



Forced psychiatric interventions constitute a violation of human rights and disable care

Human rights context

Since 2006, the United Nations Convention on the Rights of Persons with Disabilities (UN CRPD) calls for a paradigm shift to break away from paternalistic laws and paternalistic attitudes towards persons with disabilities, and shift to respectful support of decision-making based on the person's own will and preferences. The implicit call of the UN CRPD to put an end to forced psychiatric treatments has been made explicit by several publications of the CRPD Committee, and especially by the Guidelines to Article 14. The Guidelines make clear that the detention of persons with psychosocial disabilities under domestic legislation on the grounds of their actual or perceived impairment and supposed dangerousness to themselves and/or to others "is discriminatory in nature and amounts to arbitrary deprivation of liberty."¹

Nevertheless, two UN treaty bodies currently are in conflict with the standards set by the UN CRPD: the Human Rights Committee² and the Subcommittee on Prevention of Torture (SPT) in their document "Rights of persons institutionalized and medically treated without informed consent". Yet the Human Rights Committee admits that forced measures are harmful: "The Committee emphasizes the harm inherent in any deprivation of liberty and also the particular harms that may result in situations of involuntary hospitalization."³ The Human Rights Committee even recommends States parties "to revise outdated laws and practices" and says that "States parties should make available adequate community-based or alternative social-care services for persons with psychosocial disabilities, in order to provide less restrictive alternatives to confinement." However, despite this, the Human Rights Committee acknowledges the possibility of forced measures, provided they are applied "as a measure of last resort and for the shortest appropriate period of time, and must be accompanied by adequate procedural and substantive safeguards established by law."⁴

Also the SPT allows forced commitment and forced treatment, but they go even further by saying that abolition would violate the "right to health" and the "right to be free from torture and other ill-treatment". For instance, the SPT states "...placement in a psychiatric facility may be necessary to protect the detainee from discrimination, abuse and health risks stemming from illness"⁵, "The measure [treatment without consent] must be a last resort to avoid irreparable damage to the life, integrity or health of the person concerned..."⁶. In addition, the SPT acknowledges restraints as a legitimate measure: "Restraints, physical or pharmacological ... should be considered only as measures of last resort for safety reasons"⁷, and further allows for "medical isolation"⁸.

It is interesting to note that before the publication of these two documents mentioned above, the thematic report "Torture in Health Care Settings" by the UN Special Rapporteur on Torture and other cruel, inhuman or degrading treatment or punishment (A/HRC/22/53), urged an absolute ban on forced psychiatric interventions, in order to ensure that persons with psychosocial, intellectual and

¹ CRPD Committee's Guidelines on article 14 Liberty and security of person, III, para.6 (September 2015)

² General Comment No.35, para.19 (30 October 2014)

³ Ibid.

⁴ Ibid.

⁵ SPT, Rights of persons institutionalized and medically treated without informed consent, para.8

⁶ Id. para.15

⁷ Id. para. 9

⁸ Id. para.10



other disabilities be free from torture and ill-treatment. However his voice apparently was not heard, as well as other voices documenting numerous violations of human rights in psychiatric institutions. One of them is the report of FRA issued in 2012, which reveals the trauma and fear that people experience, and states that “the extremely substandard conditions, absence of health care and persistent abuse have resulted in deaths of residents in institutional care.”⁹

Therefore, it can be seen that the arguments in favour of the administration of forced measures are based on false grounds, because as has been proven by numerous sources, including CPT reports and the sources mentioned above, psychiatric institutions in no case can be considered a safe haven from discrimination, abuse, torture and ill treatment. With regard to medical considerations and care we put forward the following:

Forced psychiatric interventions are not care.

Care is supposed to result in improved well-being and recovery. Well-being - or mental health - is a very personal, intrinsic value, which cannot be produced by force. Caring for one another is one of the best things that people can offer to each other. On the contrary, forced psychiatric interventions are very traumatizing, and result in suffering and more psychosocial problems. It makes the situation worse, and is amongst the worst things that people can do to each other. There is a huge difference between forced interventions and care. They are the total opposite of each other.

