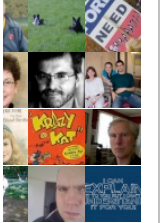




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's submission on legal

+ Write a Note

August 12, 2011 at 3:58pm

ssion on legal capacity

onsible for our own lives and should have the right to
ves. Some of us are not more human than others!!

rain damage us and then they say we are less that
eve we are subhuman that they have the right to lock us
against our will for our own good!"

r over ten years now and prescribed drugs tortured me
still be forced treated with these same drugs if two
necessary. If I wrote an advanced directive this could
chiatrists.

valid. They are not based on objective scientific proof.
objective medical test to establish any psychiatric
ive the power to deprive innocent people of their
with powerful psychotropic drugs.

to decide how to live our own lives? We should have
human being full stop."

n www.mindfreedom.org

ltesek/neveseloadoink/Minkowitz_presentation.pdf

4
reference for the Resolution of the workshop on the
human rights and disability, which was passed by the
ejle, Denmark, in July, 2004: (MindFreedom Ireland was
sembly) We work with WNUSP and ENUSP.
urvivors of Psychiatry generally supports the Working
gh 12, and in particular urges that the following

isabilities have full legal capacity on an equal basis as
natters;
ce is necessary to exercise that legal capacity:
ial to the degree of assistance required by the person
r circumstances, and does not interfere with the legal
of the person;

isabilities who experience difficulty in asserting their
nation, and in communicating, have access to assistance
sented to them and to express their decisions, choices
enter into binding agreements or contracts, to sign
ses;

In Article 10:

1. States Parties shall ensure that persons with disabilities:

...
b) are not deprived of their liberty unlawfully or arbitrarily, and that any deprivation of liberty ... in no case shall be based on disability.

In article 11:

1. States Parties shall take all effective legislative, administrative, judicial, educational or other measures to prevent persons with disabilities from being subjected to torture or cruel, inhuman or degrading treatment or punishment.

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Lilly Edens
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Say Happy Birthday

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2. In particular, States Parties shall prohibit, and protect persons with disabilities from, medical or scientific experimentation without the free and informed consent of the person concerned, and shall protect persons with disabilities from forced interventions or forced institutionalisation aimed at correcting, improving, or alleviating any actual or perceived impairment.

In article 12:

2. Such measures should prohibit, and protect persons with disabilities from, forced interventions or forced institutionalisation aimed at correcting, improving, or alleviating any actual or perceived impairment....

Draft Article 15

LIVING INDEPENDENTLY AND BEING INCLUDED IN THE COMMUNITY

1. States Parties to this Convention shall take effective and appropriate measures to enable persons with disabilities to live independently and be fully included in the community, including by ensuring that:

- (a) persons with disabilities have the equal opportunity to choose their place of residence and living arrangements;
- (b) persons with disabilities are not obliged to live in an institution or in a particular living arrangement;
- (c) that persons with disabilities have access to a range of in-home, residential and other community support services, including personal assistance, necessary to support living and inclusion in the community, and to prevent isolation or segregation from the community;
- (d) community services for the general population are available on an equal basis to persons with disabilities and are responsive to their needs;
- (e) persons with disabilities have access to information about available support services.

In the case of Article 12, it must be recognized that legal capacity on an equal basis with others means the same legal capacity as others – not an inferior or partial legal capacity or a presumption of legal capacity that can be rebutted by evidence of lack of sufficient decision-making ability. One person's judgment that another lacks decision-making ability is tantamount to negating the human subjectivity of that person; such judgments if probed are based on an attribution of psychosocial, intellectual or other mental (such as dementia) disability. Support must be provided to the full extent of a person's need, but must never become compulsion; support for the exercise of legal capacity can never subvert legal capacity itself, which is the right to make one's own decisions.


WNUSP and our related networks have developed robust alternative models for a social response to persons experiencing madness, mental health problems and trauma. These models emphasize the primacy of first-person experience, honoring thoughts and feelings, meeting practical needs, taking enough time for resolution or healing, and believing in every person's ability to transform his/her life. Professional psychotherapy, nutrition and other holistic therapies, and psychiatric treatment with drugs, can be a valid part of an individual's healing journey when used with free and informed consent. Free and informed consent practices should be geared to giving individuals the tools to make decisions they are comfortable with now and are not likely to regret later; their primary purpose is not to protect medical personnel from liability. The serious adverse effects associated with psychiatric drugs in particular, including increased potential for metabolic problems and early mortality, indicate that safer alternatives should be researched and developed, and that existing drugs should be carefully scrutinized for safety and efficacy with accountability to users. A consensus is developing in our community that electroshock, in its modified or unmodified forms, as well as any kind of psychosurgery, is too risky and should not be used at all.

Spiritual and traditional healing/therapies may have great value for individuals and communities, affirming their connections to one another and the transformative potential of madness, so long as it is not forced or coerced. Forced or coerced participation in spiritual and traditional practices, like forced medical interventions, can amount to torture or ill-treatment.

The success of alternative models indicates that resistance to the full implications of the CRPD is primarily the result of discrimination that persists despite the advances made in human rights law and in the development of practical knowledge. WNUSP calls on states to develop inclusive processes for implementation of the CRPD in the manner of the drafting and negotiations, with a central role for users and survivors of psychiatry and other persons with disabilities, coming together in good faith to transform society and its laws and practices for our full inclusion and equality. Users and survivors of psychiatry are the primary agents and primary beneficiaries of this transformation but it is one that ultimately involves and benefits everyone.

Moosa Salie,
Editor WNUSP newsletter
Chair WNUSP
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www.wnusp.org

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