

Symposium | Forensic Psychiatry : [Symposium 26] Balancing Legal Obligations and Medical Ethics: Implementing Rights-Based Mental Health Care under the CRPD

📅 2025年9月26日(金) 9:00 ~ 10:30 🏢 Session Room 4 (Large Hall B)

[Symposium 26] Balancing Legal Obligations and Medical Ethics: Implementing Rights-Based Mental Health Care under the CRPD

Moderator: Samuel F. Law (University of Toronto), Shinsuke Kondo (University of Tokyo)

[SY-26]

Balancing Legal Obligations and Medical Ethics: Implementing Rights-Based Mental Health Care under the CRPD

Samuel Law¹, Chonnakarn Jatchavala², Shinsuke Kondo³, Shaohua Lu⁴ (1. University of Toronto (Canada), 2. Prince of Songkla University (Thailand), 3. University of Tokyo (Japan), 4. University of British Columbia (Canada))

[SY-26-01]

Service users' perspectives on supported decision making in psychiatric settings – A scoping review

*Samuel F. Law¹, Waverly Chan², Deandra Osayande¹ (1. University of Toronto (Canada), 2. McMaster University (Canada))

[SY-26-02]

Comparative Analysis of the Thai Mental Healthcare Act and WHO Mental Health Legislation Standards based on the UNCRPD

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[SY-26-03]

Cross-national comparison of involuntary hospitalization: Ideas for reforming Japan's mental health system

*Shinsuke Kondo¹ (1. University of Tokyo (Japan))

[SY-26-04]

Forensic Implications of the Convention on the Rights of Persons with Disabilities - a Canadian Perspective

*Shaohua Lu¹ (1. University of British Columbia (Canada))

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キーワード : CRPD、rights-based care、involuntary treatment、medical ethics

The historical use of involuntary treatment of persons with mental illness has often resulted in serious human rights violations around the world. In response, the United Nations Convention on the Rights of Persons with Disabilities (CRPD) calls for a shift towards care based on human rights principles. While many countries have ratified the CRPD, there are significant challenges in implementing its mandates. Rights-based paradigms may sometimes result in treatable conditions being left unaddressed by medical systems, with affected individuals instead facing incarceration through judicial systems. In low- and middle-income countries, where mental health services are often insufficient, psychiatrists typically become the primary advocates for the human rights of people with mental disabilities, leading efforts to educate treatment teams and the broader community.

This presentation examines how leading psychiatrists across the Pacific Rim countries interpret and implement the CRPD's call for rights-centred care. Drawing on insights from both high-income and resource-limited settings, the session will explore how psychiatrists navigate the intersection of legal obligations and ethical considerations. Case studies from various countries will illustrate the complexities of reconciling human rights principles with the realities of mental health care.

The presentation will be followed by a general discussion in which participants will be encouraged to participate actively. This interactive dialogue aims to deepen understanding of the challenges and opportunities of implementing CRPD principles and provide valuable perspectives for developing mental health systems worldwide.

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[SY-26-01] Service users' perspectives on supported decision making in psychiatric settings – A scoping review

*Samuel F. Law¹, Waverly Chan², Deandra Osayande¹ (1. University of Toronto (Canada), 2. McMaster University (Canada))

キーワード : supported decision making、 substitute decision making、 Convention on rights of people with disability (CRPD)、 patient perspectives、 autonomy

Background Supported decision-making (SDM) in psychiatric setting is a process that enables individuals to make their own decisions regarding their treatment. The current clinical practice generally promotes SDM as a good practice, but for those who are seriously ill and lack capacity to make treatment decisions, substituted decision making is the norm. The UN Convention for the Rights of Persons with Disabilities (CRPD) focuses on promotion of human rights and dignity, and has mandated for the complete elimination of mental health practices such as involuntary hospitalization, compulsory treatment, and substitute decision making. However, research on SDM in psychiatry is limited, and the CRPD proposed changes using SDM is met with very mixed perceptions and opinions. We performed a scoping review to explore what is currently known about patients' perspectives on SDM in psychiatric settings. **Methods** Following the PRISMA-ScR framework for scoping reviews, a literature search was conducted across 7 databases, including articles published up to March 2025. The articles were first screened by title and abstract, with a focus on SDM and other related interventions such as psychiatric advance directives. A total of 13 articles were chosen for full-text analysis. **Results** This review shows a wide and diverse range of patients' experiences with SDM, including positive and negative views, as well as suggestions for implementation. The recurring themes involved patients' level of insight, increased autonomy, concerns about being ignored, and the role of trust in relationships, among others. **Conclusion** These results highlight the importance of shifting more autonomy and greater support for patients to make their own treatment decisions through the framework of SDM. It also leaves doubt that SDM alone without other forms of decision-making is adequate or desirable. This review could inform current policy, practice and research on regarding the role of SDM in mental health care.

