A Report on Institutionalization of Persons with Psychosocial Disabilities to Inform the Convention Against Torture Committee's Review and Preparation of Concluding Observations for Nigeria

by She Writes Woman Mental Health Initiative

Supported by the Disability Rights Fund

BACKGROUND

The COVID-19 pandemic has brought the issue of mental healthcare to the fore in global discourse on health systems. In Nigeria, the pandemic has only made more complicated what many experts described as consistent neglect of the mental healthcare subsector by successive administrations in the country.

Apart from the challenges posed by an archaic legislation - the Lunacy Act of 1958 - governing the management of mental health, coupled with poor budgetary allocations and releases by the government, the socio-economic hardship faced by many Nigerians has increased the mental health burden above tolerable levels in Nigeria.

Prior to the pandemic, statistics from the World Health Organisation (WHO) had indicated that one in every four Nigerians, that is, an average of 50 million people, is living with a mental health condition. For an estimated population of 206 million, according to the latest data by the National Bureau Statistics, WHO says one in four Nigerians, an average of 50 million people, is living with a mental health condition. According to Africa Check, Nigeria ranks 15th in the number of suicides per year, placing it in the upper indices of nations in the African continent, with a high prevalence of depression

Further studies have shown that fewer than 10 percent of those living with mental health conditions have access to mental healthcare due largely to the country's outdated laws and poor budgetary allocation to the sector. Since half of the population of Nigeria live in rural areas, they do not have access to mental health care resulting in self-medication, self-diagnosis and misunderstanding or denial of their symptoms. Many of those without help are children and adolescents.

ABUSE AND TORTURE

Mental health is so poorly understood that in some cases, people with these conditions are chained and locked up in unorthodox facilities across the country including traditional healing and religious centers. According to a 2019 report by Human Rights Watch (HRW), people in these facilities are subjected to different forms of abuse including force-feeding them medicine and herbs and whipping as part of their treatment.

Detention, chaining, and violent treatment are pervasive in many settings, including state hospitals, rehabilitation centers, traditional healing centers, and both Christian and Islamic faith-based facilities.

With support from She Writes Woman Mental Health Initiative, Human Rights Watch visited 28 facilities over a 2 year period ostensibly providing mental health care in 8 states and the Federal Capital Territory, including federal psychiatric hospitals, general state hospitals, state-owned rehabilitation centers, Islamic rehabilitation centers, traditional healing centers, and Christian churches. Human Rights Watch interviewed 124 people, including 49 chaining victims and their families, staff in various facilities, mental health professionals, and government officials. The names of the victims have been changed to protect their safety.

Deep-rooted problems in Nigeria's healthcare and welfare systems leave most Nigerians unable to get adequate mental health care or support in their communities. Stigma and misunderstanding about mental health conditions, including the misperception that they are caused by evil spirits or supernatural forces, often prompt relatives to take their loved ones to religious or traditional healing places.

People living with actual or perceived mental health conditions, including children, are placed in facilities without their consent, usually by relatives. In some cases, police arrest people with actual or perceived mental health conditions and send them to government-run rehabilitation centers. Once there, many are shackled with iron chains, around one or both ankles, to heavy objects or to other detainees, in some cases for months or years. They cannot leave, are often confined in overcrowded, unhygienic conditions, and are sometimes forced to sleep, eat, and defecate within the same confined place. Many are physically and emotionally abused as well as forced to take treatments.

A national human rights review commission established by an act in 1995 does exist in the country. However, it has no specific monitoring activities for mental health but does conduct visits to prisons.

No mental health hospitals, community-based inpatient psychiatric units or community residential facilities have review/inspection of human rights protection of patients at any time. Fourteen percent of mental hospitals staff and twenty percent of inpatient psychiatric units and community residential facilities staff have had at least one day training, meeting,

or other type of working session on human rights protection of patients in the years of assessment.

Just a few months ago, with support from Disability Rights Advocacy Fund, She Writes Woman documented and interviewed people who were detained in psychiatric facilities in Nigeria. One of such cases was Remi.

Remi was forcefully detained in the psychiatric ward of a University Teaching Hospital. Remi broke down in tears as she told me her story. This is what she said:

One of the nurses came to me and said she suspected my mom had given me a phone. . I denied it several times. She threatened to search my things and to search my body. I anticipated this would happen so I hid the phone in my panties. I pointedly refused, telling her she had no right to touch me.

