

Towards a WPA Position Document on the Human Rights of Older Adults with Mental Health Conditions

К документу с изложением позиции Всемирной психиатрической ассоциации по вопросу соблюдения прав пожилых людей с психическими расстройствами

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Short communication

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ABSTRACT

The increasing number of older adults in countries across the world is a huge challenge to those that are in charge of promoting, protecting, and implementing their human rights. This task is particularly difficult in the absence of a strong international framework addressing the principles required to guide the actions to combat all human rights violations. The existence of such a specific framework for older adults with mental health conditions is justified in view of the particular vulnerability of this section of the population by virtue of societal ageism, stigmatization, exclusion, as well as the disability and dependency which mental health conditions in old age may confer. The present article is a development of a previous statement by the International Psychogeriatric Association and the World Psychiatric Association Section of Old Age Psychiatry. As there is a call to all organizations to support efforts to combat Human Rights violations among older adults, a text will be submitted to the Executive Committee of the World Psychiatric Association to approve an official position statement on Human Rights of Older Persons with Mental Health Conditions.

АННОТАЦИЯ

Растущее число пожилых людей во всех странах мира является большой проблемой для тех, кто отвечает за продвижение, защиту и реализацию прав этой группы населения. Задача дополнительно усложняется ввиду отсутствия устоявшейся международной системы, определяющей принципы работы организаций, борющихся за права человека. Необходимость создания специфической для пожилых людей с психическими расстройствами системы особенно оправдана ввиду повышенной уязвимости этой группы населения из-за дискриминации по возрастному признаку, стигматизации, изоляции, а также инвалидизации и зависимого положения, с которыми могут столкнуться люди пожилого возраста с психическими расстройствами. В настоящей статье развивается ранее изложенная позиция Международной психогериатрической ассоциации и Секции психиатрии позднего возраста Всемирной психиатрической ассоциации. Поскольку призыв поддержать действия, направленные на борьбу за права пожилых людей, обращен ко всем организациям, текст будет представлен исполнительному комитету Всемирной психиатрической ассоциации для утверждения официальной позиции в отношении соблюдения прав пожилых людей с психическими расстройствами.

Keywords: *old-age mental health; old-age psychiatry; human rights of older adults; convention on the rights of older people*

Ключевые слова: *психическое здоровье в пожилом возрасте; психиатрия позднего возраста; права человека в пожилом возрасте; конвенция по правам пожилых людей*

INTRODUCTION

“There is no older adults’ mental health in absence of respect for the Human Rights principles”. This statement is the leitmotiv of this article, which intends to determine the basis of a World Psychiatric Association position statement on Human Rights of Older Adults with Mental Health Conditions, as proposed by the Section of Old Age Psychiatry.

The rapid ageing of world population will contribute to increase the proportion of persons aged 65 years and more from 9% in 2020 to 16% by 2050, when 1.5 billion people will be over 65 years. This growth is not restricted purely to developed countries [1]. It is estimated that approximately 20% of these persons will have mental health conditions such as dementia, depression, anxiety, and substance abuse, often complicated by physical and psychosocial comorbidities culminating in disability.

According to the Global Burden of Diseases 2019 [2], mental disorders remained among the top ten leading causes of burden worldwide. In people aged 50 and over, depressive and anxiety disorders are the leading causes of disability-adjusted life-years (DALYS) and years lived with disability (YLDs), with all ages included (and this without the inclusion of neurological disorders, such as dementia, and substance abuse disorders).

One must recognize that in a world of limited resources and with the majority of mental health systems around the globe in crisis, the gap between older people’s needs in terms of health and well-being and the offer of support is increasing sharply, accompanied by several violations of basic human rights. Healthy ageing implies much more than just the satisfaction of older persons’ needs: it also includes support for the ageing process throughout their lifetimes. In this sense, the refusal to invest in mental health may contribute to a reduction in economic outcomes. 17% of the global workforce is aged 55 or over, so supporting the mental health of these older workers may help to sustain the economies of families and nations alike, and reduce the burden of diseases [3, 4].

Older adults may experience multiple jeopardies of discrimination and stigma conferred by age itself (ageism) and by having mental disorders (“mentalism”) [5]. Older adults with mental health conditions are often segregated in institutions where they have to live far from other members of the community, their voices being ‘invisible’, with no support to protect themselves against abuse, neglect, or violence. These victims of ageism and

mentalism are often sidelined and disproportionately excluded from all kinds of protection, including those sustaining life: this was particularly observed during the COVID-19 pandemic [6]. This “grossly unmet need” for rights-based mental health and psychosocial care is the result of a combination of factors, including the failure to incorporate the voices of those most affected in health and government policy and inadequate environmental, social, home, and family support [7]. The voices of older people themselves are often missing in health and policy interventions that are, ironically, intended for them.

