Human Rights and Legislative Transformation In Mental Health- The Barbados Experience

Dr. Joy Sue MBBS, DM Psychiatry
Consultant Psychiatrist (Community Based), Psychiatric Hospital
Deputy Chair, Mental Health Commission
Ministry of Health and Wellness
Country Context-Services

• The Psychiatric Hospital – 500+ bed facility (both acute and chronic) and Community Mental Health Service.

• The Queen Elizabeth Hospital-12-bed acute care unit, two outpatient clinics per week, Consultation Liaison Services.

• Polyclinics- 9 polyclinics (plus 2 satellite clinics) offer weekly clinics.

• Private mental health professionals and NGOs.
Country Context-Challenges

- The post of Mental Health Coordinator in the Ministry of Health and Wellness is vacant.

- The demand for mental health services has increased since the COVID-19 pandemic but barriers to access remain.

- Mental health care is still centralized to the Psychiatric Hospital where most of the funding for mental health is directed but the associated stigma is significant.

- Community Mental Health Services are not fully integrated into primary care and human resources especially for rehabilitation are lacking.

- Barbados signed on to CRPD on 19 July 2007 but we are not compliant due to outdated legislation.
The Mental Health Act 1985

• This Act only addresses hospital based care.

• It does not embrace a human rights based approach.

• There is only a brief section on the rights of clients which concerns the rights of hospitalized persons not be ill treated and associated penalties.

• There is an entire section on management of property and affairs of clients.

• Medically recommended status, a type of involuntary admission, is valid for 12 months.
The Process

- March 2023: Comparing the acts of other countries to Barbados’ Mental Health Act 1985- Australia, Canada, United Kingdom.
- August 2023: Engaging Consultant in Mental Health Law and Policy from PAHO.
- September 2023: Meetings with Consultant and Various Stakeholder Groups.
- November 2023-February 2024: Formulating the Draft Legislative Notes/Instructions for the New Mental Health Act.
- April 2024: Stakeholders’ Consultation to Present the Notes.
- April-May 2024: Discussion of comments on the draft Notes and amendments needed.
Stakeholders

- Experts with lived experience including family members and caregivers.
- NGOs/Civil Society organizations that support MH, Youth MH advocacy groups.
- Clergy/religious leaders.
- Members from professional associations (nurses, doctors, psychologist, social workers).
- Senior Officers MHW, PAHO, Members of the Mental Health Commission Legislative Review Subcommittee. (Core Group)
- Other Ministries (education, social welfare, law enforcement, judiciary).
- Law Reform Commission.
Aims of the New Act

• To promote practices that adhere to the principles of fairness, equity, equality and justice- Guiding Principles.

• To empower service users, recognize their rights, ensure that they are informed of their rights.

• To promote treatment with the least possible restrictions.

• To provide oversight and safeguards.

• To provide a framework for regulation of the quality and safety of the mental health services.

• To ensure efficient access to appropriate care.

• To promote integration of physical and mental health care.
Rights of Persons With Mental Illness

- Give/withhold consent.
- Access to care - least restrictive environment.
- Right to live in the community.
- Parity of physical and mental health care.
- Procedural accommodations to exercise legal capacity.
- Information and access medical records.
- Communication.
Supported Decision Making

Advance directive.

Nominated representative.

Enduring power of attorney.
Mental Health Commission
Mental Health Tribunal

• Mental Health Commission: functions as a regulatory body, sets standards for accreditation of facilities, maintains register of practitioners, independent inquiry injury/death, collects data, registers of advance directives, and receives complaints.

• Mental Health Tribunal: like a court, 5 members- chair-judge/senior lawyer, 2 mental health professionals, non-profit organisation, lay member. Appeal decisions to Supreme Court.

• Medically recommended status was replaced by facilitated admission-requirement for two independent assessments, max 30 days, then must apply to Tribunal for extension, service user has a right to appeal to Tribunal.