

Mental health law profiles

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Argentina and Brazil are two countries which have yet to recover fully from the crushing legacy of imperialism, dictatorship and inequality in their history. In this context, the rights of patients with mental illness have suffered, along with those of others. Since the restoration of democracy there has been a clearly expressed intention in law to

redress this legacy, as the authors of this issue's Mental Health Law Profiles report. Regrettably, they also highlight that the reality on the ground, in terms of service delivery, lags well behind the intention of the law, which perhaps is not surprising in light of the persistent inequalities in both countries.

The new mental health law in Argentina

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The Argentinean Congreso de la Nacion (National Congress, or Parliament) approved in November 2010 a new Mental Health Law (MHL) (Law 26657, 'Salud Publica. Derecho a la Proteccion de la Salud Mental' [Public Health. The Right to Protect Mental Health]). Although it is not the first law concerning mental health – as several of the provinces and the autonomous city of Buenos Aires (Argentina's capital) have enacted their own – the MHL establishes principles for human rights and the protection of patients, and aims to develop approaches in mental health that are compatible with the most advanced views and legislation from high-income countries. In this paper we report on the most important aspects of the MHL. We highlight areas that represent a change for Argentina, such as the new arrangements for both informal and compulsory admission to hospital.

We have published in *International Psychiatry* a paper outlining the main aspects of mental healthcare in Argentina, to which we refer the reader who wishes to understand more about the context for the law (Moldavsky *et al.*, 2011).

The MHL is divided into 12 sections (or chapters), each section comprising several articles.

Section 1. The rights of people with mental disorders

The MHL is explicitly grounded on principles from the United Nations, the World Health Organization (1996) and the Pan-American Health Organization. It is also based on some existing Argentinean legislation from several provinces for

people with mental illnesses, particularly those laws that stress treatment in the community (in Rio Negro, 'Promocion Sanitaria y Social de las Personas que Padecen Sufrimiento Mental' [Health and Social Advance for People with Mental Suffering], 1991; in Buenos Aires, 'Ley de Salud Mental de la Ciudad de Buenos Aires' [Law for Mental Health of the Autonomous City of Buenos Aires], 2000).

Section 2. Definition

The MHL defines mental health as a multifactorial outcome of several processes, in line with a robust social orientation that is developed further in several of its articles.

The Law establishes the presumption of capacity (i.e. a patient has capacity unless this is proven otherwise).

It sets up also diagnostic exclusions (e.g. socio-political affiliation, sexual orientation and other personal and lifestyle matters) and inclusions (particularly the addictions as illnesses that require treatment).

Section 3. Domain of the Law

The MHL applies to all health providers, from the public, private and social security sectors.

Section 4. Human rights

The MHL acknowledges cultural diversity and the protection of personal and collective identity. The latter is particularly relevant for the recognition of the rights of indigenous people in a multicultural country where the rights of the native populations have been historically neglected. The MHL prohibits discrimination on any grounds.

Other principles here include using the least restrictive environment, the need for informed