

Forced interventions and institutionalization as torture/ CIDT from perspective of people with disabilities

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Nature of violations - 1

- Focus on nonconsensual psychiatric interventions and psychiatric detention
- Nonconsensual = without free and informed consent
 - Physical force, coercion, legal compulsion
 - Deception, misleading or no information
 - No attempt to seek or obtain consent

Nature of violations - 2

- Neuroleptics and other mind-altering drugs
- Electroshock
- Psychosurgery
- Invasive technologies (e.g. implants)
- Restraints and isolation
- Indefinite detention
- Institutionalization

Effects on survivors - 1

- Survivors; victims also who did not survive
- Mind-altering drugs and procedures:
- Immediate effects:
 - Fear/terror
 - Mind being controlled from outside
 - Dissociation from mind and body
 - Amnesia
 - Psychic agitation and physical restlessness
 - “Closed head injury”
 - Fractures; damage to various bodily organs and systems; death

Effects on survivors - 2

- Long-term effects:
 - Habituation to altered state of consciousness
 - Brain damage (permanent memory loss, tardive dyskinesia, many less well-documented syndromes)
 - Illnesses such as diabetes, kidney disease
 - Cycle of repeated abuses
 - Vulnerability to all forms of abuse
 - Traumatic reactions, e.g. flashbacks, triggers

Effects on survivors - 3

- Compound disability
 - Living with brain damage/ long-term physical and psychic injuries
 - Discrimination and silencing of survivors
 - Confrontation with evil/cruelty
 - Continuing danger of repetition of violations
 - Effects of violations interpreted as “mental illness” symptoms, e.g. anger, lethargy, social withdrawal

Effects on survivors - 4

- Indefinite detention and institutionalization:
- Immediate effects:
 - Anxiety
 - Resistance and repression
 - Apathy
 - Loss/relinquishment of self-initiated acts, work
 - Invasion of privacy
 - Inability to defend oneself, secure basic needs
 - Acculturation/ institutionalization

Effects on survivors - 5

- Long-term effects:
 - Challenges of regaining property, opportunities, re-establishing relationships, renewal of life in freedom
 - Flashbacks and triggers
 - Marginalized identity
 - Many never leave and suffer lifelong deprivation of all rights

Needs of survivors

- Social recognition of harm done and guarantees of non-repetition
- Respectful assistance to repair harm
 - Educational and economic empowerment
 - Coming off drugs; alternatives
 - Support in dealing with compound disability
 - E.g. nutritional, complementary medicine, peer support, user/survivor-led/informed research
 - Support to leave institution and establish life in freedom

Relevant norms - 1

- Freedom from torture and other cruel, inhuman or degrading treatment or punishment (CAT, ICCPR Art. 7, CRPD Art. 15, Inter-Am Conv, ECPT)
 - Nonconsensual medical and scientific experimentation
- Right to respect for physical and mental integrity (CRPD Art. 17, ACHR, EU Charter)
- Free and informed consent in health care and services (CRPD Art. 25, CESCR Gen. Com. 14, EU Charter)

Relevant norms - 2

- Legal capacity (CRPD Art. 12, CEDAW Art. 15, CRC Art. 12)
- Liberty and security of the person (ICCPR Art. 9, 10, CRPD Art. 14)
- Right to live independently in the community (CRPD Art. 19)

Torture/CIDT - 1

- Any medical intervention without free and informed consent of the person concerned violates the right to respect for physical and mental integrity
- Usefulness of gradations/distinctions?
- Severity of harm, public acquiescence, context, nature of intervention, intentionality, purpose and discrimination relevant to categorization as torture/CIDT

Torture/CIDT - 2

- Medical interventions on persons with disabilities against their will should be considered torture/CIDT
 - Discrimination
 - Seen as less worthy of respect for physical and mental integrity (“other”)
 - Power inequality facilitates victimization
 - Medical model of disability suggests imperative to diagnose and cure through medical means
 - Experimentation

Torture/CIDT - 3

- Use of medical interventions against a person's will to control behavior should also be considered torture/CIDT
 - Nature and purpose
 - Violates integrity for coercive purpose (CAT)
 - Unethical use of medical knowledge
 - Comparable to corporal punishment
 - Context
 - Likely to be institutionalization

