

**Submission to the
Independent Review
Committee of the
Mental Health Act 1983**

**Citizens Commission
on Human Rights UK**

November 2018



Submission to the Independent Review of the Mental Health Act

United Nations Recommendations

The Citizens Commission on Human Rights (CCHR) would like to draw the attention of the Independent Review Committee to a recent annual report from the United Nations.

The report on Human Rights and Mental Health has been drawn up by the United Nations High Commissioner for Human Rights and the Office of the High Commissioner and the Secretary-General. The report was adopted by the UN Human Rights Council (UNHRC) in September 2018.

The UNHRC is responsible for examining and providing recommendations for all Member States, including the United Kingdom. The report sets the standards by which governments should attain when implementing legislation and is thus relevant to the current review.

The thematic report on the subject of Human Rights and Mental Health can be found in full at the link below¹.

The recommendations in the report are necessarily broad and far-reaching and in order to facilitate the understanding of the Review Committee, we have highlighted a number of key recommendations from the UNHRC Report which should be incorporated into the Independent Review.

Informed consent

It is vital that, with regards to any mental health treatment, whether medication or physical treatment, the patient is fully informed of the consequences and side effects of the treatment and be allowed to make an informed choice.

The report recommends:

“States should ensure that all health care and services, including all mental health care and services, are based on the free and informed consent of the individual concerned, and that legal provisions and policies permitting the use of coercion and forced interventions, including involuntary hospitalization and institutionalization, the use of restraints, psychosurgery, forced medication, and other forced measures aimed at correcting or fixing an actual or perceived impairment, including those allowing for consent or authorization by a third party, are repealed. States should reframe and recognize these practices as constituting torture or other cruel, inhuman or degrading treatment or punishment and as amounting to discrimination against users of mental health services, persons with mental health conditions and persons with psychosocial disabilities. States should ensure their enjoyment and exercise of legal capacity on an equal basis with others by repealing laws that provided for substituted decision-making, and should provide: a range of voluntary supported decision-making mechanisms, including peer support, respectful of their individual autonomy, will and preferences; safeguards against abuse and undue influence within support arrangements; and the allocation of resources to enable and ensure the availability of support.” (A/HRC/39/36 Conclusions and recommendations section 41)²

¹ <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G18/232/93/PDF/G1823293.pdf?OpenElement>

² idem

This must include practices such as Electro-Convulsive Therapy (ECT), lobotomy and involuntary drug treatment, which have been criticised for causing irreparable harm as well as iatrogenic conditions. These practices fall into the category of *“torture or other cruel, inhuman or degrading treatment or punishment and as amounting to discrimination against users of mental health services.”*

In any circumstance other than a ‘mental health’ setting, intentionally passing an electric current through a human being or cutting out part of a person’s brain would be classified as torture. See referenced article for a real-life example of a person who experienced this kind of adverse psychiatric treatmentⁱ.

Access to Justice

Regarding access to justice, the report recommends:

*“States should ensure that users of mental health services and persons with psychosocial disabilities have access to justice, including through maintaining their legal capacity within proceedings to challenge human rights violations in mental health contexts, and ensure that redress and reparation is provided for the individual while addressing systemic change through legal and policy reform and capacity-building.” (A/HRC/39/36 Conclusions and recommendations section 50)*³

*“States should revise and adopt legislation to combat stigma and discrimination against users of mental health services, persons with mental health conditions and persons with psychosocial disabilities. States should implement training programmes, such as the WHO QualityRights initiative, to build capacity among mental health professionals, practitioners and policymakers on how to implement a human rights-based and recovery approach in accordance with the Convention on the Rights of Persons with Disabilities.” (A/HRC/39/36 Conclusions and recommendations section 49)*⁴

This would include the right to take legal action against the practitioner for damage incurred as a result of treatment.

Treatment

It is acknowledged that treatment in the field of mental health requires reform. While ECT and lobotomy have already been mentioned, it is important to recognise the harm that occurs as a result of drug treatment. Many psychiatric drugs are addictive and/or have numerous and often irreversible side effects. They may also result in fatalities. The Office for National Statistics has published data regarding drug-poisonings in England and Wales. Over a 25-year period, the number of deaths linked to antidepressant prescribing was 11,169, representing 1.2 deaths a dayⁱⁱ.

³ idem

⁴ idem

For the benefit of patients, it would be advantageous to find the real causes of mental troubles rather than masking the symptoms and considering the outcome as being demonstrably effective, when in fact all that has happened is the person has been sedated or drugged.

It should be noted that in England alone, antidepressant prescribing has cost the National Health Service over £5 billion since 2000.

In regards to treatment, the report states the following:

*“States should design and implement policies and programmes addressing the underlying determinants of mental health.” (A/HRC/39/36 Conclusions and recommendations section 51)*⁵

*“States should re-examine the biomedical approach to mental health, which maintains the imbalance of power between practitioners and users of mental health services, through a collective process that includes all stakeholders. Users of mental health services, persons with mental health conditions and persons with psychosocial disabilities should play a leading role in developing the conceptual framework that determines mental health services, and in their design, delivery and evaluation.” (A/HRC/39/36 Conclusions and recommendations section 45)*⁶

*“States should strengthen data-collection efforts and undertake and invest in evidence-based and participatory research, inclusive of users of these services and of persons with psychosocial disabilities, in order to: identify the multiple and intersecting forms of discrimination operating in the context of mental health and evaluate the impact of services; and design and make available accessible and affordable non-coercive spaces, support and respite, respectful of the individual’s free and informed consent.” (A/HRC/39/36 Conclusions and recommendations section 48)*⁷

To further illustrate the above points, we have referenced some recent reports concerning abusive conditions in psychiatric institutions.

