

The Op-Ed: Mental Health Rights, Pharma, and the Election

By Ed Silverman // [September 18th, 2012](#) // 10:49 am

[9 Comments](#)



(This is one of the series of op-eds we've solicited this week while Ed Silverman is on vacation. Jim Gottstein, from the Law Project on Psychiatric Rights, writes about developments in the mental health rights field, how pharma has contributed (positively or negatively), and how the upcoming election may influence that environment.)

First, in the interest of full disclosure, I work with the Law Project for Psychiatric Rights ([PsychRights](#)), whose mission is to mount a strategic litigation campaign against forced psychiatric drugging and electroshock around the country.

Second, before addressing developments in the mental health rights field, I think it is important to understand a couple of pervasive public attitudes that shape the setting. One is that we need to lock up people diagnosed with mental illness and make sure they take their "medications" to keep them from going on killing rampages. The truth, however, is that both of these approaches, especially psychiatric drugs, increase rather than decrease violence. People diagnosed with serious mental illness are no more likely to be violent than is the general population, if one takes into account the impact of psychiatric drugs. They are far more likely to be victims of violence than to be perpetrators. For some research on this, [click here](#). For a recent article on how neuroleptics (misnomered "antipsychotics") might be causing this violence, [click here](#).

The other pervasive public attitude is that if people diagnosed with serious mental illness weren't crazy, they would know it was good for them to take the drugs. The fallacy of this latter point was recently addressed in a recent [MadInAmerica.Com](#) article by award-winning science journalist and author Robert Whitaker:

The logic behind outpatient commitment [court ordered psychiatric drugging in the community] laws is that antipsychotic medication is a necessary good for people with a diagnosis of severe mental illness. The medications are known to be helpful, but—or so the argument goes—people with “severe mental illness” lack insight into their disease and this is why they reject the medication.

However, if the history of science presented in [Anatomy of an Epidemic](#) is correct, **antipsychotic medications, over the long term, worsen long-term outcomes in the aggregate**, and thus a person refusing to take antipsychotic medications may, in fact, have good medical reason for doing so. And if that is so, the logic for forced treatment collapses.

If we look closely at ... a long list of other research, there is good reason to believe that these medications increase psychotic symptoms over the long-term, increase feelings of anxiety, impair cognitive function, cause tardive dyskinesia with some frequency, and dramatically reduce the likelihood that people will fully recover and be able to work. If this is so, how can we, as a society, defend our increasing embrace of forced treatment laws?

(Emphasis added; for the full article [click here](#).)

In any event, not only the judges hearing these cases have the “if the defendant wasn’t crazy she would know this was good for her” attitude but so do the attorneys representing such people – to such an extent they are known as “Public Pretenders,” meaning they only provide pretend legal representation. This is largely true, as recognized by the Montana Supreme Court in a case known as *In re: K.G.F.*, resulting in what Professor Michael Perlin, probably the preeminent legal scholar on mental health law, says is a system that “deprives individuals of liberty disingenuously and upon bases that have no relationship to case law or to statutes”:

[C]ourts accept ... testimonial dishonesty, ... specifically where witnesses, especially expert witnesses, show a ‘high propensity to purposely distort their testimony in order to achieve desired ends.’ ... Experts frequently ... and openly subvert statutory and case law criteria that impose rigorous behavioral standards as predicates for commitment ... This combination ... helps define a system in which (1) dishonest testimony is often regularly (and unthinkingly) accepted; (2) statutory and case law standards are frequently subverted; and (3) insurmountable barriers are raised to insure that the allegedly “therapeutically correct” social end is met ... In short, the mental disability law system often deprives individuals of liberty disingenuously and upon bases that have no relationship to case law or to statutes.

The number of lawyers trying to address this situation is minuscule, with the legal rights organizations one might expect to litigate on behalf of people’s rights in this area not interested. For example, I spoke with the Executive Director of the American Civil Liberties

Union (ACLU) about a year ago when he was in town about the problem and I gave him a copy of the law review article I published, [“Involuntary Commitment and Forced Psychiatric Drugging in the Trial Courts: Rights Violations as a Matter of Course.”](#) He has expressed no interest in taking on the issue.

