

Distinguished Senators,

It is an honour and privilege to stand before you today. According to the Federal Ministry of Health, about 40 million Nigerians live with a mental health condition. You and I know that the majority of people with mental health conditions do not seek mental healthcare.

Today isn't just about this group of Nigerians, it's about ALL Nigerians. Mental health does not automatically mean a "mental illness". Mental health affects us all. It's in our eating habits, sleep patterns, anger and emotions, ability to manage stress and the quality of life we all live. This is paramount to everything I'm about to say.

In 2018 at the Global Disabilities Summit, this government made a single commitment to the world - to recognise the equal rights of persons with disabilities (which includes persons with mental health conditions and psychosocial disabilities) on an equal basis with every other person. A decade ago, Nigeria ratified the United Nations Convention on the Rights of Persons with Disabilities (UN CRPD) which borders on 3 key premises -

1. Nothing about us without us - an affected group of people should lead and be included in creating their policies and solutions that impact them.

2.

- Respect for inherent dignity, individual autonomy including the freedom to make one's own choices, and independence of persons
- Non-discrimination
- Full and effective participation and inclusion in society

3. Disabilities are more than a biomedical issues, it's largely a social issues. That means, it's no longer patient and symptom centred but person centred, and the role of social support and community care cannot be over emphasized.

Everything I say here today is not new. Its a simple request to uphold what Nigeria has already committed to.

I stand before you on behalf of my organization, She Writes Woman; a movement that gives mental health a voice in Nigeria by empowering people with mental health conditions to co-create their own solutions, get support and control their narrative, and advocate for their own rights. Together with Disabled Person's Organisations (DPOs) in Nigeria, we all support Nigeria's commitment to the Convention on the Rights of Persons with Disabilities.

More so, I am a person who lives with a mental health condition so you can understand why I am very passionate about this bill.

Most importantly, I believe that the very fact that we are all gathered here is testament to the fact Nigeria needs a mental health law and every single one of us here cares about this. So, thank you.

Our comments are divided into 6 key recommendations and 3 supplementary recommendations.

Key Recommendations

1. THE TITLE:

We acknowledge and appreciate all efforts to address the substance abuse epidemic in Nigeria with this bill (aren't there other pieces of legislation that address substance abuse?)

That being said, we can all understand that merging substance abuse and mental health further perpetuates the growing stigma and misinformation about the link between these two. It's already bad enough that when majority of Nigerians hear about mental health, they think we the people deliberately started by abusing substances. Substance abuse can lead to mental health conditions, but not all mental health conditions are caused by substance abuse.

We recommend that either substance abuse is a subsection of this bill or leave the already existing laws and agencies to further update current trends.

2. Nothing about us without us –

Although some civil society organizations have been consulted and participated in discussions about the draft law, **the consultations about the bill have not sufficiently included people with mental health conditions. The development, implementation, and monitoring of this law should ensure robust inclusion of people with mental health conditions and those with knowledge and expertise on the rights of people with psychosocial disabilities.**

Nigeria has ratified the CRPD which requires states closely consult with and actively involved people with disabilities in the development and implementation of legislation and policies that concern them.

3. Terminology

Distinguished senators, the bill we discuss here today uses outdated, stigmatizing terms which are incompatible with the human rights approach to disability. Some of those terms are: “persons with mental disorder,” “mental ill-health,” “illness,” “disorder,” “mental impairment,” “mentally incapacitated,” “right to a decent life as normal and full as possible,” and “patient.” These terms can perpetuate stigma and discrimination and do not reflect the CRPD definition of disability involving the interaction between people with disabilities and their community and environment.

I urge you to ensure our laws do not use terms that reinforce harmful stereotypes and that are not consistent with language used in the CRPD and by the Committee on the Rights of Persons with Disabilities.

4. Deprivation of rights on the basis of capacity

Clause 4 of the mental health bill allows for restriction of basic human rights on the basis of "an assessment of capacity".

Nigeria's GDS commitment clearly sets to recognise the equal recognition of PWD before the law and UN CRPD explains how. Article 12 equips all PWD the right to supported decision making. This can be given when a person needs to exercise their legal capacity or right to make decisions about their own lives.

Our recommendation is to allow for "supported decision making" through formal and informal support services. We suggest the revision of relevant clauses to ensure that people with mental health conditions, on an equal basis with others, have the right to make decisions about issues concerning themselves including related to hospitalisation, medical treatment, property and other matters.

5. "Detention" (involuntary admission) on the basis of disability

Distinguished senators, this bill if passed would allow for detention on the basis of disability, contradicting Nigeria's commitment under the UN Convention on the Rights of Persons with Disabilities. And contradicting our own values.

I remind this Senate that Nigeria has promised to guarantee guarantees the right to liberty for people with disabilities on an equal basis with others and states that "the existence of a disability shall in no case justify a deprivation of liberty." This precludes any exceptions whereby people with mental health conditions may be detained or deprived of liberty on the grounds of their actual or perceived disability. Detention based on an actual or perceived disability is discriminatory.

Again, the language of Clause 29 perpetuates a misinformed narrative that people with mental health conditions need to be "detained" in order to protect community. The Clause states that involuntary admission is allowed when there's "reason to believe" and "is likely to inflict", Clause 31, 33, 37 and 37 allow for involuntary admission anywhere from 72 hours to 1 month purely on suspicion.

In line with Nigeria's GDS commitment and outlined by the UN CRPD article 14, "the existence of a disability shall in no case justify a deprivation of liberty". Detention based on actual or perceived disability is discriminatory.

