MENTAL HEALTH AND HUMAN RIGHTS:

Urgent need for new policy

Executive summary

المجلس الوطني لحقوق الإنسان
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Conseil national des droits de l'Homme

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Pursuant to its powers as set out in Dahir (Royal Decree) No 1-11-19 of 1 March 2011, the National Human Rights Council (Conseil national des droits de l'Homme - CNDH) can visit psychiatric hospitals[1] and prepares reports on its visits setting out its observations and its recommendations aiming to improve the conditions of inmates of these institutions[2].

In accordance with Article 13 of the Council's founding law, and in the light of the final observations and recommendations made by the relevant United Nations bodies with regard to the reports submitted to them by the Moroccan government, CNDH also examines the legislative and regulatory texts currently in force and considers the matter of their harmonisation with the international conventions on human rights and international humanitarian law which the Kingdom has ratified.

It is in this context that the National Human Rights Council carried out a fact-finding and investigation mission between 27 March and 6 July 2012 at the following twenty establishments: Berrechid, Tit Mellil, Bouafi (Casablanca), the Paedopsychiatric Department of the Casablanca University Hospital Centre (CHU), Safi, Salé, Marrakesh (Ibnou Nafis and Saada), Béni Mellal, Khouribga, Meknés, Fez, Tangier, Casablanca (University Hospital Centre), the Centre for Adolescents in Rabat, Tetouan, Inzeggane, Taroudant, Laâyoune, Al Hoceïma and Ouarzazate. It also examined the legal texts relating to mental health and held working meetings and exchanges with staff and officials of this sector at all levels.

The CNDH takes this opportunity to thank all the authorities and individuals who enabled it to carry out this mission and placed at its disposal the necessary documents and all the information required, and in particular the officials of the Ministry of Health, medical and paramedical staff, resource persons and members of civil society. It also wishes to thank the staff of the institutions visited, who are carrying out their duties under extremely difficult conditions.

At the conclusion of the mission the CNDH published its report setting out the international frame of reference for mental health, analysing the various elements of legislation relating to mental health, describing the current situation in the visited institutions and presenting its recommendations.

The aims of this report are to draw the attention of all actors, both private and public, to the acknowledged correlation between mental and physical health, to detail the strong links between mental health and human rights and to create public awareness of the increasing incidence of mental illness and the extent of its impact on individuals and its economic and social repercussions. It also aims to highlight the situation in the institutions providing treatment for the mentally ill, as revealed during the Council's visits, identifying failings and weaknesses, to show that the legislation relating to mental illness is outdated, and to emphasise the particular attention which needs to be paid to children and adolescents, women and the elderly. Finally, the report aims to present to all interested parties proposals and recommendations aimed at improving the lives of people suffering from mental illness, to promote the mental health of the population at large and to make it one of the main cross-cutting priorities of public policy, and to demonstrate the need to involve a multiplicity of actors and various professions in giving thought to and taking action to promote mental health and to protect the fundamental rights of the mentally ill.

1- Article 11(1) of the Dahir
2- Article 11(2)

INTERNATIONAL NORMS AND STANDARDS

In pursuing its task the CNDH was guided by the various human rights instruments relating to mental health, including Article 25 of the Universal Declaration of Human Rights, Article 12 of the International Covenant on Economic, Social and Cultural Rights, Article 24 of the International Convention on the Rights of the Child, Article 12 of the International Convention on the Elimination of All Forms of Discrimination against Women, Article 5 of the International Convention of the Elimination of All Forms of Racial Discrimination and the International Convention on the Rights of Persons with Disabilities, all these instruments having been duly signed and ratified by Morocco, and the Constitution of the WHO.

The CNDH also took account of other international reference texts such as the United Nations Principles for the Protection of Persons with Mental Illness and the Improvement of Mental Health Care, the Standard Rules on the Equalization of Opportunities for Persons with Disabilities, the Caracas Declaration, the Madrid Declaration, legislation governing mental health care, the WHO document 'Mental Health Care Law: Ten Basic Principles', the Salamanca Statement and Framework for Action on Special Needs Education and the 2001 WHO World Health Report.

THE CURRENT SITUATION

I- The national legal framework: out of date and unharmonised

With regard to the legal and institutional framework, the report analyses the various pieces of legislation relating to mental health. As a starting point, it refers to the rights enshrined in the Constitution of 1 July 2011 (preamble and Article 31).

