possess or receive certain articles, etc. (Cheung HK, 2000)



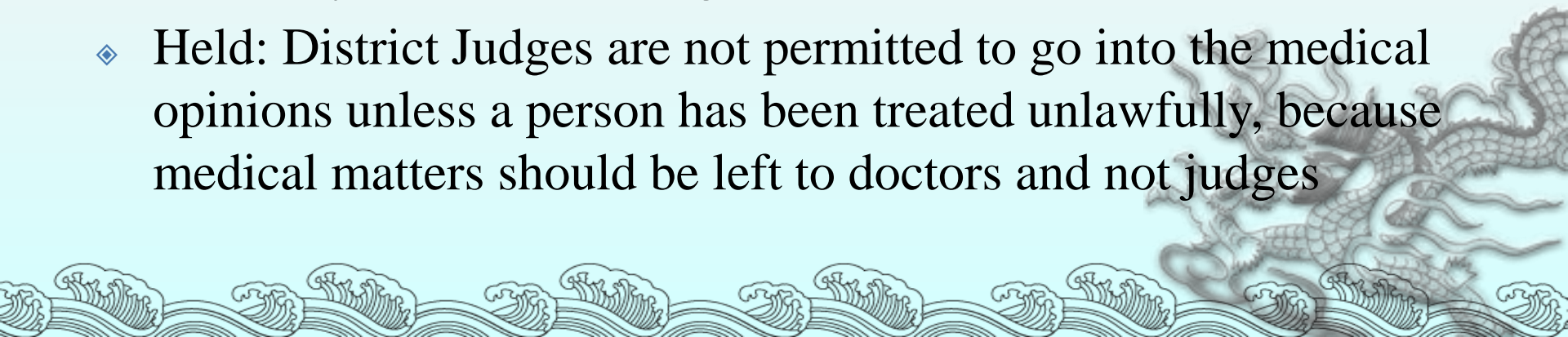
Compulsory Admission (Duty of care and Liberty)

- ◆ E.g., whereas previously the Medical Superintendent (MS) had the power to forbid a patient sending a letter to a Legislative Councillor, the MS now no longer has the power to do so, however absurd the MS may think the contents of the letter are (Cheung HK, 2000)



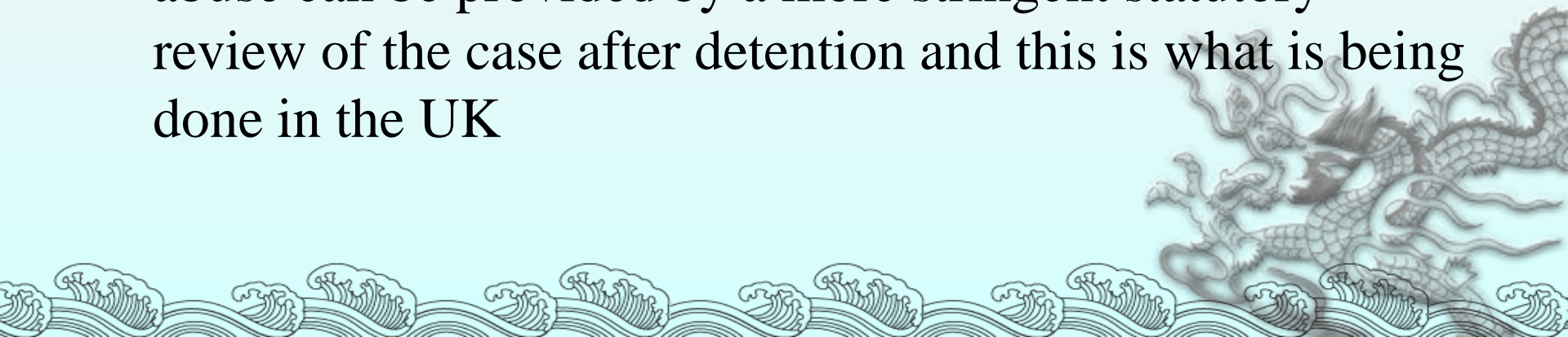
Compulsory Admission (Procedures)

- ◆ Countersigning by the District Judge/Magistrate
- ◆ A District Judge refused to countersign the application for Section 36 of two patients on the ground that the previous detention for observation/extended observation had already expired and liability to be detained could not be from Section 36 itself (Re Patient L, 2001; Re Patient O, 2001)
- ◆ By way of judicial review, the Hospital Authority challenged the District Judge's decision not to countersign (Hospital Authority v A District Judge, 2002)
- ◆ Held: District Judges are not permitted to go into the medical opinions unless a person has been treated unlawfully, because medical matters should be left to doctors and not judges



Compulsory Admission (Procedures)

