



Policy brief 11

Developing and adopting mental health laws in Africa

Lessons from Ghana, Zambia and Uganda

The purpose of the Mental Health and Poverty Project is to develop, implement and evaluate mental health policy in poor countries, in order to provide new knowledge regarding comprehensive multi-sectoral approaches to breaking the negative cycle of poverty and mental ill-health.

Developing and adopting mental health laws in Africa: Lessons from Ghana, Zambia and Uganda



What is the current state of mental health laws in Africa

- In 2005, 79.5% of African countries had mental health legislation, but 70% of these hadn't been changed for fifteen or more years. Many of these legislations also fail to adequately promote the rights of people with mental health conditions.
- In Ghana, the current mental health legislation is the 1972 Mental Health Decree, which is a revision of the 1888 Lunatic Asylum Ordinance.
- In Zambia, the Mental Health Disorders Act of 1951, which was inherited from the colonial era, has remained unchanged.

The Mental Health and Poverty Project (MHaPP) is a 5-year study of mental health policy, legislation and services in 4 African countries: Ghana, South Africa, Uganda and Zambia.

Why are mental health laws important?

Mental health legislation is an essential tool for protecting the rights of people with mental health conditions, who are a vulnerable section of society. It provides a legal framework for addressing critical issues such as the community integration of persons with mental health conditions, the provision of care of high quality, the improvement of access to care, the protection of civil rights and the protection and promotion of rights in other critical areas such as housing, education and employment. It plays an important role in promoting mental health and preventing mental health conditions.

WHO 10 basic principles of mental health law:

1. Promotion of mental health and prevention of mental disorders
2. Access to basic mental health care
3. Mental health assessments in accordance with internationally accepted principles
4. Provision of the least restrictive type of mental health care
5. Self-determination
6. Right to be assisted in the exercise of self-determination
7. Availability of review procedure
8. Automatic periodical review mechanism
9. Qualified decision-maker
10. Respect of the rule of law

- In Uganda, the Mental Health Act was passed in 1964 and has not been revised since.
- In all of these three countries, these outdated mental health laws inadequately promote the dignity, respect and autonomy of people with mental disabilities. They also fail to incorporate safeguards against abuses related to involuntary admission and treatment, seclusion and restraints, special treatments or clinical and experimental research. They use derogatory and stigmatizing language such as "imbecile," "idiot," "lunatic" and "immoral" to describe those with mental disorders. Finally, they focus almost entirely on treatment in psychiatric institutions and neglect the critical need to promote community based care. They thus perpetuate an outdated model of care often associated with human rights violations and poor quality of care.
- It is essential that mental health laws are reformed according to national and the international human rights frameworks, such as the newly adopted UN Convention on the Rights of Persons with Disabilities (2007), which supports the rights of people with mental health disorders on an equal basis with others in all aspects of life.

What did we do?

In Ghana, Uganda and Zambia, a number of steps were taken to develop new mental health laws that are in line with international human rights standards:

- An analysis of the current mental health legislations, based on international guidance package materials provided insights on the revisions that were needed.
- A drafting committee was formed in each country, which used these insights, and those gained from other mental health legislations in other countries, to produce a draft document.
- A series of consultative meetings were then held with key stakeholders, including health professionals, policy-makers, a range of government ministries, NGOs and service users. These consensus-building meetings helped to develop the contents of the Bill and identify weaknesses of the drafts, obtain varying opinions and receive ongoing support for the drafting & adopting processes.
- In Zambia, expert group meetings were held which made amendments and modifications to the drafted legislation, based on objections and suggestions raised at consultative and consensus-building meetings. In Uganda, the drafting committee incorporated issues raised and objections made at stakeholder meetings, and referred to mental health legis-

Examples of how public support was mobilized:

- Distribution of pamphlets and erection of billboards about the new Bill
- Frequent newspaper articles, radio broadcasts & television documentaries on the new Bill.
- Formation of groups e.g Ghanaian Coalition of Advocates of Mental Health Reform, to bring together advocates of the new Bill to develop a single, strong force.