Developments in Mental Health Rights

The lack of legal resources for people wishing to vindicate mental health rights has resulted in a direct action approach. The long tradition of former mental patients protesting their rights' violations has recently experienced a resurgence (to get some history, [click here](#)). For example, last May, a couple hundred protestors converged on the American Psychiatric Association's annual conference. A string of videos on the protest can be found [here](#), and also on MindFreedom International's web page about the event, [here](#).

With less than a week's notice, a protest was organized in Washington, DC., at the Heritage Foundation against E. Fuller Torrey, the most prominent advocate for forced psychiatric drugging. (You can visit the Facebook event page [here](#).) This effort in the United States has recently coalesced under the banner of Occupy Psychiatry.

Next month, on October 6th, there will be a Human Rights Rally and March in New York City from the United Nations to another American Psychiatric Association meeting to protest human rights violations by psychiatry. (You can visit the Facebook event page [here](#).)

There have been two extremely important mental health rights developments at the United Nations in recent years. The first is the promulgation of the Convention on the Rights of Persons With Disabilities (CRPD). This is a groundbreaking treaty guaranteeing equal rights for persons with disabilities, by guaranteeing that persons with disabilities, including psychiatric disabilities, enjoy legal capacity on an equal basis with others in all aspects of life, and that they be provided access to the support they may require in exercising their legal capacity. This treaty is currently awaiting Senate ratification in the United States. (For the full text of the CRPD [click here](#).) Tina Minkowitz, who is recognized as the person most responsible for getting the United Nations to adopt the CRPD, will be speaking at the October 6th Human Rights Rally and March in New York City.

The second extremely important mental health rights development at the United Nations is the [Interim report of the Special Rapporteur](#) on torture and other cruel, inhuman or degrading treatment or punishment, which determined that psychiatric imprisonment, called involuntary commitment, and forced psychiatric drugging can constitute torture. There are also other violations of [The Universal Declaration of Human Rights](#) that are regularly violated in the United States.

People in the United States tend to believe that violations of International Human Rights do not regularly occur in the United States, but that is not true. It can be expected that with the

increasing familiarization with International law by United States activists for human rights in mental health, International complaints will be increasingly filed. For example, the Center for the Human Rights of Users and Survivors of Psychiatry, currently steered by Tina Minkowitz, Daniel Hazen and Lauren Tenney, is bringing International Human Rights law to bear in the United States.

The harm caused by unscientifically-based psychiatric diagnoses has also been the target of a recent mental health rights effort. Twenty years ago, it was estimated that 1.5 million people were locked up every year because of a psychiatric diagnosis and this has to have grown since then. There has also been the explosion of people being court-ordered to take psychiatric drugs in the community due to a psychiatric diagnosis, a phenomenon most often called “outpatient commitment.” Paula J. Caplan, Ph.D, who had an insider’s view of the unscientific way in which psychiatric diagnoses are invented out of whole cloth, has marshaled eight ethics complaints against people in the American Psychiatric Association on the grounds that this violates the ethical principles of the medical profession. (For more information, click [here](#).)

A sad recent development in mental health rights is that iconic psychiatric coercion critic, [Dr. Thomas Szasz](#), died last week at the age of 92. Dr. Szasz started writing and advocating against psychiatric coercion in 1960, “having become convinced of the fictitious character of mental disorders, the frequent injuriousness of psychiatric treatments, the immorality of psychiatric coercions and excuses, he set himself a task to delegitimize the legitimating agencies and authorities and their vast powers, enforced by psychiatrists and other mental health professionals, mental health laws, mental health courts, and mental health sentences.” I knew Dr. Szasz to be absolutely consistent and resolute in his commitment to expose the fraudulent nature of coercive psychiatry. He will be missed but not forgotten.

Pharma’s Contribution to Mental Health Rights Violations

While it is hard to overstate the influence of pharmaceutical company money and corruption in enabling people’s mental health rights to be so pervasively violated, this influence is indirect and sometimes subtle. Pharmaceutical companies, for example, while a huge beneficiary of court ordered psychiatric drugging, do not tend to directly support it. Rather they accomplish this through proxies.

One of the ways the pharmaceutical companies do this is to employ front groups such as the National Alliance for Mental Illness (NAMI), which has historically been primarily comprised of family members of people diagnosed with mental illness who have been convinced they need to make their family members take the medications. (For a New York Times article on this [click here](#).) Perhaps unrealistically, with the recent election of someone diagnosed with serious mental illness as its president, it is hoped that NAMI will reverse course and support mental health rights. I don’t question the sincerity of family members trying to do what is best. NAMI members should be outraged by the betrayal of its leadership in duping them to believe that locking up their family members and forcing them to take psychiatric drugs is in

their best interests. Maybe they will wake up.