A global organization able to articulate the needs of older adults experiencing the highest disease burden remains absent. The non-existence of an institution with the capacity to ensure the protection of that rights of older adults may be understood as being a consequence of the fact that when the United Nations and the WHO were created in 1945 and 1948, respectively, demography was not in favor of older adults. The global life expectancy at that time was still quite low, and the number of older adults worldwide was not particularly significant. This has dramatically increased due to improved life-expectancy: if in 1950 there were seven children aged less than 15 for per older adult, by 2050 this ratio will be in the region of 1:1. In terms of sheer numbers, this appears concerning as the population which is vulnerable and needs human rights protection is massive, and indeed is continuing to grow.

TOWARD A WPA POSITION STATEMENT

It is now necessary more than ever that all organizations able to advocate and act to protect the Human Rights of Older Adults with Mental Health Conditions take a clear position on this matter. The International Psychogeriatric Association (IPA) with the World Psychiatric Association Section of Old Age Psychiatry (WPA-SOAP) have already published a joint statement [7]. The challenge now is to invite the WPA to publish a position statement on this same matter.

Key to the WPA’s mission and work is ensuring the ethical treatment and care of those people around the world suffering from mental health conditions and, thus, the ethical responsibilities of those providing treatment. Although there may be cultural, social, and national differences, the need for ethical conduct and continual review of ethical standards is universal. WPA has developed ethical guidelines for psychiatric practice and position statements on topics relevant

to psychiatric practice and the role of psychiatrists. The position statements are prepared by the WPA Executive Committee. These would present the views of the WPA on public health and social matters relevant to mental health, as well as the functioning of the WPA itself. The WPA is a global association representing 145 psychiatric societies in 121 countries, bringing together more than 250,000 psychiatrists. The association has formal links with the WHO. According to the Journal Citation Reports, the WPA's official journal, *World Psychiatry*, is the Number 1-ranked journal in psychiatry and in the Social Science Citation Index.

Two position statements have already been published in October 2017 by WPA related to the theme of Human Rights. The first concerns the WPA Bill of Rights for Persons with Mental Illness [8]. In this statement, the WPA urges ALL Governments to ensure that persons with mental health conditions are not discriminated against based on their mental health status, and are treated as full citizens enjoying all rights with equality and respect. With this statement, the WPA supported the efforts of the international community as expressed through various international human rights Covenants and Conventions and, more particularly, the United Nations Convention on the Rights of Persons with Disabilities (CRPD). The WPA still reiterates that persons with mental health conditions have the capacity to hold rights and exercise their rights and should, therefore, be treated with dignity, equality, and respect.

The second position statement is the WPA Position Statement on the Rights of Persons with Disabilities [9]. The UN Committee on the Rights of Persons with Disabilities indicated its belief that the CRPD precludes any non-consensual hospitalization or treatment, or the appointment of a substitute decision maker for an incapable person, under any circumstances whatsoever. It bases this belief on the view that "the existence of an impairment...must never be grounds for denying legal capacity." The WPA has found the interpretation of the CRPD to be unconvincing and potentially extremely harmful to persons with disabilities themselves.

Throughout the position statement, the WPA sustains the strong belief that non-consensual hospitalization and treatment and the use of substitute decision making have appropriate roles to play in protecting the interests of persons with severe mental disorders, when used in appropriate cases, with careful oversight and rigorous

procedural protections. The WPA strongly supports efforts to assist persons with decisional impairment to recover capacity, so that they can make their own decisions with autonomy. Hence, the WPA requested that the UN Committee reconsider its interpretation of the CRPD, and recommended that subsequent amendments to the CRPD clarify the importance and legitimacy of protecting people with severe mental disorders when they lack the capacity to defend their interests or protect themselves.

The CRPD, which is celebrating 10 years of operation, was a crucial step towards protecting the Human Rights of People with Disabilities. It is regretful that the authors of this Convention thought it unnecessary to introduce a specific article on older adults with disabilities. There is one on Women with Disabilities (Article 6) based on the recognition that women and girls with disabilities are subject to multiple forms of discrimination, and in this regard shall take measures to ensure the full and equal enjoyment by them of all human rights and fundamental freedoms. There is another article concerning Children with Disabilities (Article 7) that ensures the full enjoyment by children with disabilities of all human rights and fundamental freedoms on an equal basis with other children. This absence of a specific article protecting the interests of older adults is another argument to advocate the establishment of a specific convention on the rights of older people [10, 11].