Secondly, it deals with the specific law relating to 'the prevention and treatment of mental illness and the protection of the mentally ill' (Dahir of 30 April 1959). Over a period of years this pioneering law represented a considerable advance and undeniably provided a sound regulatory basis. But it has remained exactly as it was, with no changes since its original promulgation, and is now outmoded and has given rise to numerous abuses. The Ministry of Health has produced a preliminary proposal for a replacement law. Although it is interesting and has merit, this proposal needs to acquire as broad a measure of prior agreement as possible, a public debate, and a strategic policy for mental health, incorporating the principles of human rights.

The report then goes on to look at the question of penal law, which includes numerous provisions relating to mental health and which comprises the Penal Code (Articles 61, 75 to 82 and 134 to 137); the Code of Criminal Procedure (Articles 389 and 435), the Law on Combatting Drug Addition and Preventing Drug Use of 21 May 1974, the law on penitentiaries (Law No 23/98 and its implementing decree) and legislation relating to hospital organisation (Decree of 13 April 2007 and Order of 6 July 2010 setting out the internal regulations for hospitals).

II- Psychiatric institutions: dysfunctionalities and inadequacies

The report then describes the current situation in mental health in Morocco, covering hospital buildings, equipment, staffing, service provision, the treatment of vulnerable groups, the relationship between justice and mental health, the private sector and the involvement of civil society.

II-1- Buildings: antiquated and ill-suited

Morocco currently has twenty-seven public institutions specialising in the treatment of mental illness: sixteen general hospitals that have a psychiatric service, six specialised psychiatric hospitals, three psychiatric hospitals attached to University Hospital Centres (centres hospitaliers universitaires - CHU), an adult psychiatric service and a paedopsychiatric service attached to the Ibn Rochd CHU in Casablanca. According to data provided by the Ministry of Health, the bed capacity of all these institutions is 1725 beds. This figure is steadily falling.

With regard to hospital buildings, the report makes the following comments:

- The semi-autonomous management approach ('SEGMA') which is almost universally used is unsuited to the nature of psychiatric institutions;
- The geographical distribution of these institutions is unequal and unbalanced;
- The available premises are inadequate in relation to the incidence of mental illness;
- There are buildings which are non-operational in spite of being only recently built and equipped (Tiznit, Nador and Hay Mohammadi in Casablanca);
- Some buildings are fundamentally unsuitable (Safi, Meknès. Tetouan);
- Some buildings are in a seriously derelict condition. One flagrant example is the hospital of Berrechid;
- Most buildings do not lend themselves to effective monitoring and security;
- Upkeep and maintenance are deficient in a good number of establishments;
- Some buildings, however, can be regarded as setting a good example to follow (e.g. -the female wing at Salé and the Paedopsychiatric Service in Casablanca.

II-2- Equipment: scarce and in poor condition

Equipment is frequently in a lamentable state. For example:

- Offices lack adequate equipment and furniture;
- Safety facilities such as firefighting equipment are either totally lacking or inadequate, and are therefore not suitable for the needs of the institution;
- Most institutions do not have ambulances;
- Bedding is in a deplorable state in most institutions;
- Isolation rooms are inhuman and are not safe;
- In most of the institutions visited the sanitary fittings were in an advanced state of dilapidation;
- Laundry services are largely outsourced but are frequently unsuitable.

II-3- Staff: inadequate in number and unprotected

The public sector has 172 psychiatrists and 740 specialist psychiatric nurses and the private sector has 131 psychiatrists. The total number of medical and paramedical staff for psychiatric care is seriously inadequate and falls far short of meeting the universally established and recognised norms in this area. Furthermore:

- Medical staff is unevenly distributed between regions and hospitals: 54% of psychiatrists are in the Casablanca-Rabat axis and there are many institutions which only have one psychiatrist. It appears that some psychiatrists are assigned against their will, or as an implicit disciplinary measure;
- Paramedical staff: the main areas of dysfunctionality are the absence of any official psychiatric nurse status, undefined tasks, a lack of ongoing training, a lack of security and protection, poor living conditions in some institutions, particularly at Tit Mellil (transport, accommodation, drinking water, etc.), and professional and social stigmatisation;
- In theory, the personnel specifically assigned to psychiatric care should include a psychologist, a specialist in art therapy or occupational therapy and social workers. Very few institutions have even one of these specialists, and even fewer have all of them.

II-4- Service provision: failures and shortages

- Administrators rarely have access to computer equipment;
- Generally speaking, reception is conducted in a normal manner;
- Admission is not always easy, particularly due to overcrowding;
- Hospitalisation depends on the nature of the institution and the facilities and resources at its disposal;
- Care is generally basic and could almost be described as old-fashioned in most institutions;
- The latest generations of drugs are unavailable and drugs are often not stored in accordance with accepted standards;
- Records are sometimes badly maintained, but the rules of confidentiality are generally observed;
- The meals supplied to patients are on the whole inadequate and unbalanced;
- The dysfunctionalities observed in relation to hygiene are numerous and seriously prejudice the right of patients to decent accommodation which protects their dignity;
- Pathways to reintegration are virtually non-existent, which frequently means that the therapeutic process comes to a complete halt.