However, the primary way pharmaceutical companies employ proxies for depriving people of their mental health rights is using mainstream psychiatry to assert that forcing someone to take these drugs, primarily neuroleptics, against their will is in their patients' best interest. It is now known that the information psychiatrists (and other medical specialties for that matter) utilize to make prescribing decisions is so utterly corrupted by the pharmaceutical companies as to be completely unreliable. (For some articles about this, [click here](#).) As *Anatomy of an Epidemic* has demonstrated, the ubiquitous use of psychiatric drugs has been the primary cause of a six-fold increase in the rate of disability in the U.S. of people diagnosed with mental illness, and has also decreased the average life span of people diagnosed with serious mental illness in the public mental health system by 25 years.

Since, under United States law, except in emergencies, people cannot be forced to take psychiatric drugs against their will unless it is in their best interests, and as set forth above, neuroleptic medications, over the long term, worsen long-term outcomes, increase feelings of anxiety, impair cognitive function, cause tardive dyskinesia with some frequency, and dramatically reduce the likelihood that people will fully recover and be able to work, let alone reduce their life spans by 25 years, it is quite accurate to conclude that pharmaceutical company concealment of these facts is entirely responsible for the deprivation of mental rights through forced psychiatric drugging. However, it could not have been done without the participation, wittingly or unwittingly, of mainstream psychiatry. Also, forced psychiatric drugging is continued by mainstream psychiatry in spite of these revelations.

It is also ironic that states have sued pharmaceutical companies for lying about the drugs, yet continue to obtain court orders requiring people to take them against their will.

I was involved in perhaps the first effort to expose pharmaceutical companies hiding adverse data when in late 2006, I subpoenaed and released what are called the Zyprexa Papers, detailing Eli Lilly's suppression of data showing it causes a massive amount of diabetes and other metabolic problems. (For more information, [click here](#).) Pharmaceutical companies claim these data are "trade secrets," justifying withholding it not only from the public, but also prescribing physicians. Since then, there have been a myriad of similar revelations about other drugs, including that Johnson & Johnson paid Dr. Joseph Biederman of Harvard Medical School to conduct fraudulent research to support the use of Risperdal in children.

One would think that these revelations would have resulted in the substantial curtailment of the use of these drugs with limited, if any, benefit, and extreme harm, but that is not the case. One does not have to be extremely cynical to believe that part of the reason is that advertisements for drugs is such a large percentage of advertising revenue that the mainstream media is unwilling to shine much light on the issue.

It is hard to see much, if any, positive contribution by pharma to the improvement of mental

health rights.

The Upcoming Election

As to how the upcoming election may influence the mental health rights environment, one has to make some pretty fine distinctions to come up with any differences. It is the Libertarians who tend to be the most supportive of mental health rights because it is consistent with their keep the government out of people's private affairs philosophy. The issue of mental health rights has never been on, let alone in the forefront, of either the Republicans' or Democrats' agendas. The Democrats' more pro-government intervention approach ends up being less supportive of mental health rights ("we are from the government and here to help you"). Similarly, if one believes that if the Republicans take the White House and end up having working control of Congress they will repeal the Affordable Care Act ("ObamaCare" if you like), that would likely reduce the expansion in the use of psychiatric drugs, and therefore be of some benefit to mental health rights.

On the other hand, the pharmaceutical companies are more closely aligned with the Republicans generally and this is bad for mental health rights. Also, and perhaps most importantly, one might assume the more the Democrats win, the more likely is ratification of the CRPD if it is not dealt with before then. This is probably the most important way in which the upcoming election may influence the mental health rights environment.

On the whole, however, because activists in the area have not been able to make this issue a matter of general public interest and policy debate, it is hard to discern any significant way in which the upcoming election will influence the mental health rights environment.

Comments

John

September 18th, 2012
12:36 pm

Generally I agree that forcing people to take drugs should be rare if it happens at all. But even in advocating for such a position, I think it is important to present all the data and not just a cherry-picked subset that supports the position that one is advocating.

