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- POLICY DEPARTMENT -

NOTE

ON THE TREATMENT OF MENTALLY DISABLED PEOPLE IN AFRICA

Abstract:

This note deals with the situation of mentally disabled and ill people in Africa, as a human rights issue.

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1. Introduction

"*Where there are limited resources it may be seen as economically irresponsible to give an equal share of resources to a disabled child who is considered unlikely to be able to provide for the family in future. [...] Disabled people are often given the lowest priority for any limited resources, including food, clean water and land.*"[1]

The stark statistics of living conditions for the mentally disabled are quite shocking: 90% of mentally handicapped children in Africa die before they are five years old and 70% of disabled adults are unemployed and live in poverty.

The issue is, however, on the international agenda. The United Nations, the World Health Organisation (WHO), the World Bank, the International Labour Organisation and the European Union have all adopted actions, recommendations or conventions on the question.

Although none of the Millennium Development Goals refers to the situation of disabled people the World Bank has chosen to link their situation to the 8th goal on the Global Partnership for Development. The World Bank launched a Global Partnership for Disability and Development (GPDD), after a disability and development conference in 2002, to combat social and economic exclusion and impoverishment of people with disabilities, and their families, in developing countries. One of the goals of the World Bank initiative is to collect data.

2. An issue of definition

In its Guidance Note to the Delegations, the Commission acknowledges that "*people with complex dependency needs and intellectual disabilities, as well as their families, require particular action by societies as they are often the most forgotten among disabled people*".

It is difficult to have a detailed approach towards the question of human rights and mental disabilities because it is difficult to isolate mentally disabled people from the mentally ill or the physically disabled in most of the legislation or actions taken by public or private organisations. Mentally disabled people are included with the mentally ill or with the disabled. In addition, no wide-ranging statistics are available on the mentally disabled. In many communities treatment is similar for both mental illness and mental disability. The stigma and discrimination are similar whether the person is physically disabled or mentally ill.

A positive feature is that the mental disability issue can be dealt with both through treatment for mental health and for physical disability.

[1] Guidance Note on Disability and Development for EU Delegations and Services, *European Commission*, July 2004.

WHO definition of mental retardation:

Mental retardation is a condition of arrested or incomplete development of the mind characterized by impairment of skills and overall intelligence in areas such as cognition, language, and motor and social abilities. Also referred to as intellectual disability or handicap, mental retardation can occur with or without any other physical or mental disorders. In addition to genetic factors, injuries at birth and brain infections, a common cause of mental retardation is iodine deficiency, which is the single largest cause of preventable brain damage and severe mental retardation.

***Prevalence**: It is estimated that the overall prevalence of mental retardation is between 1% and 3%. It is more common in developing countries because of higher incidence of injuries and deprivation of oxygen at birth and early childhood brain infections, all of which cause retardation.*

Mental retardation can be prevented. Actions to prevent retardation include:

- *Iodization of salt to prevent iodine-deficiency mental retardation (cretinism);*
- *Abstinence from alcohol by pregnant women to avoid fetal alcohol syndrome;*
- *Dietary control to prevent mental retardation in people with phenylketonuria;*
- *Environmental control to prevent mental retardation due to poisoning from heavy metals such as lead;*
- *Prenatal genetic testing to detect certain forms of mental retardation such as Down's Syndrome.*

Treatment goals:

- *Early recognition and optimal utilization of the intellectual capacities of the individual by training, family education and support;*
- *Vocational training and opportunities for work in protected environments;*
- *Training of parents to act as teachers and trainers of daily life skills;*
- *Support groups for parents.*

3. A human rights issue

The way that mentally disabled people are treated should be a human rights issue, not only a medical or social one.

A mentally disabled person has to suffer more human rights abuse - all the abuse inflicted upon the mentally ill and the physically disabled. In addition, disabled women, disabled children and the disabled from minority groups suffer from more than one form of discrimination. These people, who have to face discrimination in most societies, are even more vulnerable to human rights abuses when they are disabled.

This is a vicious circle because people experiencing mental problems are also more vulnerable than others and, as a result, those persons are at a relatively higher risk to have their human rights and freedoms violated. The WHO drew up a list of human rights that should be carefully considered:

- the right not to be discriminated against (e.g., in access to health care, social services or employment);
- the right to liberty (e.g., not to have restrictions automatically imposed on freedom of movement through measures such as detention);
- the right to integrity of the person (e.g., not to be unduly subjected to mental or physical harm. Typical violations include treatment that ignores the requirement to obtain either the patient's informed consent or a surrogate decision-maker's, and sexual abuse. People with disabilities have a two to three times higher risk of acquiring HIV/Aids);
- the right to control one's own resources (e.g., one should not be automatically removed on the mere grounds of status as a mental patient, but should be judged on his or her actual ability to manage resources).

Mentally disabled people are also often deprived of their civil rights.

How to address human rights abuses?

