

Mental Illness, Discrimination and the Law

Fighting for Social Justice

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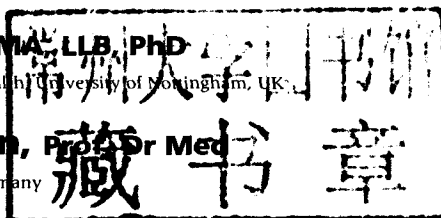
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Glossary

This comprises explanations of terms and concepts that are used frequently within the text. As is made clear in various parts of the book, there is significant debate about the use and meaning of many of these terms. The glossary clarifies how these terms are used and understood in the context of the arguments and the material that is presented in this book.

It should be further noted that mental health programmes have a low priority in many countries. The reasons for this are many: they include the stigma related to mental health problems, the multitude of other health problems competing for attention and resources and the scarcity of qualified staff. Among the reasons for the low priority given to mental health is also the vagueness of terms that are commonly used in the field. The lack of clear and universally agreed definitions of terms makes it difficult to compare the laws and regulations relevant to mental health and to the protection and promotion of the rights of people with mental health problems. It also interferes with the formulation of policies that govern mental health care and the education of health personnel.

Advocacy: The act of speaking or interceding for and on behalf of people (in this book, for and on behalf of people with mental health problems). Advocacy activities aim to empower and allocate resources to people in need of them. Advocacy – whether peer, citizen, professional or legal – should respect and promote the legal capacity of the person being supported.

Article: A numbered section of a legal document such as a convention, treaty or declaration.

Capacity and competency: Capacity in medicine refers to the necessary physiological, mental and emotional integrity required to make decisions, and hence to be considered legally competent. Competency is a legal construct referring to a person having the necessary capacity to engage in legally defined acts, such as entering into contracts, being a witness, being prosecuted, or agreeing to medical interventions. In some countries, capacity rather than competency is the legal term used.

Carer: A relative, friend or partner who provides (or intends to provide, or used to provide) a substantial amount of care to another person on

a regular basis. They do not necessarily live with that person. The term 'professional carer' denotes people providing care through professional or formal channels.

Civil and political rights: The classic 'liberal' rights of citizens to, for example, liberty and equality. They include freedom to think and express oneself, to vote, to take part in political life and to have access to information.

Convention: A legally binding agreement between states, usually developed within the context of an intergovernmental organisation (see definition below). Conventions create international law that is intended to be binding on states that sign and ratify them. They are not mere guidance as to best practice. Examples include the Convention on the Rights of Persons with Disabilities (which is a United Nations convention) (Chapter 14.1.1.1) and the European Convention on Human Rights and Fundamental Freedoms (which is a Council of Europe convention, better known as the European Convention on Human Rights) (Chapter 14.2.1.1.1).

Disability: Disability is a term that is subject to considerable academic and political debate. The UN Convention on the Rights of Persons with Disabilities states that 'Persons with disabilities include those who have long-term physical, mental, intellectual or sensory impairments which in interaction with various barriers may hinder their full and effective participation in society on an equal basis with others'. It further recognises 'that disability is an evolving concept and that disability results from the interaction between persons with impairments and attitudinal and environmental barriers that hinders their full and effective participation in society on an equal basis with others'.

Disabled people's organisation (DPO): A disabled people's organisation is an organisation that is managed by a management or executive committee on which disabled people hold the majority of its voting membership. They will normally, in practice, have an advocacy role for people with a disability. While that role is likely to be particularly important in the context of this book, it will not necessarily be the only (or indeed the *prime*) function of these organisations.

Disease, disorder and illness: In terms of nosology (the classification of diseases), a condition can be considered to be a disease when there is sufficient knowledge about the risk factors and causes, about its pathogenesis, its clinical appearance, its reaction to treatment and its natural history. In psychiatry there are no such conditions. The World Health Organization has therefore decided to use the term disorder, which it defines as 'the existence of a clinically recognisable set of symptoms or behaviour associated in most cases with distress and with interference with personal functions' (WHO, 1993). An important corollary follows

this definition: social dysfunction, without clinically recognisable sets of symptoms, should not be considered as a mental disorder.

