



Policy Brief 3

Mental Health law reform in Uganda

The purpose of the Mental Health and Poverty Project (MHaPP) was to develop, implement and evaluate mental health policy in poor countries, in order to provide new knowledge regarding comprehensive multi-sectoral approaches to breaking the negative cycle of poverty and mental ill-health.

Introduction

The fundamental aim of mental health legislation is to protect, promote and improve the lives and mental well-being of citizens. In the undeniable context that every society needs laws to achieve its objectives, mental health legislation is not different from any other legislation. Mental health legislation is not only concerned with care and treatment, but it guides the provision and setting up of institution-based health services. The mental health law is also essential for complementing and reinforcing the mental health policy by providing a legal framework for meeting its goals. Such legislation should ensure protection of human rights, enhancement of the quality of mental health services and promotion of the integration of people with mental disorders into their communities.

It is essential that mental health laws are regularly reformed according to international human rights frameworks, such as the newly adopted UN Convention on the Rights of Persons with Disabilities (2007) and Principles for the Protection of Persons with Mental Illness and the Improvement of Mental Health Care (1991). These frameworks support the rights of people with mental disorders on an equal basis with others in all aspects of life.

The Mental Health and Poverty Project (MHaPP) is a 5-year study of mental health policy, legislation and services in 4 African countries: Ghana, South Africa, Uganda and Zambia.

What did we do?

In the first phase, MHaPP conducted an evaluation of Uganda's Mental Treatment Act (1964). This was done using a checklist for evaluation of mental health laws, developed by WHO; as well as interviews and focus group discussions with various stakeholders who were involved in this exercise.

What did we find?

- The current law is outdated as it was enacted during the colonial times, and last revised in 1964.
 - The current law is not in line with contemporary issues in mental health care.

The Act was passed to make provision for the custodial care of people with mental disorders. It is termed the "mental treatment Act" and as the name itself suggests, this law is primarily concerned with the treatment of persons with mental illness in psychiatric institutions. It thus neglects the critical need to promote community based care.

- The current law is prejudiced and hostile to persons with mental illness.

It uses derogatory language that perpetuates stigmatization and discrimination, for example describing people with mental disorders as "persons of unsound mind".

- The current law does not promote and protect the rights of persons with mental illness both within the health care context and in the community.

Implementation of the law

The current law has been over-taken by events and its implementation is rather cumbersome, especially with regard to the current modern approach to mental health care. In the first instance, the law promotes institutionalization, and yet the modern approach and the mental health policy strongly recommend de-institutionalization and promotion of community based care. In this regard, the law is in conflict with the policy.

In the current practice, the health practitioners do what is professionally deemed necessary to help the patients, but their practice is not backed by the law. The law is therefore not well implemented.

implementation can be attributed to a number of factors, including low awareness of the contents of the law, and the fact that this law is out-dated.

Although it has been in place since 1964 to date, there is lack of awareness about this law, as it is only known by a few people, mostly those in the mental health profession.

Surprisingly, this lack of awareness extends even to those expected to be well conversant with the law, such as the health professionals and the police.

WHO 10 basic principles of mental health law:

1. *Promotion of mental health and prevention of mental disorders*
2. *Access to basic mental health care*
3. *Mental health assessments in accordance with internationally accepted principles*
4. *Provision of the least restrictive type of mental health care*
5. *Self-determination*
6. *Right to be assisted in the exercise of self-determination*
7. *Availability of review procedure*
8. *Automatic periodical review mechanism*
9. *Qualified decision-maker*
10. *Respect of the rule of law*

Intervention

The Ministry of Health together with MHaPP and other relevant stakeholders have collaborated in drafting a new mental health bill. This was through a wide consultative process for about 2 years (2008-2009). The stakeholders involved include mental health service providers and users, and representatives from line Ministries, NGOs, UN Office of the High Commissioner for Human Rights (OHCHR), and the law reform commission. The fact that amendment of the mental health law was long overdue, and a new law was much wanted was a strong motivating factor for dedication and a smooth review process. The main challenge was that the

process involved many stakeholders, who continuously contributed numerous varying ideas, which required much time to harmonize. To deal with this, a small drafting committee comprising of four persons was assigned the task of drafting the bill; and continuously shared the subsequent versions of the bill with other stakeholders for comments. The process and content of the bill were guided by the current mental health legislation, WHO evaluation checklist and UN Convention on Rights of Persons with Disability.