- ◆ Cheung HK, 2009 - for the purpose of Sections 31, 32, 36, the requirement for the signature of a magistrate or judge may be removed
- ◆ Rationale: – the requirement that a judge be involved has created administrative difficulties and potentially delays in treatment for the patient
- ◆ – If the requirement for a judge is removed, prevention of abuse can be provided by a more stringent statutory review of the case after detention and this is what is being done in the UK



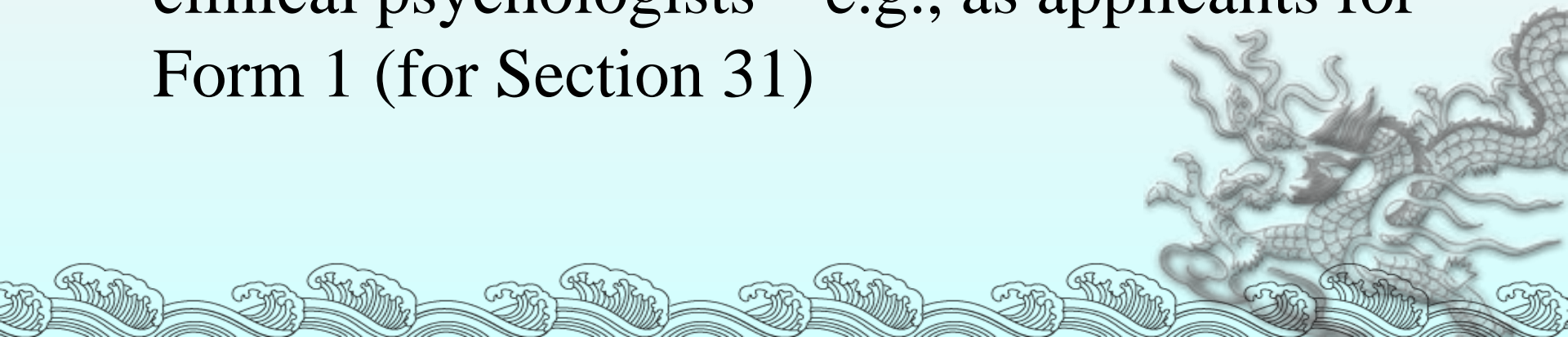
Compulsory Admission (Procedures)

- ◆ Approved Mental Health Professional (AMHP) and not the medical practitioner initiates application of compulsory admission in UK
- ◆ Cheung HK, 2009 – We may consider adopting 2 new terms created in the recent amendment of the UK MHA: “Approved Clinician” to replace “registered medical practitioner” and “Approved Mental Health Professional” to replace “approved social worker” in the MHO



Compulsory Admission (Procedures)

- ◆ Rationale: given the increasingly important contributions by different disciplines in psychiatric teams, it may be operationally appropriate to open some powers under the MHO to other disciplines like community psychiatric nurses, occupational therapists, clinical psychologists – e.g., as applicants for Form 1 (for Section 31)



Compulsory Admission (Procedures)

- ◆ Multidisciplinary decision by the clinical team with involvement of relatives and community partners (despite only two of the psychiatrists in the team to fill in the prescribed form for Sections 32 & 36)



Compulsory Admission

(Attitudes of patients, relatives, public)

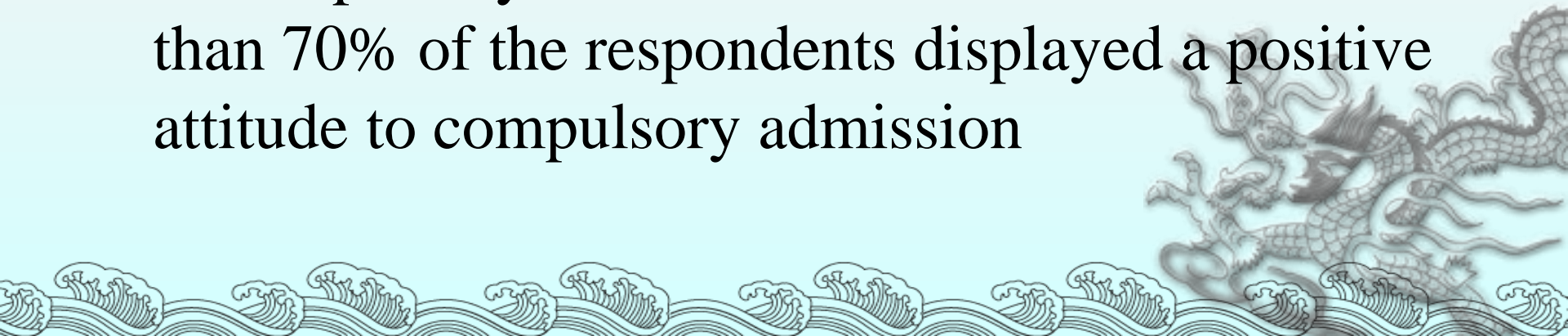
- ◆ Attitudes of patients and relatives to compulsory admission (Srinivasan et al., 1980)
- ◆ 75% of patients thought that compulsory admission had been appropriate and 80% said that the hospital stay had been helpful
- ◆ All but 1 of the 31 relatives thought that compulsory admission had been used in appropriate circumstances



