

Mental Health, Human Rights and Legislation: WHO's Framework

"All human beings are born free and equal in dignity and rights"

-The *Universal Declaration of Human Rights*

"In one country, people are locked away in traditional mental hospitals, where they are continuously shackled and routinely beaten. Why? Because it is believed that mental illness is evil and that the afflicted are possessed by bad spirits."

"Children [are] tied to their beds, lying in soiled beds or clothing, and receiving no stimulation or rehabilitation for their condition."

"Countries continue to lock up patients in 'caged beds' for hours, days, weeks, or sometimes even months or years...A couple of patients have lived in these devices nearly 24 hours a day for at least the last 15 years."

-Examples of how people with mental disorders are sometimes treated -

Source: The *WHO Resource Book on Mental Health, Human Rights and Legislation*

Common Human Rights Violations of People with Mental Disorders Include:

- A lack of access to basic mental health care and treatment:
 - Some countries lack adequate services, while in others services are available only to certain segments of the population
 - 32% of countries have no community care facilities defined as "any type of care, supervision and rehabilitation of mental patients outside the hospital by health and social workers based in the community"
 - 30% of countries don't have a specified budget for mental health. Of those that do, 20% spend less than 1% of their total health budget on mental health.
 - There are huge regional variations in the number of psychiatrists from more than 10 per 100,000 to fewer than 1 per 300,000
 - Worldwide, 68.6% of psychiatric beds are in mental hospitals as opposed to general hospitals or other community settings.

WHO recommends that mental health care is available at the community level for anyone who may need it.

- Inappropriate forced admission or treatment in mental health facilities:
 - Informed consent is often not sought
 - People are often forced to remain against their will for weeks, months or years in psychiatric institutions or other mental health facilities

Informed consent must form the basis of all mental health care. Rigorous and ongoing procedural safeguards need to be in place to protect against the overuse and abuse of involuntary admission and treatment.

- Violations within psychiatric institutions:
 - People are restrained by rusting metal shackles, kept in caged beds, and subject to other inhumane treatment
 - People live in filthy living conditions, lacking clothes, clean water, food, heating, proper bedding or hygiene facilities
 - People are kept in seclusion for lengthy periods
 - People are often detained in large institutions, isolated from society and far from families and loved ones.

WHO recommends that countries set up monitoring bodies to ensure that human rights are being respected in all mental health facilities

- Largely due to *stigma* associated with mental disorders, people experience discrimination and violations of their basic rights, even outside of psychiatric institutions.

- People are often deprived of their civil rights, such as the right to vote, or the right to marry and have children.
- They experience discrimination in all areas of life including employment, education and the right to shelter

People with mental disorders have the same human rights as everyone else. Because they are a particularly vulnerable group, countries have a responsibility to take action to protect them from discrimination.

➤ Inappropriate Detention in Prisons:

- In some countries, people with mental disorders are locked up in prisons because of a lack of mental health services or diagnosis and treatment of their condition. The disorders of these 'prisoners' therefore continue to go unnoticed, undiagnosed and untreated.

WHO recommends that people with mental disorders be diverted away from the criminal justice system and towards mental health services

How can Legislation help? It can:

- prevent human rights violations and discrimination
- promote autonomy and liberty of people with mental disorders
- promote access to mental health care and community integration
- protect the rights of mentally ill offenders
- Legally enforce the goals and objectives of a mental health policy
- Establish independent review and monitoring mechanisms
- Promote and protect human rights more generally

*And yet, 64% of countries do not have any mental health legislation or have legislation that is more than 10 years old. **Much existing mental health legislation violates rather than protects the rights of people with mental disorders.***

How can WHO help countries enact new legislation?

➤ Materials and tools on mental health, human rights and legislation

The recently published *WHO Resource Book on Mental Health, Human Rights and Legislation* provides:

- information on international human rights standards and norms relevant to people with mental disorders
- practical guidance on what should go into a mental health law
- strategies for developing and adopting mental health law as well as to ensure its effective implementation.

In addition, WHO has developed a number of tools and training exercises designed to help countries to:

- Critically review the comprehensiveness and adequacy of existing mental health legislation and develop a plan of action to formulate the mental health law

➤ An International Network of Experts

Has been established comprised of lawyers and mental health professionals trained in WHO's framework, materials and tools in order to support countries in reforming their law

➤ WHO can provide direct and ongoing technical support to countries, including:

- Convening key national stakeholders who will be involved in reforming the law
- Organizing workshops to raise awareness of international human rights standards and norms among policy makers and stakeholders.
- Work with policy makers and stakeholders to critically analyze existing laws and identify key issues to be incorporated in the new law
- Preparing action plans for drafting and implementing new law.