

Torture and other ill-treatment in psychiatry – urgent need for effective remedies, redress and guarantees of non-repetition

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As we have already heard from the strong testimonies here today, grave violations happen in the mental health setting. Deprivation of liberty can in itself be harmful. Indefinite detention is especially harsh, and commonly practiced against persons with psychosocial or other disabilities. Violent medical practises like forced electroshock, forced drugging, restraint and solitary confinement do not constitute help or care, nor does it have any legitimate purpose. It constitutes discriminatory and harmful practises that can cause severe pain and suffering, as well as deep fear and trauma, in its victims. Tina will talk about how these forced psychiatric interventions meet international definition of torture standards. I want to underscore the need for recognizing the severity of the harm done and the suffering inflicted on the victims. As a human rights lawyer, and as a survivor of forced psychiatry, I cannot say it strongly enough that these forced interventions, which always carry a factor of disability-based discrimination, needs to be categorized as torture and other ill-treatment, and be abolished. There is an urgent need for providing the victims with effective remedies and reparations. But there are obstacles;

We know the human rights framework regarding torture and other ill-treatment; the absolute prohibition, the states obligation to protect against it, the obligation to investigate allegations, and to give redress to victims. But when ill-treatment is carried out in the name of medical treatment, authorised by domestic legislation and enforced by national law, then there are no real protection or access to justice. There is no redress for victims, no accountability for perpetrators. The ill-treatment goes with impunity.

As Finn and Jolijn's cases illustrate, there are a lack of effective remedies. We are rendered powerless in the hands of medical professionals who have been given the authority to define us out of our fundamental human rights. That is the situation that we, the survivors of forced psychiatry, are facing around the world today.

Recognizing forced psychiatric interventions as ill-treatment is a first crucial step that needs to be taken by the State parties. We welcome the increasing awareness among UN monitoring mechanisms, which is important to ensure justice and accountability on all levels. Especially we welcome the CRPD Committees General Comment No. 1 stating that forced treatment by psychiatric and other medical professionals is an infringement of CRPD Art 15. The Committee has spoken clearly both in the General Comment and in its Concluding Observations; there can be no legitimate detention in any kind of mental health facility, forced psychiatric interventions violate the prohibition on torture and ill-treatment as well as other provisions of the CRPD and must be abolished. We look forward to the Committees further development of jurisprudence under CRPD Art. 15, and encourage the Committee to take the urgent need for effective remedies, redress and guarantees of non-repetition into account.

The Committee Against Torture emphasizes, in its General Comment No. 3 (2012) on State parties obligation to ensure redress to torture victims, that the restoration of the dignity of the victim is the ultimate objective in the provision of redress.

According to the Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violation of International Human Rights Law adopted by the General Assembly in resolution 60/147 (2005) redress includes five forms of reparation; restitution, compensation, rehabilitation, satisfaction and guarantees of non-repetition. All of which are of great importance for victims of ill-treatment in the mental health system.

Restitution, a form of redress designed to re-establish the victim's situation before the violation was committed, should include restoration of liberty, freedom from forced treatment, enjoyment of family life and citizenship, return to one's place of residence, and restoration of employment.

Compensation should be provided for any economically assessable damage, such as physical or mental harm; lost opportunities, including employment and education; material damages and loss of earnings; moral damage; and costs required for legal assistance, medical and social services.

Rehabilitation for victims of forced psychiatry should aim to restore, as far as possible, their independence, physical, mental, social and vocational ability; and their full inclusion and participation in society. Victims of forced psychiatry may be at risk of re-traumatization and have a valid fear of acts which remind them of the ill-treatment they have endured. Consequently, a high priority should be placed on the need to create a context of confidence and trust in which assistance can be provided. Needless to say, when the ill-treatment has been carried out by medical professionals, within the public health system, it will be difficult, if not impossible, for the same system to regain that trust from its victims.

Satisfaction should include effective measures aimed at the cessation of continuing violations; verification of the facts and public disclosure of the truth; an official declaration or judicial decision restoring the rights of the victim; sanctions against persons liable for the violations; investigation and criminal prosecution, public apologies, including acknowledgement of the facts and acceptance of responsibility.

The right to truth is especially important for victims of forced psychiatry, where ill-treatment for so long, and on such a large scale, has been carried out under the guise of medical treatment. We need truth about what happened to us, truth about the consequences, public recognition and apologies, as a first step in a process of social reintegration, justice and healing. Since coercive mental health practices represent patterns of violence against persons with psychosocial and other disabilities, we need reparation on a collective, as well as an individual level, and we hope the CRPD Committee will take this into account in its future work and recommendations. State parties should develop procedures for redress covering **all** victims of forced psychiatric interventions.

Guarantees of non-repetition should include taking measures to combat impunity, prevent future acts, as well as reviewing and reforming laws contributing to or allowing these violations.

State parties should now recognize the immediate obligation to stop ill-treatment from being carried out through forced psychiatric interventions, undertake necessary action to repeal legislation that authorizes forced psychiatric treatment and detention, and develop laws and policies that replaces coercive regimes with services that fully respect the autonomy, will and equal rights of persons with disabilities.

Thank you.