Compulsory Admission

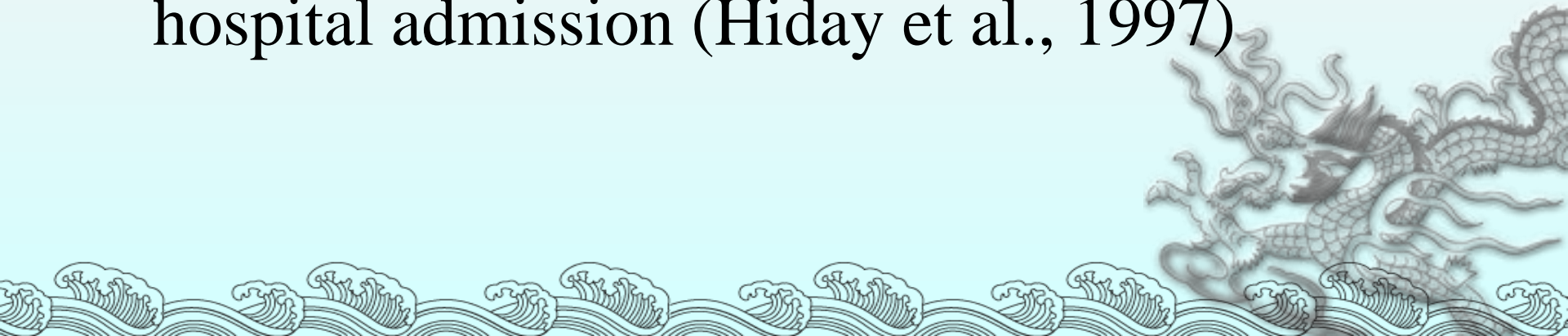
(Attitudes of patients, relatives, public)

- ◆ Lauber et al., (2000) found that the general population and people with mental disorders who had had treatment experience, as well as their relatives, were mostly (>70%) in favour of compulsory hospital admission
- ◆ Lauber et al., (2002) assessed the public attitude to compulsory admission and found that more than 70% of the respondents displayed a positive attitude to compulsory admission



Compulsory Admission (Perceived coercion)

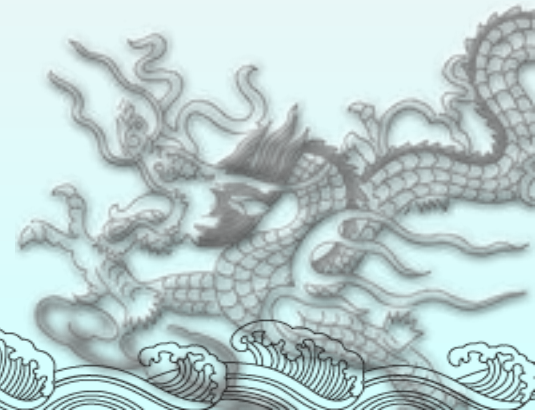
- ◆ Coercion and Commitment: understanding involuntary mental hospital admission (Monahan et al., 1995)
- ◆ Coercion and outcome of psychiatric hospitalisation (Nicholson et al., 1996)
- ◆ Patient perceptions of coercion in mental hospital admission (Hiday et al., 1997)



Compulsory Admission

(Perceived consequences of compulsory admission)

- ◆ Ashmore 2015 – visa refusal following compulsory admission under the MHA 1983: fact or fiction?
- ◆ Results of the study showed that there was no evidence to support the belief that compulsory admission would result in service users being refused a tourist visa
- ◆ Service users and their families should be provided with written information on the potential impact of detention along with a list of organisations that can provide advice on specific issues



Compulsory Admission (Stigma)

- ◆ Emotional reactions to involuntary psychiatric hospitalisation and stigma-related stress among people with mental illness (Rüsch et al., 2014)



Compulsory Admission (Ethnicity)

- ◆ Perceived ethnicity and the risk of compulsory admission (Singh et al., 1998)
- ◆ The role of ethnicity and diagnosis in rates of adolescent psychiatric admission and compulsory detention (Corrigall & Bhugra, 2010)
- ◆ Ethnic differences in risk of acute compulsory admission in Amsterdam, 1996-2005 (de Wit et al., 2012)
- ◆ A systematic review of ethnic variations in hospital admission and compulsory detention in first episode psychosis (Mann et al., 2014)



Thank You