If you look at the hundreds of studies that are published on the subject, you can certainly find a handful that suggest that neuroleptics are associated with increased violence, but many more reach the opposite conclusion. For example, this paper (<http://www.ncbi.nlm.nih.gov/pubmed/21179515>) by TJ Moore (no friend of the pharmaceutical industry) who found such evidence lacking, and this paper (<http://www.ncbi.nlm.nih.gov/pubmed?term=violence%2oneuroleptics%2ocatie>) by the members of the CATIE consortium (who reached broad and industry-unfriendly conclusions

that second generation antipsychotics were no better than first generation drugs) that concluded both first and second generation antipsychotics reduce violence.

Many other claims made in this article are unsupported by data or only by cherry-picking a small fraction of the literature. Why not tell the whole story? It would enhance your credibility and better advance your cause than a one sided polemic that is completely transparent to anyone not already supporting your position, and to many who do.

Dan

September 18th, 2012
2:17 pm

What is missing from this article is, what then? So, if we accept his general premise that neuroleptics are “bad”, and people should not be forced to take them, then “what then”? Anyone who lives in even a moderately-sized city knows that a fair percentage of our mentally ill are living in the streets, homeless, begging merely for existence. Where are the proposals for improved mental-health care? Where are the proposals for support for family caregivers? I’m not going to debate whether the drugs are effective (John, above, brings out some salient points), but I think the authors argument is weakened because he does not provide any semblance of a workable alternative.

Lillie Ross

September 18th, 2012
2:48 pm

Many of those prescribed mind-altering medications have problems in their context – their families and communities and cultures – that are more pressing than any problems in their minds. The long-term solution is primary prevention, community health, diet, exercise, clean air, clean water, noise reduction, ... In the short term, subduing those who are disturbing for our good, not theirs, is a shame that is uncomfortable to acknowledge. I don’t know what to do in the medium term – education like this is a start.

Ben

September 18th, 2012
5:10 pm

Dan, above, asks the question “What then”, if not psychiatric drugs, and points to homeless mentally ill in our cities – apparently not on any medication or getting any care.

Please read “Anatomy of An Epidemic”, Robert Whitaker’s landmark book, to read his chapter describing some of the programs he visited where psych. drug use is minimal to none. One prime example is in Western Finland, where the entire system is built on the premise of minimal drug use....results are excellent, less expensive than the way it is done here, fewer people on the equivalent of SSI-disability, reduced

mortality (psych. drugs kill ...young men in particular), and way more people in gainful employment. If only such policies could be adopted in this country.

The major barriers standing in the way are a terrified psychiatric community (Oh no, what if we can't give out drugs; what could we possibly do instead...or this response – talking therapy doesn't pay \$\$)... if they would examine the clear evidence and get behind changing the system, most of them would still have jobs and be doing something much more satisfying than pill pushing. The other giant boulder of an obstacle in pharma, who would be, in the end, the big loser. Way fewer people would be taking way fewer psych. drugs and we'd all be the better for it except them (their reaction...oh no ...the bottom line \$\$\$).

The evidence is plain. Jim speaks eloquently of human rights violations and this is the truth. I've approached the ACLU as well, and they have turned up their collective noses. But even worse than this is a system that rigs the game against people with mental health concerns...Even if not forced, these individuals are sold bills of goods, given dangerous drugs that kill them, cause chronic illness, make them grow breasts, or cause them to commit suicide/homicide. What could possibly be worse than losing your life for the greedy benefit of pharma?

Randy

September 18th, 2012
5:58 pm

Even if it were simply acknowledged broadly in our legal and scientific medical culture, that psych drugs are a method of neurochemical control of threatening or over-obnoxious individuals, that they are NOT "medicine" or "treatment" in the sense of any intention to help individuals overcome or recover from any disease, I believe the human rights violations would be much more easily reduced.

Faith

September 19th, 2012
12:14 am

There are many alternatives available. The National Empowerment Center (headed up by Dr. Daniel Fisher, survivor of a schizophrenia diagnosis, MD and PhD, former member of the President's New Freedom Commission on Mental Health) offers a great deal of information on peer respite and other crisis alternatives that – in the worst case scenario of someone experiencing real crisis-level difficulty, which does happen – they may be able to be supported in a non-invasive and non-coercive manner that respects their human rights, dignities, and potential. These peer respite centers can be state-funded with appropriate service definitions, and can also be community created and maintained, through the establishment of a small

city/county tax to fund and maintain them, or through private or charitable donations.

