

WHO RESOURCE BOOK ON MENTAL HEALTH,

HUMAN RIGHTS AND LEGISLATION

Stop exclusion, dare to care





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## Preface

There are many ways to improve the lives of people with mental disorders. One important way is through policies, plans and programmes that lead to better services. To implement such policies and plans, one needs good legislation—that is, laws that place the policies and plans in the context of internationally accepted human rights standards and good practices. This Resource Book aims to assist countries in drafting, adopting and implementing such legislation. It does not prescribe a particular legislative model for countries, but rather highlights the key issues and principles to be incorporated into legislation.

As is true for all aspects of health, the marked differences in the financial and human resources available in countries affect how mental health issues are addressed. Indeed, the needs expressed by mental health service users, families and carers, and health workers are highly dependent on current and past service provision, and peoples' expectations vary significantly from country to country. As a result, certain services and rights that are taken for granted in some countries will be the objectives other countries strive for. However, efforts can be made in all countries to improve mental health services and promote and protect human rights in order to better meet the needs of people with mental disorders.

Most countries could improve mental health significantly if they had additional resources dedicated specifically to mental health. Yet, even when resources are constrained, means can be found – as this Resource Book makes clear – for international human rights standards to be respected, protected and fulfilled. In certain instances, reform can be undertaken with few or no additional resources, although a minimum level of resources is always necessary to attain even basic goals and, clearly, additional resources will need to be committed – especially in countries that now have only minimal or no mental health resources – if basic international human rights standards are to be met.

Legislation can itself be a means to secure more resources for mental health, improve rights and mental health standards and conditions in a country. However, in order for a law to make a positive difference to the lives of people with mental disorders, it must have realistic and attainable goals. An unrealistic law on which the country cannot deliver serves no purpose at all, and can result in unnecessary expenses related to litigation, thereby diverting resources from service development. Legislatures should therefore only pass a law after exploring the resource implications. The question of how the objectives set out in this Resource Book can realistically be achieved in each country should be a major consideration for all readers of this book.

### **What does this Resource Book provide?**

The chapters and annexes of this book contain many examples of diverse experiences and practices, as well as extracts of laws and other law-related documents from different countries. These examples do not represent recommendations or “models” to be replicated; rather, they are designed to illustrate what different countries are doing in the area of mental health, human rights and legislation.

Three key elements of effective legislation are outlined: context, content and process – in other words, the “why”, “what” and “how” of mental health legislation. In addition, Annex 1 contains a Checklist on Mental Health Legislation, which can be used in conjunction with the Resource Book. The checklist is designed to assist countries in assessing whether key components are included in their mental health law, and in ensuring that the broad recommendations contained in the Resource Book are carefully examined and considered.

Throughout the book, reference is also made to the WHO Mental Health Policy and Service Guidance Package. This Package consists of a series of interrelated modules on issues such as mental health policy development, advocacy, financing and service organization, among others, designed to assist countries in addressing key mental health reform issues.

### **For whom is this Resource Book intended?**

A variety of individuals, organizations and government departments are likely to find this Resource Book useful. More specifically, it is aimed at those directly involved in drafting or amending mental-health-related legislation, as well as those responsible for guiding the law through the adoption and implementation process. Within most countries, this is likely to be several people rather than one individual. Working through the Resource Book as a team, and discussing and debating points raised and their specific cultural and country relevance, is likely to result in the most productive use of this resource.

Beyond this specific group of users, this volume identifies numerous stakeholders with varied aims and interests, all of whom may benefit from using it. These include: politicians and parliamentarians; policy-makers; staff in government ministries (health, social welfare, law, finance, education, labour, police and correctional services); health professionals (psychiatrists, psychologists, psychiatric nurses and social workers) and professional organizations; family members of those with mental disorders; users and user groups; advocacy organizations; academic institutions; service providers; nongovernmental organizations (NGOs); civil rights groups; religious organizations; associations such as employee unions, staff welfare associations, employer groups, resident welfare associations and congregations of particular communities; and organizations representing minorities and other vulnerable groups.

Some readers may turn to the Resource Book to understand the context of human rights-oriented mental health legislation, others to better understand their potential roles or to appreciate or argue what or why a particular item should be included. Yet others may wish to examine international trends or to assess how they may help with the adoption process or in implementing the legislation. It is our hope that all will find what they need and that, as a result, their shared goal of achieving better mental health support will be advanced through the adoption and implementation of legislation that meets human rights standards and good practices.

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