GENERAL PRINCIPLES OF HUMAN RIGHTS OF OLDER ADULTS WITH MENTAL HEALTH CONDITIONS

In a previous consensus statement [5], the WPA Section of Old Age Psychiatry (WPA-SOAP) has recognized that there are existing frameworks outlining Human Rights Principles for Older People [12, 13] and for people with mental illnesses [14]. It was also considered in a previous WPA-SOAP consensus statement [5] that several health professional organizations have developed codes of practice that embody ethical principles and human rights. However, the rights of older people under these documents have not been actualized due to ageism, systemic inertia, mentalism, and failure to recognize the specific needs of older adults with mental health conditions. The existence of such a specific framework for older adults with mental health conditions is justified in view of the particular vulnerability of this section of the population by virtue of societal ageism, stigmatization, exclusion, as well as the disability and dependency

which mental health conditions in old age may confer. An international convention could potentially provide a legal framework for the recognition, protection, and implementation of human rights among older people. It is a collective responsibility of all related organizations/bodies to support and call for such a convention.

The WPA-SOAP consensus statement [5] proposed the following general principles, which should underpin any such framework:

- *Independence.* Older adults with mental conditions have the right to contribute usefully to society and to make their own decisions on matters affecting their lives and deaths;
- *Safety and dignity.* With this principle, it was recognized that older people with mental health conditions have the right to live safely, with adequate food and housing, free of violence, abuse, neglect, and exploitation
- *Care and treatment.* This principle affirms the right of older people with mental health conditions to benefit from family and community care and protection and to be given access to healthcare to help them maintain or regain their optimum level of function and well-being and prevent or delay deterioration.

PROPOSAL FOR A WPA POSITION STATEMENT ON HUMAN RIGHTS OF OLDER ADULTS WITH MENTAL HEALTH CONDITIONS

The following text is a draft that will be submitted to the WPA Executive Committee to propose a final WPA position statement on Human Rights of Older Adults with Mental Health Conditions.

The World Psychiatric Association (WPA), a global organization representing nearly 250,000 psychiatrists, urges ALL Governments and Intergovernmental agencies to ensure that older persons with mental health conditions are not discriminated against based on their age and on their mental health status and are treated as full citizens enjoying all rights on an equal basis with other citizens. The respect of basic Human Rights is essential to ageing with dignity. Human Rights sustain the ethical and the legal framework to support healthy ageing and to protect those whose autonomy and self-determination may be compromised by the presence of mental health conditions.

The WPA supports the efforts of the international community as expressed through various international rights covenants and conventions, but recognizes the limitations of these documents in actualizing the rights of older people due to ageism, systemic inertia, and failure to recognize the specific needs of older adults with mental health conditions. Critical health perspectives and social considerations tailored to the needs of older people are warranted to safeguard their human rights and promote health equity.

The WPA reiterates that older adults with mental health conditions are owed exercise of these rights and to be treated with respect and dignity on an equal basis with other citizens. Human Rights most relevant to older persons' mental health include, but are not limited to, the rights to (not in any hierarchical order) [7]:

1. *enjoyment of the highest attainable standards of affordable mental and physical health, including at the end of life [15], and respecting specific needs that arise on account of disability [16];*
2. *autonomy with equal recognition before the law, including the right to equal legal capacity, expression of will and preferences, with support for decision-making when required [5, 17];*
3. *dignity and quality of life [18, 19];*
4. *an ageism-free world [20];*
5. *the absence of any distinction based on gender [21]*
6. *safeguarding against undue influence and abuse, freedom from cruel, inhumane, degrading treatment, and punishment [5, 17];*
7. *living independently and being included in the community, participating in the cultural and social life of the community [22];*
8. *making contributions to the community through work or other activities, and to be protected during these activities as any other citizens [4];*
9. *provision of adequate income to meet basic needs for food, housing, clothing, and other necessities [4, 22];*
10. *accessible, integrated, affordable housing, the right to which is protected even when legal capacity is compromised [22];*
11. *living in a safe environment, including protection against climate negative consequences on mental health [23];*
12. *accessible leisure and education as available to other citizens;*
13. *respect for family, relationships, sexual health, and the right to intimacy [24];*
14. *confidentiality and privacy; and*
15. *to practice a spiritual life of one's choosing [25].*

WPA has identified key strategies to promote, sustain and protect these rights including 8, 9:

- the publication of a United Nations convention on the rights of older persons that could provide a framework for limiting social and economic inequities, insecurities and vulnerabilities; to promote opportunities to improve older persons quality of life and to articulate further developments in the future;
- the creation of an international agency with capacity and resources to lead and coordinate UN activities related to human rights of older persons, to propose guidance to promote physical, mental, social wellbeing and related political and economic aspects. This agency could offer support to national governments, collaborate with the efforts of civil organizations working in the field and implement policies, programmes and services;
- active collaboration and joint advocacy by all national and international organizations working for the rights of older people, especially with respect to sensitizing the Governments for action.

WPA strongly recommends integration of future generations of older persons in all such developments related to the Human Rights of older persons in coordination with other agencies to support the humanity-enhancing need to age well. An international convention will go a long way in providing a legal and systemic framework for protecting the human rights of older adults and thus facilitate healthy ageing. WPA has identified key strategies to promote, sustain and protect these rights including:

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