



COMMISSIONER
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COMMISSAIRE AUX
DROITS DE L'HOMME



1949.2019

COUNCIL OF EUROPE



CONSEIL DE L'EUROPE

CommDH/Speech(2019)7

**Parliamentary Assembly of the Council of Europe Debate on
“Ending coercion in mental health: the need for a human rights-based approach”
Strasbourg, 26 June 2019**

**Speech by Dunja Mijatović
Council of Europe Commissioner for Human Rights**

It is a great pleasure to address the Parliamentary Assembly on a subject that lies very close to my heart.

I would like to start by saluting the great work accomplished by the Rapporteur for the report in front of you today. I strongly agree with her findings and conclusions, as well as the contents of the draft resolution and recommendation.

My experience as your Human Rights Commissioner has only confirmed these findings and the vicious circles caused by a coercion-based mental health approach.

For example, I have seen first-hand how the lack of community-based, voluntary mental healthcare services result in even more coercion and deprivation of liberty. This causes tremendous suffering to the individuals concerned, at great cost to society.

I have seen how a coercion-based mental health system perpetuates the isolation of the very persons who need the support of their community the most, which in turn fuels more stigma and irrational fear.

I have seen how the supposed safeguards to protect persons with psychosocial disabilities from arbitrariness are reduced to mere formalities. This is because these safeguards function in a legal system where these persons do not even have a chance to have their voices heard. At their worst, such safeguards do little more than give a good conscience to those who are in fact taking part in human rights violations.

What coercion in mental health ultimately does is to silence and isolate those who are already suffering from mental illness. Crucially, it reduces our ability to listen and respond to their needs.

Historically, rejection and isolation has been our default response to persons with psychosocial disabilities. This ingrained fear is still very strong in us and is fuelling the prejudice that they are automatically a danger to themselves and to society, against all available statistical evidence to the contrary.

The Rapporteur points to the fact that there is not enough scientific evidence to prove the usefulness of coercion in reducing harm, whereas there is abundant evidence for the harm – and sometimes irreparable harm – that involuntary placement and treatment can cause for patients.

Evidence also suggests that recourse to coercion has often more to do with habit, a culture of confinement and the absence of alternatives, rather than therapeutic necessity.

Let me be very clear: I do not want to belittle the positive impact that psychiatrists can have in the well-being of their patients, and mental health is a key component of well-being. The Rapporteur herself refers to the negative impact of involuntary measures on the service providers. There are service providers for persons with disabilities who want to stop using coercion, but do not have or do not know about alternatives.

I agree with the Rapporteur and the Committee on Social Affairs, Health and Sustainable Development that a mental health system which fully integrates a human rights-based approach is the best way to avoid human rights violations in the future.

This requires that we respect the voices, sometimes conflicting voices, of persons with psychosocial disabilities who are also patients.

We should hear their stories, and not only listen to the psychiatrists or judges who take decisions to deprive them of their liberty and treat them against their will, even when they are convinced that these decisions are supposedly in the best interest of the persons. We should also carefully listen to the solutions patients propose and to the wishes they express in relation to mental health care services.

We should question our assumptions about how a mental health system should operate. I find the mention in the report of so many successful and promising practices such as the Open Dialogue approach to Acute Psychosis, mobile mental health units or advance directives very encouraging.

We should reduce the stigma and barriers around the provision of mental health care so that persons are empowered to seek and fully participate in their treatment as early as possible.

The UN Convention on the Rights of Persons with Disabilities (the CRPD) is one of the greatest achievements in human rights of recent years. It was the result of a tireless campaign by persons with disabilities, including psychosocial disabilities, to have their voices heard. What these voices are saying is perfectly rational and human rights-based: they say that they want to be treated equally and not to be discriminated on the basis of their disability.

It is mostly thanks to the CRPD that we are now having this debate and facing up to the entrenched discrimination built into our legal and mental health systems.

This brings me to the subject of the draft Recommendation put to you today and the role of the Council of Europe. My predecessor and I have explained on many occasions, including before this Assembly, why we are against the Additional Protocol to the Oviedo Convention currently being drafted, so I shall not repeat myself today.

Suffice to say that I think that such a Protocol, rather than protecting people with psychosocial disabilities, would set the clock back by legitimising an outdated approach, creating a lot of legal uncertainty and putting the Council of Europe on an unprecedented collision course with the global human rights protection system.

But the work on the protocol has the merit of having brought this debate into our organisation. It is time that the Council of Europe adopts a more holistic approach to the rights of persons with

psychosocial disabilities, including their right to (mental) health. The European Convention on Human Rights cannot be considered the only and ultimate benchmark on the issue of involuntary placement and treatment of persons with psychosocial disabilities, as the CRPD has brought in much more up-to-date and comprehensive standards on the rights of persons with psychosocial disabilities.

I fully endorse the draft Recommendation to the Committee of Ministers to redirect drafting efforts from an Additional Protocol towards guidelines on ending coercion in mental health. I believe that this could give us an opportunity to finally bring our standards into the 21st century when it comes to this very complex issue.

It is our duty to encourage and support our member states to embark on a human rights-based transition of their mental health systems to reduce and end coercion, which is long overdue.

We have to start today, we have to start now.

Thank you for your attention.