

Culture, mental illness and human rights

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Outline of presentation

- Definition of concepts
- Historical notes
- The way forward

Culture

There are many ways of defining culture – e.g.
Culture is a set of traditions and moral prescriptions held by a group of people who share history and speak the same language

Human rights

Human (positive and negative) rights include subaspects of the right to life (food, health care, housing, protection against abuse and loss of life), the right to decide about directions of one's life and the right to equity

Mental disorder

A syndrome characterized by clinically significant disturbance in an individual's cognition, emotion regulation or behaviour that reflects a dysfunction in the psychological, biological or developmental processes underlying mental function

Culture and human rights

- Cultural (and religious) minorities must accept the rules of behaviour given by the majority culture
- Culturally inappropriate behaviours are sometimes treated as an illness, sometimes as an oddity and sometimes as a crime.

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Historical notes

- Individuals and those who were in every way equal to them always had the basic and the evolved rights
- Those whom they considered less valuable (i.e. outside of the limitation of the «human status») had proportionately fewer rights

Historical notes

- The «less valuable» – i.e. of a «lesser human status» included at various times various groups e.g.
 - slaves,
 - invalids
 - the mentally retarded
 - pagans
 - enemy soldiers
 - women
 - men
 - Infants (variously defined)
 - criminals
 - minorities

Historical notes

- Some of the limitations of the human status took a long time to weaken: the example of slavery speaks for itself
 - Ashoka abolishes slavery in the 3rd Century (b.c.)
Iceland in 1117 Republic of Korcula 1214;
 - the US constitution excluded slaves from all the other «man born equal» (slaves were seen as not having the same «human status»)
 - The *Slavery, Servitude, Forced Labour and Similar Practices Convention* proposed in 1926 was adopted by the UN after 31 years of debate in 1957; yet slavery still persists in many places

Historical notes

- Even in most recent times progress has been uneven – as witnessed by the vigorous discussion about the clause 18 of the Universal Declaration of Human Rights 1948 on the rights to the *freedom of thought, conscience and religion*

Historical notes

- Different countries placed emphasis on some of the human rights while giving less attention to others: globalization challenges these differences
 - In many less industrialized countries the highest value has been given to rights related to family, tradition, lineage and the community
 - Individual self-determination and independence of thought and action has priority in some of the industrialized countries
 - In some countries political freedom is not considered a right and value is given to food, shelter and employment

Historical notes

- The development of human rights particularly over the past two centuries was basically the expansion of the definition of «human status»
- If all the «basic» human rights – such as the right to life - were to be universally accepted there would for example
 - Never be any more war,
 - Capital punishment would be banned
 - All capital would be distributed evenly
 - And.... many dreams would become reality

Historical notes

- It is unlikely that governments will at any time accept to grant all human rights to all citizens but progress is possible, thus
- Most recently the «expansion of the human status» has become faster and begun to include the mentally ill, people of the other gender, some of those of different races and religions,

Documents related to human rights

- Conventions
- Declarations
- Non-binding international instruments
- Regional human rights instruments
- Non-binding standards and guidelines

Conventions

- United Nations' Convention on the **rights of persons with disabilities**
- United Nations' Convention on the **rights of the Child**
- United Nations' Convention **against Torture** and other cruel inhuman or degrading treatment or punishment
- United Nations' Convention on the elimination of all forms of **discrimination against women**
- International Covenant on **civil and political rights**
- International Covenant on **economic, social and cultural rights**
- International covenant on the elimination of all forms of **racial discrimination**

Declarations

- Universal **Declaration of Human Rights** (1948)
- Universal declaration on the **human genome** and human rights
- The Standard rules on the equalisation of opportunities for **persons with disabilities**
- Principles for the **protection of the Persons with mental illness and improvement of mental health** care (UN 19/91)
- World Programme of Action concerning **disabled persons**

Regional instruments: Europe

- European convention on **Human rights**
- European convention on the Prevention of **torture**, degrading treatment and punishment
- **Recommendations** of the Council of Europe
- Convention on **Human rights and biomedicine**
- European **Social Charter**
- **Mental Health** Declaration for Europe (WHO)
- Documents of **the European Union** (inter alia Treaties of Amsterdam, Lisbon, Charter of Human rights, European Pact for Mental Health)