“A teen with autism is locked in solitary confinement and being fed through a hatch. Have we really moved on from Bedlam?”ⁱⁱⁱ

“Secure hospital patients could be vulnerable to abuse” This follows a Sky investigation that shows that targets for moving patients from Assessment and Treatment Units are being missed.^{iv}

“40 people died in 'barbaric' secure hospitals the government pledged would close”^v

As an addendum we have listed a number of quotes from senior United Nations and World Health Organisation officials that underlines support of the UNHCR report and the vital need to change our approach to the mental health system.

⁵ idem

⁶ idem

⁷ idem

Based upon the above, CCHR recommends the following:

- 1. Legislation should be passed making full and informed consent mandatory for any treatment.**
- 2. Legislation should be adopted banning any practice or variation of Electro-Convulsive Treatment (ECT).**
- 3. Investment of research funds directed towards non-invasive treatments that address the underlying cause of perceived mental troubles.**

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ⁱ <http://www.cchr.org.uk/true-stories/forced-psychiatric-drugs-unborn-child-damaged-killed/>

ⁱⁱ <https://www.ons.gov.uk/peoplepopulationandcommunity/birthsdeathsandmarriages/deaths/bulletins/deathsrelatedtodrugpoisoninginenglandandwales/2017registrations>

ⁱⁱⁱ <https://inews.co.uk/opinion/nhs-treatment-learning-difficulties-bedlam/>

^{iv} <https://news.sky.com/story/secure-hospital-patients-could-be-vulnerable-to-abuse-11541520>

^v <https://news.sky.com/story/40-people-died-in-barbaric-secure-hospitals-the-government-pledged-would-close-11540038>

Addendum 1.

The following are additional quotes from senior United Nations and World Health Organisation officials which demonstrate the intent and importance of putting the UN recommendations into practice.

“In closing, the United Nations Deputy High Commissioner for Human Rights, Kate Gilmore, highlighted the significance of the all-encompassing agenda for inclusion at the critical intersection of human rights, physical and mental integrity and the enjoyment of mental health. She ... observing that rights-based change had always come from the vision of those whose rights had been denied. It was to them that the work going forward must be held accountable — to their perspective, views and experience. Ms. Gilmore underscored that many practices that directly violated the principles and the intent of rights persisted, such as forced institutionalization, forced treatment, and criminalization of those with mental health conditions; in those instances, the key friend of rights — the law — was often the key foe. She condemned the unlawful use of the law to dominate and discriminate, and its conversion into a threat to the enjoyment of rights. She concluded by remarking that everyone held the responsibility of knowledge: change was within reach, it was affordable and it was reasonable, and she thus called upon all actors to co-design services and work together to create health-enabling environments.

A/HRC/39/36 Conclusions and recommendations section 40)

“Forced treatment – including forced medication and forced electro convulsive treatment, as well as forced institutionalisation and segregation – should no longer be practiced.”

High Commissioner of the United Nations for Human Rights, Mr. Zeid Ra'ad Al Hussein

“Manifestly, the human rights of persons with psychosocial disabilities and those with mental health conditions are not being widely upheld around the world. This needs to change”

High Commissioner of the United Nations for Human Rights, Mr. Zeid Ra'ad Al Hussein

“The Convention on the Rights of Persons with Disabilities offers a legal framework for a more comprehensive approach that upholds the rights of people with psychosocial disabilities including the full enjoyment and exercise of legal capacity and free and informed consent; the right to live and be included in the community; deinstitutionalisation; and the right to liberty and security without discrimination.”

High Commissioner of the United Nations for Human Rights, Mr. Zeid Ra'ad Al Hussein

“Around the world, people with mental health conditions and psychosocial disabilities lack access to quality mental health services that respond to their needs and respect their dignity and rights. Instead, people are frequently locked up in institutions where they are isolated from society and marginalized from their communities. Many are subjected to physical, sexual, and emotional abuse and neglect in hospitals and prisons, but also in the community.”

Ms. Svetlana Akselrod for Dr Tedros Adhanom Ghebreyesus, Director-General of WHO

“Unfortunately, these violations of human rights are all too common. They do not occur only in low-income countries with few resources, they occur everywhere around the world. Rich countries can have mental health services which are inhuman, deliver poor quality care and which violate human rights.”

Ms. Svetlana Akselrod for Dr Tedros Adhanom Ghebreyesus, Director-General of WHO

“What is particularly shocking is that these violations occur in the very places where people should be receiving care and support. In this respect, some mental health services themselves have become agents for human rights violations.”

Ms. Svetlana Akselrod for Dr Tedros Adhanom Ghebreyesus, Director-General of WHO

“Practices such as forced treatment, forced sterilization and forced institutionalization violate human rights, as does the criminalization of those with mental health conditions. ... Among its other recommendations, the report calls on States to abolish forced institutionalization.”

UN Deputy High Commissioner for Human Rights, Ms. Kate Gilmore

“I have the honour to speak on behalf of the European Union. We would like to thank the High Commissioner and her office for the presentation of the thematic reports and we would like to share our views on some of these thematic issues. ... We welcome the High Commissioner’s report on mental health and human rights and its recommendations in order to improve people-centred, community and human rights-based support and services to combat discrimination, stigma, violence, coercion and abuse. ... The EU is fully committed to abandoning practices that fail to respect the rights, will and preferences of all persons, on an equal basis, and that lead to power imbalances, stigma and discrimination in mental health settings.”

European Union statement on the report by Mr. Robert Müller for Ms. Elisabeth Tichy-Fisslberger, Ambassador, Permanent Representative of the Republic of Austria on behalf of the European Union

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