Torture/CIDT - 4

- Nonconsensual administration of mind-altering substances or procedures should be considered torture/CIDT
 - Nature
 - “Intended to obliterate the personality of the victim or diminish his or her physical or mental capacities” - Inter-Am Conv
 - Psychic apathy/turmoil; interruption of self
 - Dominance/subordination facilitated
 - Severity of harm
 - Mental anguish due to intentional interference with identity and integrity

Torture/CIDT - 5

- Indefinite detention violates the right to respect for integrity and should be considered CIDT
 - Arbitrary/subjective (ICCPR Art. 9, CRPD Art. 14)
 - Culture of authoritarianism/compliance

Torture/CIDT - 6

- Disability-based institutionalization violates the right to respect for integrity and should be considered torture/CIDT
 - Nature/ discrimination/ severity of harm
 - Segregation affects feelings of self-worth
 - Power inequalities and likelihood of abuse and abusive conditions
 - Loss or deterioration of abilities
 - Human beings thrive in freedom

Torture/CIDT - 7

- Context and multiple factors in nonconsensual psychiatric interventions
 - Context of institutionalization, inferior legal status, legalized compulsion
 - Severity of harm (spectrum, but never trivial)
 - Discrimination (medical model especially egregious where no objective pathology; multiple discrimination)
 - Nature of intervention (mind-alteration)
 - Purpose (varies, may be coercion, intimidation, punishment, convenience of others, change personality/habits/beliefs/perceptions, disable will and resistance)

Torture/CIDT - 8

- Intent and knowledge
- Purpose not always evident
- “Lawful sanctions”
- Public/private
 - Public officials/ medical personnel/ third parties

Torture/CIDT examples - 1

- EG, who had been under order of compulsory treatment in the community, given geodon by injection, made her vomit continuously and she was in agony; doctor said purpose was to get her to take risperdal (another neuroleptic)
 - Coercive purpose, behavior control, discrimination, non-consensual use of mind-altering substance, context of detention and legal compulsion

Torture/CIDT examples - 2

- Judge granted court order to electroshock Paul Henri Thomas numerous times against his will, despite his protest that it was “torture and traumatization,” public support and good lawyers
 - Lawyers managed to get him transferred to a different institution where electroshock not used
 - Mind-altering procedure, discrimination, severity of harm, possibly punishment, institutional context

Torture/CIDT examples - 3

- K, a lifelong nurse who had risen to supervisory position, wrote advance directive saying no haldol because of adverse effects; it was disregarded and she went into life-threatening coma as a result
 - Discrimination, mind-altering substance, severity of harm

Torture/CIDT examples - 4

- E was electroshocked as a teenager after experiencing unusual thoughts and obsessions and sharing them with others
 - Pathologizing of human experience (discrimination), mind-altering procedure, purpose to coerce change of personality/habits, youth as additional factor

Torture/CIDT examples - 5

- BT was institutionalized for 13 years before a friendly psychiatrist helped her to get out, and to address issues of child sexual abuse, also electroshock survivor
 - Institutionalization, failure to address gender-related violence (discrimination), mind-altering procedure

Torture/CIDT examples - 6

- LA was electroshocked with her consent, but not informed of the likelihood of permanent memory loss, she lost memory of parts of her life and professional skills
 - Mind-altering procedure without full disclosure of nature and risks

Further work - 1

- Provide remedies to persons with disabilities and others whose rights are violated by nonconsensual medical interventions and/or nonconsensual administration of mind-altering substances or procedures, and by indefinite detention and institutionalization
- Ensure that these violations are prohibited by law and that any laws which permit or regulate such practices are repealed

Further work - 2

- Ensure free and informed consent of the person concerned in relation to all health matters, and use of mind-altering substances and procedures
- Ensure that people with disabilities have the same rights and opportunities as others to exercise legal capacity, providing support where needed
 - Support is free from conflict of interest and undue influence, and respects will and preferences of the person

Further work - 3

- Investigate the prevalence, scope and continuation of violations, and monitor facilities and programs in which they may occur:
 - Psychiatric institutions
 - Social care facilities
 - Other institutions intended for people with disabilities
 - Institutions for older persons and youth
 - Prisons and other detention centers
 - Community mental health and CBR programs

Further work - 4

- Ensure the involvement of survivors in all work on preventing torture/CIDT of people with disabilities, and that this work takes place with sensitivity to their needs and concerns