Additionally, there are resources such as Wellness Reovery Action Planning, <http://www.mentalhealthrecovery.com>, which was developed by Dr. Mary Ellen Copeland, also a person with lived experience, and which is an evidence based practice used by individuals and in recovery-oriented mental health and community-based centers around the country (and world.) This practice supports individuals – even those with “severe and persistent” mental health diagnoses – in self-managing wellness and safely navigating potential crisis.

It is, in my opinion, a myth that people “do not know they are having problems” – while under duress and certainly under threat of harm and with the impact of medication disruption, etc. it is true that people may become somewhat disoriented. This often happens to human beings that are experiencing fear, trauma, etc.

However, it seems to me that the vast majority of people who have struggles with mental health/human experience are often aware of their difficulties and are actually quite informed in what helps and what hurts. However, our current mental health system supports illness and helplessness rather than wellness and empowerment and typically does not support people’s efforts to establish wellness in a way that works for them.

There are many solutions, however none of them can be widely implemented without divestiture from costly medical model treatments, such as hospitalizations, “intensive outpatient” and prescriptions for seroquel. These “treatments” have strained public systems to the extent that there are few monies left over for preventative services, such as community-building recovery education programs and other publically funded services are left with few resources as well. Further, these “treatments” often create more problems than they solve, by disrupting people’s families, housing, occupations, and neurology, in addition to the trauma sustained in forced treatment settings. So, really it is a dysfunctional system, toxic in fact. While proven solutions are available, they cannot be implemented until our government ends its collusion with the corporate control interests of the APA and Big Pharma.

John

September 19th, 2012
4:33 am

Faith, I agree that there is a lot more that could be done to support people with mental illness. But the arguments that more innovative

policies are being impeded by the cost of antipsychotic drugs are undercut by the observation that most of these drugs have gone generic, and there is no sign of any change in policies or services offered.

Amy

September 19th, 2012
2:09 pm

It may be shown that psychiatric drugs lower the prevalence of violence in a generally non-violent population; they also reduce the capacity to relate to others, engage in a spiritual life, creative efforts, employment or many other activities and states many consider to be basic human conditions. They can reduce sadness but they also reduce joy. They very effectively remove your ability to self-assess as well, so while you are on them, you are not aware that you are missing anything, rather, you sort of float through life, developing expensive co-morbid disorders that cause you to die 25 years earlier than the general population. I agree that Anatomy of an Epidemic is a great resource and it certainly does not cherry-pick data. In my experience, it is the pharmaceutical industry that cherry-picks, with poor study design, throwing out unfavorable studies, suppressing adverse effects and miseducating prescribers & the general public through rep-based selling and direct to consumer advertising. Not to mention the resounding silence regarding the fact that almost all USA mass shooters were under the influence of SSRIs or that thousands of lesser (yet still horrendous) events occur every year to people under the influence of these dangerous drugs. There are MANY alternative approaches to first-line pharma approaches to behavioral health but that was not the focus of this article. As we integrate health care under the mandates of the ACA, there are two routes to take- well-studied interventions that do NOT rely on pills to address people's emotional distress or pharma's fiscally-driven drive to medicalize all human emotions as illness that can be treated with medications that disable an increasingly large percentage of the citizenry. It is not a sustainable system now, how will it look in five years when most substance use disorders treatments are pharma-based? Sadly, from drilling holes in people's heads to yanking out their teeth & intestines to elaborate & expensive psychosurgery & medications, psychiatry has never been based in robust & accurate science & it never will be.

Laura Borst

September 19th, 2012
6:51 pm

Romney would not be likely to repeal Obama "care". He started a government "health care" program in Massachusetts. Republicans and Democrats are often funded by the very same corporate interests, even

though their politicians like to act as if they are more different than they really are. “Democrat” politicians may like to act as if they care about people, but they often benefit corporate interests too. They take money from drug companies, but they often push government “health care” programs by claiming that they are “helping people”.

Republicans love to talk about smaller government, but they often push governmental expansion. It’s not just in well-known areas, such as war and surveillance schemes, but other things as well. For example, the Bush Administration promoted the Orwellian-named New Freedom Commission on Mental Health. This program promoted broad-based psychological screening programs, with the goal of making them universal. This would have obviously expanded more intrusive mental “health care” programs, including pressure to take psychiatric drugs.

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