II-5- Vulnerable groups: a lack of care and protection

These are categories of persons who merit particular attention and a form of care suited to their specific needs, such as women, children, the elderly and addicts.

- Women: for the most part, institutions do not incorporate the gender approach in their plans or their basic approach, and do not give women the special attention which they merit in terms of their specific needs;
- Children: with the exception of the paedopsychiatric services at the CHU in Casablanca and Rabat, no attention is devoted to this discipline despite its being of major importance for the population at large. In effect, paedopsychiatry is an emerging discipline in this country and paedopsychiatrists and specialist paedopsychiatric institutions are very rare;
- The elderly: no appropriate care is given to the elderly;
- Addicts: the existing addiction services are inadequate in relation to the prevalence of alcohol and drug dependence, and are virtually inaccessible in terms of the financial resources of deprived addicts.

II-6- Private psychiatric institutions: scarcity and a regulatory vacuum

Morocco has 131 private psychiatrists and a single private clinic. In addition to the acute lack of psychiatrists and psychiatric units in the private sector, the sector also faces a multitude of problems, including:

- The public authorities take no account of the specific nature of psychiatry and there is no specific legislation or scale of charges in force;
- The provision of care for the mentally ill by social security and the insurance sector is either non-existent or derisory in relation to the real costs of psychotherapeutic intervention;
- The legal provisions relating to private clinics require that before permission is granted to open a clinic, it must have an operating section. Now, psychiatric clinics do not need operating sections;
- Nurses specialising in psychiatric care, whether they are practising or in training, are all under contract to the Ministry of Health. It is therefore difficult for a private psychiatric clinic to recruit a specialist nurse;
- There is a regulatory vacuum in relation to the risks associated with psychiatry and the specific guarantees required for private psychiatric services, psychiatric clinics and psychiatrists.

II-7- Justice and mental health: contempt for fundamental rights

Given that mental health is closely linked to human rights, that justice in any democratic State guarantees the rights and freedoms of all citizens and that Moroccan law relating to mental health, although outdated, holds the judicial system responsible for ensuring that the rights of the mentally ill are respected, the judicial system should play a major role in protecting those afflicted with mental illness and safeguarding their rights.

The CNDH fact-finding mission reveals that the judicial authorities do not exercise their supervisory role in the way that they should in terms of the frequency of visits, the quality of the reports produced and follow-up. It also notes that the expert appraisals ordered by the courts are usually entrusted to the only psychiatrist in the region, who is already involved in the treatment of the person concerned, which constitutes an ethical conflict of interest.

The attention of the CNDH was also drawn to the alarming situation regarding mentally ill who are exempted from criminal liability and the overcrowding for which they are partly responsible, and to the question of appeals which are submitted in accordance with the law but on which very frequently no action whatsoever is taken.

II-8- Civil society: still in its infancy, but promising

Civil society can play a major role in the prevention of mental illness, in protecting the rights of the mentally ill and in creating awareness about mental health in all its dimensions. It should therefore be encouraged and should be involved in the creation and implementation of legislation, strategies, policies and programmes relating to mental health. At the present time there are three categories of associations:

1 - Associations of the families of the mentally ill;
2 - Associations of psychiatric service users;
3 - Associations of practitioners, namely, the Moroccan Association of Psychiatry, the Moroccan Association of Private Psychiatrist Practitioners, the Association of Public Sector Psychiatrists, the Moroccan Association of Paedopsychiatric and Related Professions and the Association of Mental Health Nurses.

GENERAL CONCLUSIONS

Mental health, as an essential requirement and a condition for the well-being of all citizens, does not enjoy the place it merits in public policy. The main features of the regrettable situation which derive from this are as follows:

- The text of the law relating to mental illness and related laws are out of date and unharmonised;
- The inadequate number and the unsuitability of institutions in terms of their geographical distribution, architecture, equipment, etc.;
- The non-compliance of these buildings with the norms of security and monitoring;
- The serious lack of medical and paramedical staff and inadequate initial and ongoing training programmes;
- The lack of people with the specific skills required in psychiatric care such as psychoeducators, psychologists, generalists, occupational therapists, art therapists, social workers, etc.;
- The poor quality of the medical and non-medical services offered to those receiving psychiatric care and the living conditions to which they are subjected during hospitalisation;
- The unavailability of the latest generations of drugs which are more effective and have less side-effects;
- The widespread stigmatisation of the mentally ill, and even of their caretakers;
- The inadequate attention paid to the mental health of children, adolescents and the elderly;
- The failure to incorporate a gender-based approach in all matters of law and fact relating to mental health.