Regional Instruments (contd)

- American Convention on Human rights
- Inter-American convention on the elimination of of discrimination of persons with disabilities
- Banjul African Charter on human and People's rights
- The Arab Charter on Human rights

Non-binding standards guidelines and declarations

- World Health Organization Decisions and resolutions
- WMA declarations of Helsinki, Tokyo, and on Ethical issues concerning patients with mental illness
- WPA declarations of Hawaii (1977), Athens (1989), Madrid (1996)
- WFMH Declaration of Luxor on human rights and mental health (1989)
- CIOMS guidelines e.g. on ethics

The dark side

- Most of the documents and guidelines are not well known nor used. Even the UN Conventions are not universally implemented nor is their use evaluated
- Many of the formulations in the official documents are vague and allow different interpretation – such as for, example, the right to work

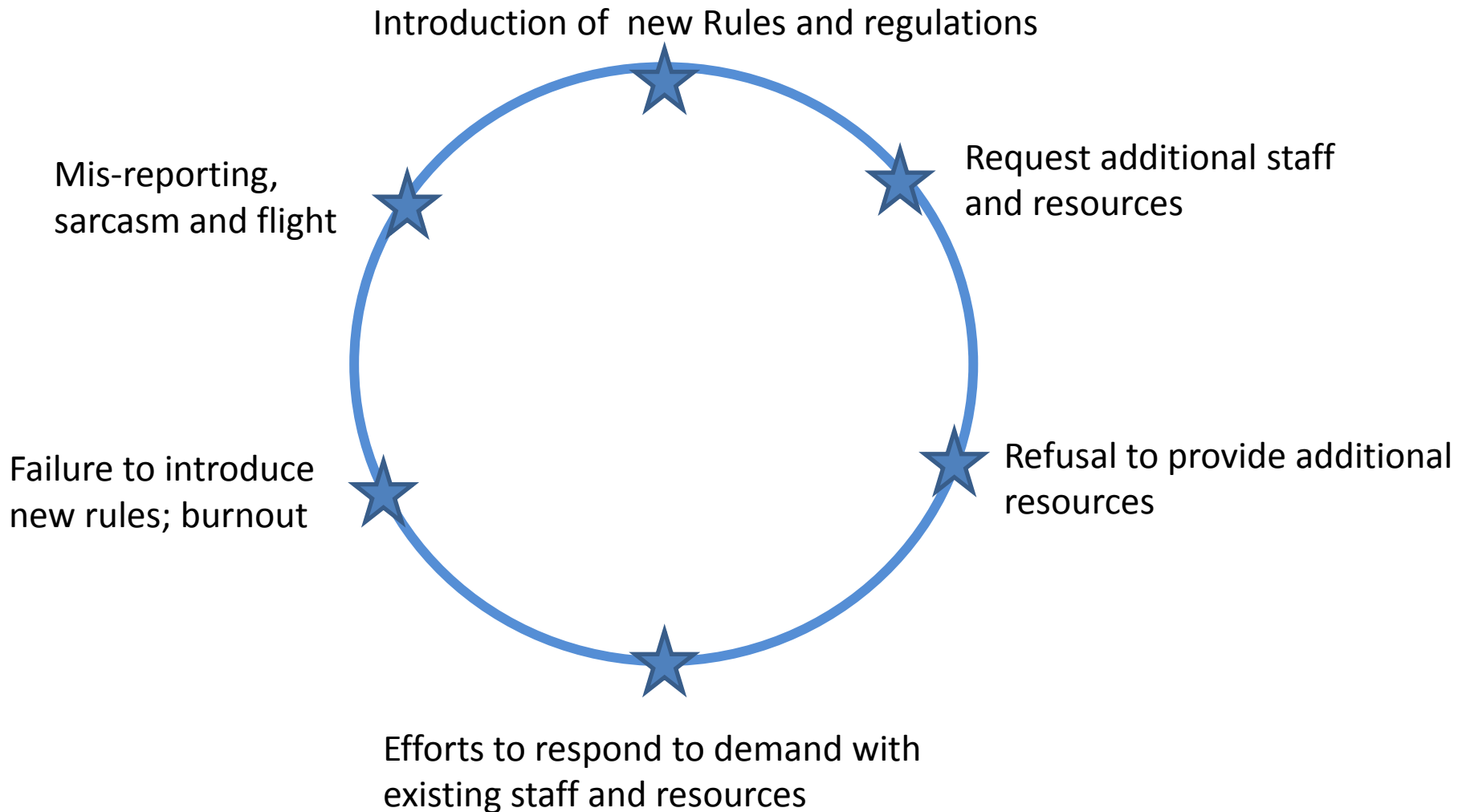
The dark side

- Some of the formulations included in the documents are presenting an obstacle to the provision of appropriate care (e.g. the clause about the coercive treatment in the UN Convention CRDP)
- Some of the secondary documents are inappropriate for countries with specific features

The dark side

- Some of the rules grow in complexity and discourage action, particularly of the younger health workers (e.g. the cost and complexity of ethical reviews)
- The implementation of most of the rules and guidelines require a significant increase of resources which are not made available

The vicious circle or virtuous rules



The dark side

- The failure of the *Tamil Nadu Integrated Nutrition Programme* (providing health care, nutritional supplements and nutritional education during pregnancy) exemplifies why many human rights rules do not get implemented
- The efforts to get parity of reimbursement for mental health care of the professional associations in the USA exemplifies the frequent distance between reality and principles

The dark side

- Advocates of human rights for the mentally ill often neglect to highlight the importance of fulfilling human duties which contributes to self-stigmatization
- Most of the rules and regulations that are supposed to support the realization of human rights do not have a «sunset clause» and thus they continue existence although obsolete.

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The way forward

1. Develop a consensus on a hierarchy of rights, internationally, nationally and locally
2. Replace emphasis on equality by a search for equity
3. Introduce education about human rights and their realization in schools of health personnel,
4. Raise awareness of human rights of the mentally ill coupled with specific requirements to the government and other power structures

The way forward

5. Develop health and mental health services in harmony with the need to protect human rights of the mentally ill
6. Harmonize the action of social services with the need to protect the rights of the mentally ill and ensure the fulfilment of their duties.
