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## Involuntary Admission Legislation and Human Rights in Low- and Middle-Income Countries

Research Article

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### Abstract

This study determined the extent to which involuntary admission legislation in low- and middle- Income Countries (LMICs) meet international human rights standards by using the WHO Checklist on Mental Health Legislation. The findings suggest that, in many cases, the laws do not fully protect the rights of individuals with mental disorders in the context of involuntary admission, according to WHO standards. 43% of all standards analyzed for the LMICs in this study were rated as “Adequately covered”, thus, 57% of the standards for involuntary admission were deemed “Covered to some extent” or “Not covered at all”.

### Introduction

“The fundamental aim of mental health legislation is to protect, promote, and improve the lives and mental well-being of citizens.”<sup>1</sup> Globally, cases of mental health are often misunderstood and/ or undiagnosed.<sup>2</sup> As of 2005, 78% of countries had mental health legislation.<sup>3</sup> Many countries have revised or enacted mental health legislation in order to protect the rights of those with mental illness as people with mental disorders are particularly vulnerable to violation of rights and abuse.<sup>4,5</sup> Progressive legislation has the potential

to serve as an effective tool to protect and promote the rights of persons with mental disorders.<sup>6</sup>

In 2005, the World Health Organization (WHO) published the WHO Resource Book on Mental Health, Human Rights and Legislation (WHO Resource Book). The WHO Resource Book aims to assist countries in drafting, adopting, and implementing mental health legislation.<sup>7</sup> The WHO Resource Book is WHO’s most detailed statement of human rights issues to be addressed in national legislation and regulations.



There are published systematic assessments and comparative analyses of mental health legislation in the current body of literature. However, most studies focus on higher income and Commonwealth countries.<sup>9,10,11.</sup> Only one published study focused on *emergency* involuntary treatment and admission mental health legislation in low- and middle-income countries (LMICs).<sup>12</sup> Whether or not LMICs meet involuntary admission international human rights standards remains unknown.

Given the gaps in the existing literature, this study seeks to determine the extent to which involuntary admission legislation in LMICs meet international human rights standards by using the WHO Resource Book and Checklist. Considering that over 80% of the global population reside in LMICs, it is important that we start to evaluate whether or not countries are meeting the international human rights standards for individuals living with mental disorders. The mere existence of legislation does not guarantee that human rights standards are met.<sup>14</sup> However, ensuring that a country's mental health legislation follows international human rights standards is an essential starting point in guaranteeing these rights.

## Methods

### *Selection of mental health legislation for analysis*

Legislation was gathered from the WHO MiNDbank online database.<sup>15</sup> Legislation eligibility criteria included the following:

- a) a “stand-alone” or “dedicated” mental health legislation according to the 2011 & 2014 WHO Mental Health Atlas’ (MHA).<sup>16,17.</sup>
- b) legislation from a LMIC, using World Bank income classifications.<sup>18</sup>
- c) “fully implemented” or “partially implemented” legislation as reported by the 2011 WHO MHA.<sup>19</sup>
- d) available in English
- e) available on the WHO MiNDbank online database.<sup>20</sup>

These inclusion criteria were based on Wickremsinhe's (2018) study.<sup>21</sup>

## *Analytical Framework*

This study is a comparative analysis of the legislation in 24 LMICs, using the requirements for national mental health legislation outlined in the WHO Resource Book in a yes/somewhat/no fashion.<sup>22</sup> The study focuses on the content of the legislation rather than the effects and/or implementation of the legislation since there is a paucity of data available to determine the effects of the legislation in many of the countries included in this analysis.

The WHO Resource Book includes a Checklist on Mental Health Legislation which aims to: “a) assist countries in reviewing the comprehensiveness and adequacy of existing mental health legislation; and b) help them in the process of drafting new law.”.<sup>23</sup> There are 175 standards included in the WHO Checklist, which are grouped into 27 categories.

The legislative issue of focus in the present paper is involuntary admission legislation, or category “I” in the Checklist that is entitled “Involuntary admission (when separate from treatment) and involuntary treatment (where admission and treatment are combined)”. Category “I” consists of 10 standards. The 10 standards for involuntary admission legislation were analyzed by a single researcher to determine whether or not LMICs meet the requirements for national mental health legislation, outlined in the WHO Checklist.