The term 'illness' is often used as well, usually to indicate the individual's feelings about his or her state of health. The overlap between illness and disease is often minimal. Distress and a feeling of ill health are often not accompanied by a disease – and diseases can exist without causing a feeling of ill health. 'Sickness' is usually employed in relation to society's recognition of a state of disease (e.g. in 'sickness benefits').

Entry into force: The process through which a treaty becomes fully binding on the states that have ratified it. This occurs when the minimum number of ratifications called for by the treaty has been achieved.

General Comment: The interpretation by the international body charged with the implementation of a treaty or convention (the 'treaty body') of the content of human rights provisions, on thematic issues or on its methods of work. Thus, for example, General Comments on the UN Convention on the Rights of Persons with Disabilities will be issued by the UN Committee on the Rights of Persons with Disability, the organisation created by the Convention to oversee its implementation.

Global North: The Global North refers to the countries that have 'high human development', as reported by the United Nations Development Programme Report 2005. Most, but not all, of these countries are located in the northern hemisphere.

Global South: The Global South refers to the countries of the rest of the world, most of which are located in the southern hemisphere. It includes both countries with 'medium human development' and 'low human development'. Most of the Global South is located in south and central America, Africa and Asia.

Health: There are three main definitions of health: (i) health as the absence of disease; (ii) health as a state of full functional capacity; and (iii) health as a state of balance between the individual and the society and environment in which he or she lives. Notably, the often quoted definition provided in the constitution of the World Health Organization is that: 'Health is a state of complete physical, mental and social wellbeing (sic) and not merely the absence of disease or infirmity' (WHO, 1948). This definition includes mental well-being as one of the components of health.

Human rights: The rights people are entitled to simply because they are human beings, irrespective of their citizenship, nationality, race, ethnicity, language, gender, sexuality, or abilities. Human rights become enforceable when they are codified as conventions, covenants or treaties, or as they become recognised as customary international law. Human rights are frequently divided into 'civil and political' rights, and 'social and economic' rights – see definitions elsewhere in this glossary.

Instrument: A formal, written, official document that has legal meaning, such as a treaty, declaration or statute. The most relevant instruments in the current context are those in which a state or group of states expresses an intention to uphold certain human rights principles or norms. An instrument may be legally binding or non-binding. It may be global, regional, or domestic, depending on the legal nature of the instrument in question.

Intellectual disability: A disability that follows a significant impairment of a person's ability to learn and use information. It is a disability that is present during childhood and continues throughout that person's life.

Intergovernmental organisations (IGOs): Organisations sponsored by several governments that seek to coordinate their efforts (e.g. the World Health Organization, the International Labour Organisation (ILO)). Usually, but not necessarily, these will be given a legal form by a convention or treaty.

Mental health: *Mental health is a contested concept that has been defined in numerous ways by different groups and by different cultures. Broadly speaking, a deficit model defines mental health as an absence of diagnosable disease or disorder. A positive, holistic model of mental health conceives of mental health as a state of physical, social and mental well-being. In this latter sense, mental health implies that the individual is emotionally and psychologically flourishing (see also **Health**).*

Mental illness: This term is commonly used to describe a number of diagnosable disorders that significantly interfere with an individual's cognitive, emotional or social abilities (e.g. schizophrenia, anorexia nervosa, depression). Traditionally, mentally ill people are people who have a diagnosed mental disorder. A more restrictive – and perhaps less stigmatising – definition could be that people are mentally ill if their ability to behave in a meaningful and acceptable way in a given social context, as well as their competence to decide and to act in a self-determined way, is impaired by a disease or disorder. Also, people without disturbances of behaviour and competence may have a diagnosable mental disorder (see also **Disease, disorder and illness**).

Mental health problem: The term 'mental health problem' can be used to refer to the full range of mental health issues, from common experiences such as 'feeling depressed' to more severe clinical symptoms such as those seen in bipolar disorder and enduring problems such as schizophrenia. 'Mental health problem' has been used to refer to 'mental disorders' – that is diagnosed and/or clinical levels of mental health problems. It is also used to signify an approach to mental distress that is not based on current psychiatric or medical models. It is a phrase commonly used by many people who have received psychiatric diagnoses to describe their experiences.