Like any other citizen a mentally disabled person must have her/his rights enforced. Specific legislation could be an advantage as it would be more understanding of the problems faced by mentally disabled people. But the WHO, which encourages and supports the adoption of such legislation[1], warns against their content: most of the existing ones focus on the confinement of people in psychiatric institutions and fail to protect their human rights. Indeed, in some countries, mental health legislation contains provisions that lead to the violation of human rights. Specific legislation regarding mentally disabled people or people with mental disorders should on the contrary guarantee their access to health care, education and employment. The most important aspect should be the fight against discrimination and the free choice of care, with the patient's consent in almost all cases.

- The United Nations Convention on the rights and dignity of persons with disabilities

In December 1993, the UN General Assembly adopted the *Standard Rules on the Equalisation of Opportunities for Persons with Disabilities*. The rules represent a commitment from governments to take action regarding awareness-raising, medical care, rehabilitation, support services as preconditions for equal participation and professional training for personnel providing health and rehabilitation.

General Assembly resolution 56/168 of 19 December 2001 established an Ad Hoc Committee "*to consider proposals for a comprehensive and integral international convention to promote and protect the rights and dignity of persons with disabilities, based on the holistic approach in the work done in the fields of social development, human rights and non-discrimination and taking into account the recommendations of the Commission on Human Rights and the Commission for Social Development*."

The First Session of the Ad Hoc Committee took place in summer 2002. In 2003, a Working Group, composed of representatives of Member States, non-governmental organizations and a national human rights institution, was established to prepare a draft convention, submitted in May 2004 to the Member States as a basis for their negotiation. The Ad Hoc Committee will

[1] The WHO has adopted a Mental Health Policy and Service Guidance Package to help its Member States to design mental health legislations respectful of human rights, as well as a Disability and Development Action Plan 2006-2011 to enhance the quality of life for persons with disabilities.

convene for its Eighth Session from 14 to 25 August 2006, with a view to finalising its negotiations based on a revised draft text.

The draft convention recalls *i.a.* the principles of equality and non-discrimination, the right to life, freedom from torture, from violence, freedom of expression, the right to education, to participation in political and public life, the right to health and to work.

- Best practices:

The WHO also listed the best practices by developing countries. Here are the African examples of best legislations for mental disorder.

Ghana: new laws to promote human rights and access to quality care

Mental health legislation can play a vital role in preventing violations and discrimination against people with mental disorders. Legislation can promote human rights and encourage the autonomy and liberty of people with mental disorders. It can also support access to quality mental health care and help people integrate into the community.

With WHO assistance, the Ghanaian Government has drafted a new mental health law. Ghana's previous law emphasized institutional care, which can lead to the serious mistreatment of people with mental disorders. The new law stresses access to in-patient and out-patient community care, and promotes voluntary admission and informed consent to treatment. Once adopted, Ghana's new law will fight discrimination and stigmatization, and help to protect the human rights of people living with mental disorders.

Lesotho: new national policies to improve mental health

A mental health policy sets a vision and clear direction for improving mental health in a population. A well-articulated policy and action plan helps to reduce inefficiencies and fragmentation in the health care system.

Lesotho is developing a mental health policy and plan with the support of WHO. Lesotho's vision for 2020 is a high standard of mental health for all people, maintained through accessible services that uphold and protect the human rights of people with mental disorders. Specific objectives include a move towards a system of community-based care, integrating mental health services into general care, and a reduction in the number of people treated for mental disorders in institutions and correctional services. The national policy emphasizes the need to provide adequate mental health care and support to people with 'physical' disease including those living with HIV/AIDS.

Namibia: implementing national polices to improve mental health

On 28 October 2005, Namibia launched their first mental health policy. With the assistance of WHO, the government will be implementing this policy through the strategies and interventions identified within their five year action plan.

Namibia's policy provides a strong framework for the delivery of mental health services and articulates the roles and responsibilities of the different stakeholders involved in the promotion

and protection of mental health. The key challenge in implementing the policy will be the need to change the attitudes of individuals, families, health professionals and the general public. Namibia plans to give people the knowledge needed to deal with mental and neurological conditions through training and education.

Other priority strategies include the integration of the mental health services with existing health services, and the development of a network of services and referral systems to help people with mental disorders access the treatment they need.

Source *World Health Organisation*

4. Link between disability, poorness and malnutrition

Another vicious circle exists between disability and poverty. Poor people can become disabled because of lack of good nutrition or appropriate health care. Nutritional deficiencies have heavy consequences on children's mental development. And disabled people are most of the time among the poorest without adequate access to health, education and employment.

5. What the EU could do?

- When enforcing the Guidance Notes, the delegations should stress the mentally disabled situation
- A real inclusion of disabled people in the development programmes, mainstreaming, especially for women and children
- But the issue should also be dealt in the Country Strategy Papers
- Better support to health system, with an emphasis on health care and support for mentally disabled (through budget aid)
- Take into account the needs of children mentally disabled in education
- Support the human rights organisations acting in favour of the disabled people's rights through the EIDHR
- Support to NGOs through the Non State Actor thematic programme (still on negotiations): the expertise of NGOs in the South should be privileged when dealing with community care.

Some of these recommendations were asked by the EP in its resolution on disability and development, adopted on 19 January 2006. The Commission already answered that the solution comes from the partner countries themselves but that it will take into account the Guidance Note when programming the 10th EDF.