This alarming situation demands strong, vigilant, detailed and appropriate action in the short and medium term, and requires urgent measures to be taken as rapidly as possible.

RECOMMENDATIONS

At the conclusion of its mission, and while being conscious of the scale of the task with which the Ministry of Health is faced and the efforts being made on a daily basis by the professional teams working in the field of mental health, the CNDH fact-finding and investigation mission makes the following recommendations :

Measures to be adopted as a matter of urgency

- Official abandonment by the government of the proposal to create seven regional hospitals, with the funds originally earmarked for building and equipping these hospitals and the human resources intended to staff them being reallocated to the existing public psychiatric institutions in accordance with their needs;
- Resolve the problem of the female wing at Tetouan hospital, which is a serious affront to the dignity and privacy of its users, and prevent any further deterioration of the building;
- Set up an ad hoc mixed commission to examine all aspects of the case of Berrechid hospital and initiate a process of restoration and upgrading of this historic monument;
- Restore existing buildings which are in a clearly dilapidated state or in imminent danger of collapse (Meknès, Safi, Khouribga);
- Pending the adoption of a policy on mental health, provide a set of minimum standards for construction and restoration work which take account of the specific nature of this type of buildings.

A legal framework in need of review

- As part of a major participatory process, recast the Law of 30 April 1959 on the prevention of mental illness and the protection and treatment of the mentally ill, bringing it into line with international norms and giving it a form more suited to the new realities of mental health in Morocco. The aim should be not just to fill the gaps in the existing text but also to enrich the text with the experience of all those working in this field, the good practices which have emerged and the knowledge which has been acquired;
- Review the laws relating to social security and health insurance with a view to making them better suited to the particular demands of psychiatric care;
- Review the law on the opening of private clinics, with particular reference to psychiatric clinics;
- Create an official category of 'specialist psychiatric nurse', defining their duties, their compensation for the risks encountered in that role and their rights and obligations.

Devising and implementing a policy on mental health

- Make quality of service and quality of life, the inherent dignity of human beings and the equal right of every person to mental and physical health the primary cross-cutting objectives of all mental health policies and programmes
- Adopt as a matter of urgency a dedicated and integrated public policy on mental health which is clear in its objectives, has clearly defined resources allocated to it and is capable of evolving, founded on a public debate and agreement with all parties interested in or involved with questions of mental health, and with the aid of national and international expertise.

As a minimum requirement, this policy should include the following components :

- Provide budget funding for mental health on the basis of its specific requirements, and allocate a specific tranche of the health budget to mental health;
- Create psychiatric services in general hospitals which do not presently have such services;
- Create in each institution, whether it is a hospital or a service, a permanent qualified staff structure for the maintenance and upkeep of equipment;
- Reorganise the use of buildings and human resources with a view to overcoming, as far as possible, the present unfair and unbalanced geographic distribution and to guarantee a minimum respect for the equal right of all persons to health and to ensure that rules are laid down regarding the number of doctors and nurses in relation to the population numbers and the number of beds available;
- Provide psychiatric institutions with psychologists, social workers, occupational

therapists and/or art therapists;
■ Ensure availability of the latest generations of drugs;
■ Encourage psychiatry and paedopsychiatry as specialisms and dedicated study courses in medical faculties and the Nurse Training School (Ecole de formation des infirmières et infirmiers);
■ Develop human resources using every possible means of encouragement and motivation;
■ Allow general practitioners who wish to do so to undertake training in psychiatry so that they can contribute to solving the problem of the shortage of psychiatrists;
■ Devote more attention to infant and juvenile psychiatry;
■ Integrate a gender-based approach in a cross-cutting fashion into all laws and policies relating to mental health;
■ Educate and inform the public and create public awareness as part of the effort to combat stigmatisation and exclusion of persons suffering from mental illness and to propagate the culture and values of human rights in relation to mental health;
■ Set up adequate structures for monitoring the mental health of the population and devise indicators which will provide information on the number of persons suffering from mental health problems and the quality and effectiveness of the care they receive;
■ Encourage and support research into the various aspects of mental illness and their impact, and set up a national mental health database which will be continuously updated;
■ Commemorate each year, from this year onwards, the International Mental Health Day on 10 October, making it an occasion for national awareness, debate and information relating to mental health;
■ Propose a national day of mental health and consolidation of the close links between mental health and human rights.

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