Our recommendation is that person's with disabilities can actually be detained, on an equal basis with others, when they engage in behaviour that would constitute a legitimate cause for detention for everyone else. In these cases, reasonable accommodation should be provided when it is so required.

All persons detained for whatever reason are entitled to basic rights set out in international human rights, including the Intro Covenant on Civil and Political Rights and the African Charter on Human and People's Rights. This includes that detention can only be based in law and every

detainee should be brought promptly before a judge to rule on the legality and necessity of detention.

6. Medical treatment without informed consent

In a positive aspect, this bill guarantees a person with mental health conditions to “receive treatment of the same quality and standard in a safe and conducive environment as any other person;” “the highest attainable standard of mental healthcare;” and “treatment, which addresses holistically their needs through a multi-disciplinary care plan approach.”

However, it also allows for non-lifesaving involuntary medical treatment if a medical officer determines that a “patient has not consented to the treatment for reason of incapacitation or other.” The bill would also legalize “intrusive and irreversible treatments of people with intellectual disabilities.” While the law prohibits sterilization and psychosurgery in the case of children it does not outlaw these practices in case of adults!

Furthermore, this bill allows for a psychiatrist or head of a facility to “recommend the placement of a person under a temporary treatment court order for a prolonged treatment in a psychiatric hospital if the psychiatrist or head of a facility is of the opinion that the severity of the condition warrants it.”

I am here to remind the Senate that all medical care must be on the basis of free and informed consent. The CRPD Committee has held that forced treatment is a violation of the right to equal recognition before the law

Supplementary Recommendations

7. Property Rights

Distinguished Senators, this bill limits the basic right to property and affairs on the basis of “incapability.” The clause confers powers to a judge (including in an emergency) to decide on the basis of “competent medical evidence” whether a person is “incapable by reason of mental disorder of managing or administering his property and affairs.”

International standards: CRPD article 12 requires governments take “all appropriate and effective measures to ensure the equal right of persons with disabilities to own or inherit property, to control their own financial affairs and to have equal access to bank loans, mortgages and other forms of financial credit, and ... ensure that persons with disabilities are not arbitrarily deprived of their property.” All individuals should have support to make decisions, as noted above regarding legal capacity.

8. Construction of facilities for PWD

Clause 52 allows for the mental health fund under this bill to be used to construct facilities specifically for PWD, it however doesn't specify the nature of these facilities nor what criteria or standards would be used to construct these facilities.

If Nigeria is truly upholding her GDS commitment for equal recognition, the CRPD article 19 ensures that equal right of all people with disabilities to live independently in the community and requires governments to provide community-based services for people with disabilities on an equal basis with the general population.

The UN Committee on the RPD has said that govts should not spend funds to build new institutions but should use funds to ensure quality, accessible, sustainable support and services for people to live independently in the community.

Our recommendation is to modify Clause 52 to read: "The development of community-based services for persons with MHC in line with the National Policy on Mental Health Device Delivery 2013. Include an additional objective of the fund to encourage local municipalities to support local hospitals to adopt primary care systems and community-based mental health delivery models to support PMHC

To accomplish this, this bill should incorporate the necessity for review relevant curriculum and training of practitioners, introduce a new cadre of supportive mental health practitioners, influence current mental health practices and commence a midterm scaling down if deinstitutionalization of PMHC.

9. The Need for Independent Monitoring of Relevant Facilities

Clause 3 allows for a Mental Health Tribunal to review and monitor cases of involuntary admissions, long-term admissions and "treatments that require a second opinion". Clause allows for the establishment of National Commission for Mental Health & Substance Abuse Services highlighting its role. It however does not specify independence of either the Mental Health Tribunal or the Commission.

Despite the good intentions, Human Rights Watch has documented thousands of PMHC living in government approved centres facing serious abuses including chaining and torture.

To uphold Nigerians commitment to equal recognition before the law, the UN CRPD also establishes that all mental health services designed for PWD are to be effectively monitored by independent authorities.

Since Nigeria has also ratified the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT) in 2009. OPCAT requires states parties to establish, designate or maintain an effective national preventive mechanism (NPM) wielding the mandate to regularly visit places of any form of detention with the aim to ensure prevention of torture and ill-treatment.

The Special Rapporteur on Health in his 2017 report raised concerns in the growing prevalence of mental health tribunals, "which instead of providing mechanism for Accountability, legitimate coercion and further isolate people within mental health systems from access to justice

We recommend the above be adopted or alternatively raise a committee withing he Federal Ministry of Health to carry out independent monitoring mechanism and level existing councils like the Medical and Dental Councils who already have tribunals for related purposes.

Distinguished Senators,

This is Nigeria's first and true Nigerian mental health law. It is for us all. This bill is neither a medical manual nor a tool to further stigmatise and segregate a group of people when mental health actual affects us all.

I know we may say that the US and UK laws share similarities with this bill. But I assure you that no one can confidently boast that the British and American mental health laws embody human rights and social support.

I know we will think of the 1% of people with mental health conditions who have extreme conditions. But do not use the 1% to restrict and deprive the rights of 99%.

I know you're thinking that this will be a completely new reality for Nigerian healthcare, but aren't we tired of passing bills that become obsolete once they become laws?

Distinguished Senators, colleagues and all represented, we have an unprecedented opportunity to set a standard that will push us to make accelerated change. We are at a pivotal stage to set precedence for even developed countries to emulate.

Today, we can make a choice to not just pass a mental health law but to use this single piece of legislation to decelerate stigma, reorient all Nigerians and uphold human rights simultaneously.

Myself and the over 40million Nigerian living with mental health conditions and psychosocial disabilities will thank you.