The draft Mental Health Act in Sudan

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Sudan was a pioneer in developing mental health services. The first Black African to be awarded the UK Diploma in Psychological Medicine was from Sudan – Eltigani Elmahi, in 1949. He returned to Khartoum and in 1951 established the first psychiatric out-patient clinic in sub-Saharan Africa. In the following 60 years the country was ravaged by the longest civil war in Africa, which culminated in the secession of the southern part of the country to form the independent South Sudan in 2011 (not considered in this article). This led to significant deterioration in public services in general. Mental health services are now concentrated in the big cities of Sudan and vast areas of the country have few services or none at all.

Sudanese psychiatrists continued with their efforts to improve the mental health services. In the absence of any formal powers for health professionals, psychiatric patients are currently brought to hospital by their relatives, who generally have to remain in the hospital to ensure that patients adhere to their treatment plan and do not leave the hospital against medical advice.

In 1997 a Mental Health Act had been drafted, but this was not followed up by the health authorities. In 2012, the Sudanese government asked the Sudanese Psychiatrists Association to prepare a new draft Act. A draft was prepared and discussed at a special workshop organised by the Sudanese Psychiatrists Association, in collaboration with its sister organisation, the Sudanese Psychiatrists Association (UK and Ireland). Sudanese psychiatrists from around the world gathered in Khartoum in December 2012 and agreed on the final draft. This will eventually be submitted to the Sudanese Parliament for approval.

The new draft Mental Health Act consists of seven chapters.

Chapter 1. Preliminary provisions and definitions

This chapter is about definitions and the application of the Act. The Act uses the World Health Organization’s definition of mental health as ‘a state of well-being in which every individual realizes his or her own potential, can cope with the normal stresses of life, can work productively and fruitfully, and is able to make a contribution to her or his community’ (see e.g. http://www.who.int/features/factfiles/mental_health/en/).

The Act defines the patient as ‘a person suffering from a mental disorder’. The mental disorder is defined as ‘any complete or partial disturbance in thinking, behaviour, mood, cognition, memory or mental ability’, and this ‘should not include any behaviour [that is merely] contrary to customs and traditions’ or ‘abuse of or dependence on alcohol or illicit substances, unless it is associated with mental disorder’.

Chapter 2. Principles and objectives

This chapter outlines the main principles and aims of the law, including the rights of people who suffer from a mental disorder to receive the best available psychiatric care.

Chapter 3. Licence and mental health councils

This chapter is mainly about the proposed National Mental Health Council and its branches in the different states of Sudan. The role of the Council will be to regulate the profession and issue licences to practise.

Chapter 4. Human rights

This important part of the draft outlines the human rights of people with mental disorders, such as the right to medical care. It covers consent to treatment if capacity is impaired. It states the importance of patients’ privacy and their right to make complaints about the care they receive. It also states the right of patients to have legal advocates to represent them.

Chapter 5. Hospital admissions

This chapter defines the two types of admission to psychiatric hospital, voluntary and compulsory.

Voluntary admission

If adults aged 18 or more have been assessed and it is decided that they need hospital admission, they should be asked whether they agree to it or not. They have the right to leave or discharge themselves at any time, unless there are grounds for compulsory detention.

Compulsory admission

If a patient refuses voluntary admission and there is evidence of a severe mental disorder, compulsory admission may be appropriate in any of the following further circumstances: the mental disorder...
requires hospital treatment; admission is in the
interest of the patient's health or safety; or admission
will serve the protection of others. The draft
Act states that a recommendation for compulsory
detention can come from: one of the patient's rela-
tives; the police; social workers; or an ambassador
where a foreign national is to be admitted.

The on-call psychiatric doctor (no specific qualifi-
cations are mentioned to define a psychiatric
doctor) can detain people against their wishes, for
up to 1 week, if they refuse voluntary admission,
provided there are signs of a mental disorder that
warrants treatment in hospital, or there is risk to
the patient or to others.