Examples of how important stakeholders were lobbied:

- Having meetings with and sending letters and documents to key parliamentarians highlighting the need for the new mental health legislation
- Holding banners about the new Mental Health Bill outside parliament

lations in other countries of similar socio-economic contexts, such as Kenya and South Africa, to improve the draft. Similar processes occurred in Ghana, where the original draft was redrafted nineteen times in an attempt to rectify and incorporate stakeholder conflicts and disagreements.

- The drafts in all three countries were then sent to the Ministry of Justice for restructuring into legal language.
- In all three countries, there was extensive lobby and advocacy of the new Bill to key politicians and legislators in and outside of the Ministry of Health.
- In addition, attempts were made to mobilize public opinion on the need and support for the Bill to be passed.

These draft legislations in all three countries are currently pending submission to parliament, to be enacted into law. All of the drafts are now in line with latest international human rights standards, highlighting key values such as human rights protection and promotion, deinstitutionalization, integration of mental health care and community care, quality and safety, social inclusion, and intersectoral collaboration.

“The Government will know no peace until the Mental Health Bill is passed..”

(Ghanaian Daily Graphic Newspaper)

Key obstacles faced and how these were (or could be) overcome:

Obstacle 1: Competing ideologies, disagreements and power struggles between relevant stakeholders

Solution: Hold regular meetings and workshops with important stakeholders

Organize frequent meetings and workshops with representatives from different stakeholder groups and disciplines to enable frank and open discussion between the different parties. By taking a participatory approach, such meetings can ensure that consensus is built over time. These discussions have the added benefits of helping to identify potential weaknesses of the proposed legislation, ensuring that a diverse range of perspectives are included in the Bill, and raising awareness about mental health. Key stakeholders that should be consulted include: Government officials, politicians and legislators in and outside of health, service users, user and carer groups, donors, academics/researchers, media representatives, religious authorities, faith based and traditional healers, unions and professional organizations, NGOs.

Obstacle 2: Widespread stigma and discrimination of mental health and those affected, leading to resistance to the Bill

Solution: Raise awareness of and lobby for mental health

This will help to de-stigmatize mental disorders and those affected, and help to get mental health prioritized on political and service agendas. Involving service users and their representative organizations in lobbying initiatives provides an opportunity to empower such individuals and groups, and reduce stigma.

Obstacle 3: Limited political will and commitment from stakeholders inside the Ministry of Health

Solution: Ensure Ministry of Health leadership

It is essential that the Ministry of Health leads the development and consultative processes of the Bill. This will help ensure a strong and clear commitment from the Ministry of Health, thus helping to promote action and a desire for change from this sector of government.

Obstacle 4: Limited legislative time and resources given to mental health because other pressing problems take precedence

Solution: Lobby key politicians and legislators, and mobilize public opinion, about the need for the new mental health legislation and the imperative for sufficient legislative time and resources

Lobbying key politicians and legislators about the importance of the legislation will help the law to be prioritized in parliament. Enlisting potential allies amongst decision-makers to be part of the lobbying process can be highly beneficial, as having a few influential individuals on your side can significantly help one's cause.

Getting public support about the need for the new legislation can also help to persuade and put pressure on decision-makers to prioritize the mental health legislation. This can be done through public workshops and seminars, media coverage or information packages which raise awareness about the new Bill and its importance. Advocacy and lobbying initiatives can be substantially improved and expanded if they form coalitions and collaborations with other advocates. This can serve as a platform where different lobbying strategies can be discussed, strengthened, co-ordinated and implemented.

Obstacle 5: Technicalities and bureaucracies within Government which delay the process of adoption

Solution: Be persistent and flexible, remain patient and try to obtain strategic posts

It is essential to be persistent, and to remain patient and flexible at all times. Having allies in key positions in Government can also speed up processes, helping the legislation to advance more quickly through the stages of development, discussion and promulgation within Government.

Where can I read more about this issue?

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MHaPP website: www.psychiatry.uct.ac.za/mhapp

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