She left and returned a moment later with one of the heavy-built crisis intervention staff. She ordered him to handcuff me to the bed and hold my legs while she stripped my pants off, in full view of the male guard and the rest of the patients in the ward. She took my phone and left me on the ground, naked and screaming. I felt so violated that I didn't know what to do but to keep screaming.

When we asked if she had reported this incident, Remi said, *"Report? What's the point? This was something the nurses did regularly without consequences.*

CONSENT IN MENTAL HEALTHCARE

It is a fundamental principle of medical law and ethics that a medical practitioner should obtain the informed consent of a competent patient before treating such a patient. This is in tandem with the principle of autonomy (self-determination) and best interests of a patient vis-a-vis individual human rights.

In the context of NIgerian law however, the present legal dispensation is such that circumstances exist wherein a medical professional can independently determine whether a patient lacks capacity to grant such consent, thus giving ultimate authority to the practitioner.

In 1958, Nigeria's only extant law regarding the rights of people living with mental health conditions, a holdover from the colonial era known as the **Lunacy Act** was enacted, requiring involuntary admission of people into the asylums after a medical practitioner and a magistrate have determined that the individual in question is "lunatic" or insane. Ever since this enactment, the Act has not been repealed or updated.

Attempts at passing new mental health laws in Nigeria have proved abortive. For example, in 2003, Sen. Ibiapuye Martynes-Yellowe and Sen. Dalhatu. Tafida of Rivers West Constituency in the South South and Kaduna North Constituency of the North West respectively, introduced a newly proposed Nigerian mental health bill to the National Assembly, However, the bill was withdrawn in April 2009, and later was reintroduced to the National Assembly in 2013, thus waiting to be enacted.

For 63 years, the Lunacy Act has reflected mental health practices in Nigeria. Today, this legislation is outdated and archaic, reflective of a period in human history not only when mental health was severely misunderstood but also when the treatment of people with mental healthcare needs was both inhumane and ineffective.

A core aspect of the outdated and archaic essence of the Lunacy Act is how it defines mental health conditions as "lunacy"; stripping people living with mental health conditions of individual autonomy and classifying mental health conditions in discriminatory terms, preventing them accessing the the full rights and privileges of all citizens, including the right to run for office, seek medical care, and receive inheritance.

PROGRESS

On February 17, 2020, the founder of She Writes Woman, Hauwa Ojeifo, a person with a psychosocial disability, became the first to testify in that capacity before the Nigerian National Assembly on the rights of persons with mental health conditions in the event of the public hearing of the Mental Health Bill.

Ojeifo urged lawmakers to uphold international commitments to human rights and ensure the inclusion of people with mental health conditions and psychosocial disabilities in decision-making about them in the spirit of Nothing About Us Without Us.

Hauwa's testimony together with allies stopped the Bill from passing; thereby protecting the rights of over 40 million Nigerians living with psychosocial disabilities.

RECOMMENDATIONS

In line with the above assertions, we make the following recommendations:

- Investigate all state and private institutions where people with mental health conditions live in all 36 states and Federal Capital Territory with the goal of stopping chaining and ending abuses.
- Ensure that people rescued from these facilities have access to psychosocial support and social services, including child psychologists and specialist support services for minors.
- Reiterate the need for Nigeria to uphold the fundamental rights of people with psychosocial disabilities through legislation and policies in line with United Nations Convention on Persons with Disabilities
- Train and sensitize government health workers, mental health professionals, and staff in faith-based and traditional healing centers to the rights and needs of people with mental health conditions, particularly the right to informed consent and bodily autonomy.
- Conduct a public information campaign to raise awareness about mental health conditions and the rights of people with disabilities, especially among alternative mental health service providers and the broader community, in partnership with people with lived experiences of mental health conditions, faith leaders, and media
- Ensure deinstitutionalization of persons with psychosocial disabilities and integrate mental health services into existing primary healthcare frameworks.
- Progressively develop voluntary and accessible community-based mental health and support services, in consultation with people with lived experiences of mental health conditions and with the support of international donors and partners. This should include development of psychosocial support services and integration of mental health services in the primary healthcare system.

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