Thereafter, the responsible medical officer (a
consultant) can either discharge the patient or
extend the period of detention by 1 month. If the
patient needs to stay longer in hospital, the con-
sultant can extend the period of detention for a
further 3 months but has to submit a report to the
hospital administration or the health authority to
outline the reasons behind that decision.

If, after the 3 months, the patient needs to be
detained for longer still, then a decision will be
taken by the multidisciplinary team rather than
the consultant alone. Compulsory admission can
then extend for a maximum of 6 months, which
can be renewed again for another 6 months, and
so forth.

The right to appeal

Patients who are compulsorily admitted to hospital
will have the right to appeal against their deten-
tion. A second opinion from a different psychiatric
team will have to be sought regarding the appro-
priateness of the detention.

This part was missing from the original draft
and was later added as suggested by the Sudanese
Psychiatrists Association (UK and Ireland), reflect-
ing their experience of using the Mental Health
Act in the UK.

Chapter 6. Psychiatric treatment

This chapter stresses the importance of delivering
the accepted therapeutic interventions through
an integrated and comprehensive care plan for
each patient, in consultation with both the patient
and family. The mental health team may grant
the patient a period of leave outside the hospital
grounds if appropriate.

In relation to treatment, the draft legislation
stipulates that psychiatric institutions should follow
widely accepted treatment options and guidelines.
It specifically mentions that 'each patient should
have a care plan tailored to his/her needs' and that
'treatment should be given only with the consent of
the patient, except for detained patients'.

Chapter 7. Responsibilities of mental
health professionals

Health professionals cannot be held legally re-
 sponsible for detaining a patient or providing
compulsory treatment. However, they can be held
accountable for their actions if there is evidence of
a gross misconduct or negligence.

Discussion

Some points in the draft need further clarification.

First, there is no specific mention of the use
of either electroconvulsive therapy (ECT) or
seclusion. Nor is there mention of treatment in the
community.

No clear mechanisms have been set out for the
resolution of any conflicts that may arise between
the treating team and the patient's family. This is
particularly important in Sudan, where mental
illness is considered a stigma, or 'evil doing' that
needs to be dealt with by religious healers. Fami-
lies may therefore object to compulsory detention
and the draft does not mention what the treating
team can do in such circumstances.

In Chapter 5 it is mentioned that the treating
team has the power to detain a patient for up to
6 months (see above); however, it is not clear what
types of professionals need to be members of this
team (its skill mix of doctors, nurses, social workers,
psychologists and so on). Also, there is no clear
mechanism for the resolution of any disagreement
among members of the team if they fail to reach
one opinion about the detention of a patient.

The procedures for appeal are not clear. Al-
though the draft Act states that patients can be
assessed by a 'different team' if they appeal against
detention, it is not clear, for example, whether that
team should be from the same hospital or from a
different one.

Most importantly, the implementation of the
legislation will add to the demands on limited re-
 sources. Most psychiatrists practise in Khartoum
and the big cities only. There are whole provinces
where there is only one psychiatrist, or none at
all, and it is not clear how compulsory detention
can be applied in such circumstances. This needs
further discussion.

To ensure proper application of the Act, mental
health workers should be offered appropriate
training on its provisions. It is not clear who would
be responsible for the training.

Finally, clear safeguards and appeal mechan-
isms should be in place to ensure patients' relatives
or the authorities do not abuse the new Mental
Health Act.

Conclusion

Despite shortfalls and gaps in the draft Act, it is our
opinion that this is a major step towards the reform
of mental health practice in Sudan and should be
praised and supported. It is our understanding
that legal experts will review the draft before it is
submitted to Parliament.

We will continue to work hard with our col-
leagues in Sudan to improve and to implement
the draft Mental Health Act, which will be the first
such legislation in Sudan. Without it, Sudanese
patients with mental illnesses will continue to be
vulnerable and mistreated.