7. Review legislation and other rules and provide them with sunset clauses.

1. Consensus on the hierarchy of rights

In view of the differences of cultural and socioeconomic conditions in countries of the world it would be important to reach consensus among all stakeholders about the priority of rights which should be satisfied.

Outline for a discussion of a hierarchy of rights

- Provision of life saving care and of subsequent best treatment options
- Respect for the patients' dignity and support to the maintenance of their self-respect
- Protection against any type of abuse, degrading treatment and punishment
- Access to legal support in the realization of rights

Outline for discussion of hierarchy of rights

- Support to the provision of the elementary needs of patients and their families/carers
- Support to self determination of the patient
- Ensuring confidentiality and measures to avoid stigmatization
- Support to social inclusion
- Promoting recovery orientation of mental health services

2. Replace quest for equality with that for equity

- Mentally ill people often lack social skills and knowledge about the facilities which they might use
- People with mental illness often suffer from comorbid physical illness for which they receive no treatment
- Stigma and consequent discrimination in all walks of life presents a special burden for the mentally ill

2. The quest for equity

- In view of the nature of their illness and the environmental and other disadvantages people with mental illness should not receive as much support as others do but as much as is necessary to improve their health and life.

3. and 4. Education and raising awareness

- Education about mental illness and the rights of the mentally ill should be primarily directed to decision makers, the media and the judicial system
- Awareness raising should include specific action thus providing examples of possible interventions

5. Organization of services in harmony with human rights requirements

- Replace custodial culture of services with therapeutic culture (e.g. by rewarding initiative, orientation to social functioning, recovery goals etc)
- Introduce and maintain non-stigmatizing behaviour of staff
- Refuse both paternalism and abandonment as therapeutic strategy

Conclusion

- Significant progress has been achieved in the formulation and understanding of the human rights of the mentally ill. In most parts of the world this has however not led to a significant change in the realization of these rights
- The human rights of the mentally ill cannot be fully realized unless services for the mentally ill are better equipped and have more qualified staff, a better organization and more material resources

Conclusion

- Although a higher level of satisfaction of the human right of the mentally ill requires more resources much can be done in the current situation. Consensus among stakeholders and their determination to act are elementary and necessary ingredients for such an improvement.