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[SY-26-02] Comparative Analysis of the Thai Mental Healthcare Act and WHO Mental Health Legislation Standards based on the UNCRPD

*Chonnakarn Jatchavala¹, Nutt Sukavejworakit² (1. Department of Psychiatry, Faculty of Medicine, Prince of Songkla University, Songkhla, Thailand (Thailand), 2. School of Law, University of Phayao (Thailand))

キーワード : UNCRPD Human rights Mental health legislation、 Thai Mental Health Act、 Human rights、 Mental health legislation

Background: The WHO Checklist on Mental Health Legislation provides practical guidance for developing mental health laws that adhere to the principles of the UNCRPD. It emphasizes a legal structure that safeguards the rights of individuals with mental health conditions while also improving the quality and accessibility of care. Thailand ratified the UN Convention on the Rights of Persons with Disabilities (UNCRPD) in 2008, and its Mental Health Act was most recently revised in 2019. However, no study has yet assessed how well the Act aligns with the WHO Checklist (WHO-RB).

Method: The Thai Mental Health Act 2019 was compared to each item in the WHO-RB. The authors categorize each item as either concordant or not, offering additional details in the text. Any items that was not consistent will be rechecked for concordance with other Thai legislation.

Results: The majority of the Thai Mental Health Act meets the WHO-RB standards. When considering other relevant Thai legislation, a greater number of WHO's standards are addressed in Thai law. However, some human rights aspects based on the UNCRPD still lack detailed provisions for practical and clinical application in Thailand by both healthcare providers and magistracy.

Conclusion: The UNCRPD plays a key role in shaping mental health policy in Thailand by guiding healthcare practices, promoting higher standards of care, and protecting the rights of individuals with mental health conditions. These efforts contribute to a more just and effective mental health system. As the 2019 Thai Mental Health Act is currently undergoing revision, insights from this process could support aligning the updated law with international standards for mental health legislation.

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[SY-26-03] Cross-national comparison of involuntary hospitalization: Ideas for reforming Japan's mental health system

*Shinsuke Kondo¹ (1. University of Tokyo (Japan))

キーワード : CRPD、Mental Health Act、Involuntary hospitalization、Rights-based vs. capacity based

Japan's Mental Health and Welfare Act legitimizes involuntary hospitalization based on the *parens patriae* principle: when individuals with mental disorders are judged incapable of recognizing their need for treatment, they may be hospitalized without consent to protect their interests. Although the law includes a provision encouraging voluntary admission, the number of coercive admissions has remained high. Following Japan's ratification of the Convention on the Rights of Persons with Disabilities (CRPD) in 2014, which urges the abolition of non-consensual treatment solely on the basis of disability, awareness of this rights-based framework remains low among clinicians.

As part of a research project funded by Japan's Ministry of Health, Labour and Welfare—titled “*Study on Optimizing Inpatient Care Strategies within Community-Based Mental Health Systems*”—our team conducted a comparative legal and clinical survey. We reviewed the mental health laws of several countries and interviewed frontline psychiatrists using case vignettes to explore how involuntary hospitalization is implemented in practice.

This presentation focuses on a comparison between Japan and Canada. Canada was selected among Pacific Rim countries as a case study because of its relatively advanced community-based mental health system. In Canada, physicians—not limited to psychiatrists—can authorize involuntary hospitalization, allowing flexible responses in rural areas. Strict time limits are imposed, with regular renewal and oversight by independent Review Boards. In contrast, Japan requires certification as a Designated Psychiatrist, and its oversight remains weak, partly because its Mental Health Review Boards lack the capacity to function as effective safeguards. Although the 2024 legal amendment introduced time limits for involuntary hospitalization and mandated abuse reporting, its implementation remains doubtful, as the system still contains significant loopholes.

Insights from the Canadian system highlight the importance of enforceable safeguards, independent oversight, and transparency to better align mental health care with human rights principles.

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[SY-26-04] Forensic Implications of the Convention on the Rights of Persons with Disabilities - a Canadian Perspective

*Shaohua Lu¹ (1. University of British Columbia (Canada))

キーワード : Forensic Psychiatry、Canada、Not Criminally Responsible

The United Nations Convention on the Rights of Persons with Disabilities (CRPD), adopted in 2006, serves as a framework for protecting and promoting the rights of people with disabilities, including those with mental illness. The CRPD asserts that all individuals, regardless of ability, have the right to personal autonomy and decision-making. CRPD potentially conflicts with the underlying principles of “not criminally responsible” (NCR) defence in Canada. When Canada ratified the CRPD in 2010, it included a reservation regarding Article 12, that permits supportive decision-making frameworks for mental health. Proponents of the reservation argue that it acknowledges the complexities involved in mental health care and ensures that individuals receive support without undermining their rights. A rigid interpretation of CRPD may neglect the real-world challenges faced by those with severe mental illnesses, where decision-making capacity can fluctuate. However, Canada’s reservation may legitimize a paternalistic approach, effectively denying certain rights to individuals with mental illness. The reservation could lead to violations of rights under the guise of support, rather than fostering true empowerment and autonomy. Further health care delivery in Canada is under provincial jurisdiction, leading to fragmentation of CRPD implementation. The NCR defence is administered under the Canadian federal criminal code. Critics of NCR argue that such practices infringe upon individual rights and perpetuate stigma against people with mental illness. They contend that NCR is an extension of involuntary treatment and undermines the CRPD’s goals of autonomy and self-determination. This defence can reinforce stereotypes that mental illness is inherently dangerous or irrational. Yet, the NCR defence can be protective when criminal actions are mediated by mental illness. This presentation provides an overview of the debate regarding this topic. It will also discuss current gaps in the literature and best practices concerning the CRPD.