National Human Rights Institutions (NHRIs): National Human Rights Institutions are bodies that promote and protect human rights and are established by countries under their national legislation or under their constitutions. NHRIs are responsible for promoting and monitoring the effective implementation of international human rights standards at the national level. The United Nations Paris Principles, which are internationally recognised standards, have been adopted by the United Nations General Assembly and specify the requirements for independence of NHRIs as well as their mandate.

Non-governmental organisations (NGOs): Organisations comprising people and groups who are independent of government. They vary enormously in size and geographical scope.

Non-binding: A document, such as a declaration, that carries no formal legal obligations. It may, however, carry moral obligations or indicate accepted good practice. It can also be used to interpret binding international law, and thus be more 'binding' than would first appear. A non-binding document sometimes may attain a binding status by becoming customary international law.

Ratify: The process by which the legislative body of a state confirms a government's action in signing a treaty; a formal procedure by which a state becomes bound to a treaty after acceptance.

Reasonable accommodation: Necessary and appropriate modifications or adjustments to a practice, programme or physical environment so that it becomes accessible, appropriate and usable for a person with disabilities on an equal basis with others. Article 2 of the UN Convention on the Rights of Persons with Disabilities defines reasonable accommodation as the 'necessary and appropriate modification and adjustments not imposing a disproportionate or undue burden, where needed in a particular case, to ensure to persons with disabilities the enjoyment or exercise on an equal basis with others of all human rights and fundamental freedoms'.

Right to health: The right to health refers to the enjoyment of a variety of goods, facilities, services and conditions necessary for the realisation of health. As articulated in most conventions that refer to it, it is the right to the highest 'attainable' standard of physical and mental health and not the right to 'be healthy'. The right to health is specified in Article 12 of the International Covenant on Economic, Social and Cultural Rights (Chapter 14.1.1.6), Article 25 of the UN Convention on the Rights of Persons with Disabilities (Chapter 14.1.1.1) and in many other international instruments.

Service user: Someone who uses, or has used, health and/or social care services because of illness or disability.

Social model of disability: This model regards disability as the loss or limitation of opportunities for people with physical, sensory or mental impairments to take part in the ordinary life of the community on an equal level with others owing to physical, structural and social barriers (see also **Disability**).

Social and economic rights: These are rights that give people social and economic security (e.g. the right to shelter, the right to health).

State Party: A State Party to a treaty is a state that has expressed its consent to be bound by that treaty by an act of ratification, acceptance, approval or accession, and so on, where that treaty has entered into force for that particular state.

Glossary References

WHO (1948) Preamble to the Constitution of the World Health Organization as adopted by the International Health Conference, New York.

WHO (1993) *The ICD-10 Classification of Mental and Behavioural Disorders: Diagnostic criteria for research*. World Health Organization, Geneva, Switzerland.

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CHAPTER 1

Introduction

1.1 Using the law in the fight for social justice

Legislative action is indispensable in the fight to combat the discrimination, abuse and social injustice experienced across the world by people with mental health problems.

This book is intended to assist and speed up legislative and policy reform. It presents a range of conceptual and empirical material which documents the role that legislative actions – whether applying internationally, regionally, at country level, or to devolved regions within countries – can play in combating the discrimination and abuse experienced by people with mental health problems. At the same time, we emphasise that such reform will effect changes ‘on the ground’ only if it is buttressed by enforcement mechanisms as well as societal and discursive shifts in how people with mental health problems are perceived and treated by other members of society.

The relationship between legislative action on the one hand and experiences of discrimination, abuse and social injustice on the other, is undoubtedly complex. It has been argued that ‘legislation has a limited capacity to achieve social transformation’ – but legislation does have significant ‘symbolic and authoritative power, particularly when enforced and publicised through litigation’ (Watchirs, 2005). The book therefore seeks to maximise the ‘symbolic and authoritative power’ of legislation, by further disseminating knowledge of how it can be used to effect change in the lives of people with mental health problems.

There have already been important strides taken in many countries, both in terms of overturning legislation that explicitly discriminates against people with mental health problems and in developing new legislation that better protects and promotes their rights.

There is also a powerful new impetus in the form of the United Nations Convention on the Rights of Persons with Disabilities (CRPD). This Convention, which was adopted on 13 December 2006 and entered into

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