Forced psychiatric interventions disable care.

Forced psychiatric interventions are counter-productive to mental health and care, and represent a “breach of contact”. This can be seen on the one hand, for example, with nurses who stop trying to communicate or provide support, and resort to forced interventions. It can also be seen on the other hand, in the feelings of misunderstanding and trauma of the person subjected to forced interventions, which disable meaningful contact. It is obvious that good contact and communication are necessary for good mental health care. The end of communication, as is induced by forced psychiatric interventions, is a very harmful practice, which makes meaningful contact, and therefore mental health care in itself, impossible.

Forced psychiatric interventions do not result in safety.

Due to suffering, increased psychosocial problems, and a lack of any support for recovery caused by forced psychiatric interventions, the risks of escalation increase, and can even result in an endless circle of struggle and escalation, as our experiences show. The common argument given “to protect from harm or injury to self or others”, is not based on factual evidence supporting this statement. Forced psychiatric interventions do not result in more safety, but lead to more crises, and subsequently to greater risk of escalation.

Forced psychiatric interventions indicate a deficiency in mental health care.

Forced psychiatric interventions are more of a mechanism for (attempted) social control embedded within an underdeveloped and structurally neglected (and politically abused) system of mental health care that is built on the horrible remnants of the past, rather than on skills to support mental health and well-being. Underdevelopment and insufficient funding of the mental health care system is in place because of the extremely low political priority given to mental health care, consequently explaining the extremely low level of funding. It is impossible to deliver quality care without proper

⁹ **European Fundamental Rights Agency:** Involuntary placement and involuntary treatment of persons with mental health problems, 2012. Available at: http://fra.europa.eu/sites/default/files/involuntary-placement-and-involuntary-treatment-of-persons-with-mental-health-problems_en.pdf



funding and attention to quality standards. However, due to historical stigma, mental health care remains unpopular with society, i.e. voters, and therefore politicians. In case of dire shortage of funding, the best possible solution for the system is to keep things calm, by delivering lots of harmful and in many cases unwanted medication to isolated people and calling it medical care. However, real mental health care is possible when efforts are made and sufficient funding is provided.

A world of options between “last resort” and “no care”

Many persons, including many States, cannot see beyond a very narrow “black and white” approach regarding psychosocial crisis situations, with only two options: either forced treatments (torture), or doing nothing (neglect). This simply isn’t the full picture. Between these two extremities, there is a largely undiscovered world of options for real support and real mental health care in psychosocial crisis-situations, with aspects such as: non-violent de-escalation, prevention of crisis in the earliest stage possible, focussing on contact and openness instead of repression, building trust and providing real support in acute crisis-situations. (Ex-) users and survivors who have experienced this are the best positioned to be involved in this shift of paradigm.

Real development of mental health care is urgently needed.

Unfortunately for decades, the real development of good care practices has been undermined by the existence of forced treatments, which has enabled caregivers to turn their back to the crisis situation, and leave the person behind without actual care, repressed and stripped of their dignity. This should stop. Forced psychiatric interventions constitute a very serious human rights violation. They can never be called care and cannot be considered a safety and anti-discrimination measure, because they lead to exactly the opposite.

We believe in the creative potential of humanity and the possibility to solve complicated problems when appropriate efforts are made. But in order to allocate the appropriate resources and generate enough creative efforts, appropriate motivation is needed. The UN CRPD standards give us and should give policymakers such motivation to realize and state publicly that the status quo in psychiatry is totally unacceptable and must be changed to a humane system of real care.

The discrepancies in the recommendations referred to above, even among different entities of the same organization (United Nations) must be eliminated and the provisions of the CRPD must prevail.

This is a challenge, but by thinking and acting together, it is possible to make this a reality.

We must keep in mind just one thing as a basis for this objective:

**Forced psychiatric interventions constitute torture and ill-treatment and
must be banned!**