The new mental health bill is thus a product of wide stakeholder consultation and also borrows from a number of mental health laws from other countries with similar socio-economic contexts. As is the practice with developing new laws, this new mental health bill has been translated into the legal language by the Ministry of Justice, and is ready to be tabled in parliament for discussion. The new law is now in line with latest international human rights standards, highlighting key values such as human rights protection and promotion, deinstitutionalization, integration of mental health care and community care, quality and safety, social inclusion, and intersectoral collaboration.

In one of the consultative meetings, a mental health advocate and staff of an NGO commented: "...the new mental health law should be very serious about protection of the rights of person with mental illness. People continue to treat the mentally ill as though they are not human beings. Let me share this example with you. One day, I was in the New Taxi park, moving towards Nankulabye...Namungoona stage. There came a mad fellow, very shabby in rags as they usually appear. Now, this man jumped into one empty taxi, sat in the driver's seat and started...you know...playing with the steering wheel. Those UTODA men, the guides or taxi brokers pulled him out and started beating and kicking him terribly; shouting: 'ekiralu kino ngakimanyiira! Kyagala kutusiiga nkukunyi.' [this stupid mad fellow...it may even infect us with flea]. I felt like fighting them off to save the man, but I couldn't. The poor man later walked away with wounds, bleeding badly. But nobody seemed to care. So, you really wonder. The law needs to be very strict on people who knowingly mistreat the innocent persons with mental illness"

Conclusion & recommendations

In light of the growing recognition of mental health as an important public health and development issue, and awareness of the importance of a mental health law, it is hoped that the Ugandan parliament will appreciate the urgent need for a new mental health law in the country and expedite the process of translating the bill into a new law. This will greatly contribute to improvement in access to care and observation of the rights of persons with mental illness in the country. Once approved, the new law should be widely disseminated to ensure its successful implementation.

Where can I read more about this issue?

1. Kigozi F, Ssebunnya J, Ndyababangi S, et al: A situational analysis of the mental health system in Uganda, 2008 [*unpublished research report*] available on: www.psychiatry.uct.ac.za/mhapp
2. Kigozi F, Ssebunnya J, Ndyababangi S et al (2010): An overview of Uganda's mental health care system: results from an assessment using the world health organization's assessment instrument for mental health systems (WHO-AIMS). *Int J Ment Health Syst.* 2010 Jan 20;4(1):1. <http://www.biomedcentral.com/content/pdf/1752-4458-4-1.pdf>
3. United Nations (2007). *The UN Convention on the Rights of Persons with Disabilities.* <http://www.unhcr.org/refworld/docid/4962270c2.html>
4. WHO. 1996. *Mental health care law: Ten basic principles.* Geneva: World Health Organization http://www.who.int/mental_health/media/en/75.pdf
5. WHO, 2003. *Mental health legislation and human rights.* Geneva: World Health Organization http://www.who.int/mental_health/policy/services/7_legislation%20HR_WEB_07.pdf
6. WHO. 2005. *WHO Resource Book on Mental Health, Human Rights and Legislation.* Geneva: World Health Organization http://www.who.int/mental_health/policy/essentialpackage2/en/index.html

7. MHaPP website:

www.psychiatry.uct.ac.za/mhapp

The Mental Health and Poverty Project is led by the University of Cape Town, South Africa and the partners include the Kintampo Health Research Centre, Ghana; Makerere University, Uganda; the University of Zambia; the Human Sciences Research Council, South Africa; the University of KwaZulu-Natal, South Africa; the University of Leeds, UK; and the World Health Organization. The project works closely with the Ministries of Health in the respective countries. The MHaPP is funded by the Department for International Development (DFID), UK for the benefit of developing countries. The views expressed are those of the authors and not necessarily those of DFID.

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