

Mental health law profiles

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In this instalment of mental health law profiles we travel to two countries which neighbour each other on the west side of Latin America. They have important natural resources and complex histories of indigenous civilisations decimated by colonial conquests, later wars of liberation from the imperial centre and legacies of social inequality and violent internal conflict during the Cold War era. They also differ from each other in important respects, such as levels of ethnic diversity and economic development, Peru being more ethnically diverse and Chile more economically developed. In both countries, the authors inform us, there is cause for concern about the welfare and human rights of people who are mentally ill.

There is an increasing realisation in recent decades of the need for improvement in both Chile and Peru. Both the 1978 American Convention on Human Rights and the Peruvian Constitution (the latter unusually perhaps) make specific reference to mental illness and its management, and provide some welcome foundations to build on. It is good to

read that local policies advocate the establishment of community facilities for the care of patients with a mental illness and recognise the importance of least restrictive treatment. However, definitions of mental illness, rights of appeal and engagement of informal carers are unclear or lacking in important respects and offer examples of the magnitude of the task ahead.

The establishment of the National Commission for the Protection of People with Mental Illness (CNPPAEM) in Chile, with responsibility for letting the Court of Appeal know of any violation of the rights of those affected by a mental or intellectual disability, suggests a level of commitment in that society to go beyond policy and towards implementation; this is something that has often been reported as lacking in previous articles on some other countries in this series. The proposed Law 29889 in Peru, as reported here, also offers hope for progress. Those working locally to address shortcomings deserve the active support of the international psychiatric community.

Mental health legislation in Chile

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Chile does not have a mental health law or act, and no single legal body protecting those deemed to be afflicted by a mental disorder, setting standards of care and protecting and promoting their rights. Instead, pieces of mental health legislation are scattered about in different legal and administrative documents, including the country's Constitution, Health Code, Criminal Code and Civil Code. Remarkably, mental health legislation was the object of virtually no change or amendment from the middle of the 19th century until the year 2001. New pieces of legislation have been issued since but, despite improvements in the protection of people suffering from a mental illness, a mental health law in Chile is still needed.

Chile lacks a specific mental health law that would provide a legal framework for the care

of people with mental ill-health. Instead, the country's mental health legislation is scattered across different legal and administrative documents, ranging from the country's Constitution, to the Health Code, the Criminal Code, the Civil Code and other documents. The first legislation regulating the care of those who are mentally ill, issued in 1856, was the 'Mad House Law', which was mostly inspired by a French law of 1838. In 1927 the General Code for the Organisation and Care Provision of Mental Health Services, Hospitalisation and Confinement of the Insane enacted articles 178 and 261 of the National Health Code, regulating both private and public mental health-care institutions (Vásquez, 1935; Naveillan, 1991). There were no other changes until the year 2001.

Decree 570

In January 2001 the government issued the Code for the Hospitalisation of the Mentally Ill and for