## Results

138 countries were eligible for inclusion based on World Bank income classifications. However, only 24 countries (17.4% of all LMICs countries) met the inclusion criteria. All 10 standards were rated based on three options, as suggested by the WHO Checklist: A - Adequately covered; B - Covered to some extent; C - Not covered at all. **Tables 1** and **2** shows a breakdown of WHO checklist scores for each standard.

### *Areas of high compliance to WHO standards*

To calculate the areas of highest compliance with WHO standards, the number of As (Adequately covered ratings) were counted, and the countries were ranked (**Table 3**).



Across all jurisdictions, the legislation content of highest compliance with WHO standards were the following standards: 1c, 6, 8 and 10 (Table 1).

Standard	Number of A ratings	Number of B ratings	Number of C ratings
1) Does the law state that involuntary admission may only be allowed if:			
a) there is evidence of mental disorder of specified severity? and;	9	10	5
b) there is serious likelihood of harm to self or others and/or substantial likelihood of serious deterioration in the patient's condition if treatment is not given? and;	3	13	8
c) admission is for a therapeutic purpose?	22	0	2
2) Does the law state that two accredited mental health care practitioners must certify that the criteria for involuntary admission have been met?	7	10	7
3) Does the law insist on accreditation of a facility before it can admit involuntary patients?	9	2	13
4) Is the principle of the least restrictive environment applied to involuntary admissions?	8	2	14
5) Does the law make provision for an independent authority (e.g. review body or tribunal) to authorize all involuntary admissions?	11	5	8
6) Are speedy time frames laid down within which the independent authority must make a decision?	13	1	10
7) Does the law insist that patients, families and legal representatives be informed of the reasons for admission and of their rights of appeal?	4	3	17
8) Does the law provide for a right to appeal an involuntary admission?	13	0	11
9) Does the law include a provision for time-bound periodic reviews of involuntary (and long-term "voluntary") admission by an independent authority?	4	6	14
10) Does the law specify that patients must be discharged from involuntary admission as soon as they no longer fulfil the criteria for involuntary admission?	12	3	9

**Table 1.** Breakdown of WHO Checklist scores for each standard

Overall scores of all LMICs	Number (n)	Percentage
Total As - Adequately covered	62	43%
Total Bs - Covered to some extent	32	22%
Total Cs - Not covered at all	50	35%
Totals	144	100%

**Table 2.** Overall WHO Checklist scores for all 24 LMICs included in this study

Countries	n number of adequately covered standards per country (n/12)
1. Ghana	11
2. South Africa	9
3. India & Tonga	8
4. Jamaica, Maritius & Samoa	7

**Table 3.** Countries with the highest levels of compliance to WHO standards

*Areas of low compliance to WHO standards*  
When calculating the areas of lowest compliance

with WHO standards, the highest number of Cs (Not covered at all ratings) were counted and ranked for each country. Summarized in Table 4 are the countries with the highest levels of non-compliance to WHO standards.

Across all jurisdictions, the legislation content of low compliance with WHO standards included the following standards: 7, 4, and 9 (Table 1)

Countries	n number of standards that were not covered at all per country (n/12)
1. Kenya & Kiribati	10
2. Afghanistan & Solomon Islands	9
3. Indonesia, Malawi & Sri Lanka	8

**Table 4:** Countries with the lowest levels of compliance to WHO standards

### Conclusion

The findings of this analysis suggest that the mental health laws in LMICs take varied approaches in their legislation. In many cases, the laws do not fully protect the rights of individuals with mental disorders, in the context of involuntary admission according to WHO standards. 43% of all standards analyzed for all LMICs in this study were rated as "Adequately covered", leaving 57% of the standards for involuntary admission as either "Covered to some extent" or "Not covered at all". Ghana and South Africa have the highest number of "adequately covered" standards in their legislation. Kenya and Kiribati have the highest number of standards that are "not covered at all" in their legislation. From a human rights perspective there is much room for improvement in securing the protection of those with mental disorders via national legislation.

This analysis was not completed by a human rights and/or legal expert and would have been more thorough and/or accurate if a committee analyzed the legislation. It is hoped that this analysis stimulates the formation of committees and more thorough human rights analyses of mental health legislation in LMICs, as recommended by WHO.<sup>24</sup> This analysis provides a starting point for future analyses.

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