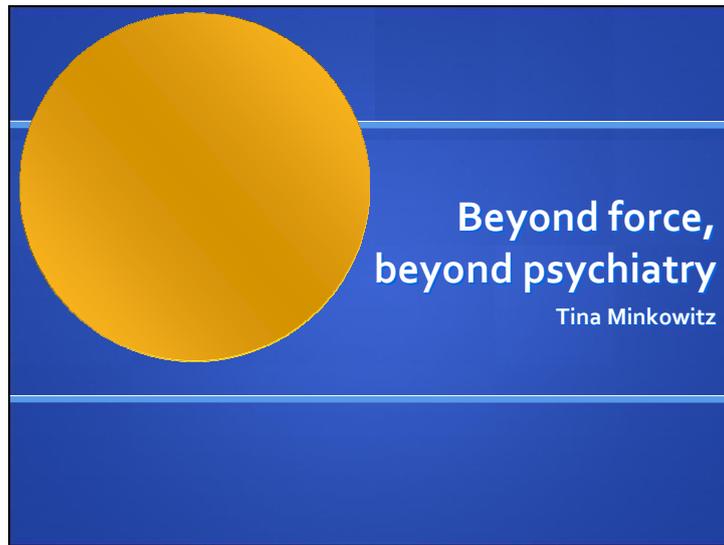


Lysbilde 1



## Lysbilde 2

### International human rights

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- Rights that a person has just by being a human being
- Universal Declaration of Human Rights, core human rights treaties, monitoring bodies
- Regional human rights treaties
- Evolving recognition of human rights, non-discrimination

## Lysbilde 3

### Convention on the Rights of Persons with Disabilities

- Human rights treaty adopted by UN December 13, 2006, entered into force May 3, 2008
- Users and survivors of psychiatry active in the drafting and negotiations
- Principles (Article 3) include:
  - "Individual autonomy including the freedom to make one's own choices"
  - Non-discrimination
  - "Acceptance of persons with disabilities as part of human diversity and humanity"

## Lysbilde 4

# Disability

- Users and survivors of psychiatry as part of disability community
- “Psychosocial disability”
- Social model of disability – problem is how society reacts to a person
- Mad pride/disability pride

## Lysbilde 5

### Key provisions in CRPD

- "States Parties shall recognize that persons with disabilities enjoy legal capacity on an equal basis with others in all aspects of life" (Article 12)
- "States Parties shall ensure that the existence of a disability shall in no case justify a deprivation of liberty" (Article 14)
- "Every person with disabilities has the right to respect for his or her physical and mental integrity on an equal basis with others" (Article 17)

## Lysbilde 6

### Key provisions in CRPD 2

- "States Parties... recognize the equal right of persons with disabilities to live in the community, with choices equal to others" (Article 19)
- "States Parties shall require health professionals to provide care of the same quality to persons with disabilities as to others, including on the basis of free and informed consent" (Article 25)

## Lysbilde 7

### What next?

- How do we make these words reality?
- What do we envision for ourselves when there is no more forced psychiatry?
- Is there anything we may be giving up, that we should keep?
- What new opportunities do we have?
- How does removing forced psychiatry allow us greater freedom and responsibility?

## Lysbilde 8

### Special Rapporteur on Torture

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- Expert designated by UN Human Rights Council
- Interim Report July 25, 2008 looks at torture and persons with disabilities
- “By reframing violence and abuse perpetrated against persons with disabilities as torture or a form of ill-treatment, victims and advocates can be afforded stronger legal protection and redress for violations of human rights.”

## Special Rapporteur on Torture 2

- "Persons with disabilities are exposed to medical experimentation and intrusive and irreversible medical treatments without their consent (e.g. sterilization, abortion and interventions aiming to correct or alleviate a disability, such as electroshock treatment and mind-altering drugs including neuroleptics).
- "The Special Rapporteur is concerned that in many cases such practices, when perpetrated against persons with disabilities, remain invisible or are being justified, and are not recognized as torture or other cruel, inhuman or degrading treatment or punishment."

## Special Rapporteur on Torture 3

- "The Special Rapporteur notes that the acceptance of involuntary treatment and involuntary confinement runs counter to the provisions of the Convention on the Rights of Persons with Disabilities."
- "Torture, as the most serious violation of the human right to personal integrity and dignity, presupposes a situation of powerlessness, whereby the victim is under the total control of another person.... It is often circumstances external to the individual that render them "powerless", such as when one's exercise of decision-making and legal capacity is taken away by discriminatory laws or practices and given to others."

## Lysbilde 11

### Implications

- Forced psychiatry may be torture or ill-treatment, and is counter to CRPD
- All states are obligated to prevent torture and ill-treatment, does not have to be party to CRPD
- SR recommends ratification of CRPD and its Optional Protocol
- SR recommends recognition of legal capacity of persons with disabilities and promulgating standards in line with CRPD on free and informed consent

## Supported decision-making

- CRPD Article 12:
  - States must “recognize that persons with disabilities enjoy legal capacity on an equal basis with others in all aspects of life” and “provide access by persons with disabilities to the support they may require in exercising their legal capacity.”
- A problem or a solution?
- What is support?

## CRPD standards for support

- CRPD Article 12:
  - States must “ensure that all measures that relate to the exercise of legal capacity provide for appropriate and effective safeguards to prevent abuse..... Such safeguards shall ensure that measures relating to the exercise of legal capacity respect the rights, will and preferences of the person, are free of conflict of interest and undue influence, are proportional and tailored to the person’s circumstances, apply for the shortest time possible and are subject to regular review by a competent, independent and impartial authority or judicial body. The safeguards shall be proportional to the degree to which such measures affect the person’s rights and interests.”
- Are these the kind of standards we need?

## Supported decision-making questions

- Does there need to be any new legal framework for supported decision-making, or do we only need to abolish incapacity, guardianship and mental health laws?
- Should there be any standards for validity of consent (to medical treatment, financial transactions, etc.)? Can there be any standards for valid consent that do not discriminate based on disability?

## Legal framework and beyond

- Should supported decision-making be a relationship with legal formalities (such as a health care agent or someone who holds a power or attorney)?
- Does supported decision-making overlap with mental health alternatives?
- How can the support model be used to inform a service system based on non-coercion?

## OHCHR on detention

- UN Office of the High Commissioner for Human Rights
  - Part of UN Secretariat with mission to promote and protect all human rights
- Dignity and Justice for Detainees Week Oct. 6-12, 2008
- "The Convention on the Rights of Persons with Disabilities (CRPD) states clearly that deprivation of liberty based on the existence of a disability is contrary to international human rights law, is intrinsically discriminatory, and is therefore unlawful. Such unlawfulness also extends to situations where additional grounds—such as the need for care, treatment and the safety of the person or the community—are used to justify deprivation of liberty."

## Action agenda?

- Promote ratification of CRPD and OP
- Open space to talk about forced psychiatry as torture and ill-treatment
- Complementary to strategy of law reform and developing/strengthening good practices for support
- Use monitoring mechanisms and courts where effective

## Information

- [www2.ohchr.org/english/issues/disability/index.htm](http://www2.ohchr.org/english/issues/disability/index.htm)
- [www.ohchr.org/EN/UDHR/Pages/DetaineesWeekInitiative.aspx](http://www.ohchr.org/EN/UDHR/Pages/DetaineesWeekInitiative.aspx)
- [www.un.org/disabilities](http://www.un.org/disabilities)
- [www.wnusp.net](http://www.wnusp.net)
- [www.MindFreedom.org](http://www.MindFreedom.org)
- [www.psychrights.org](http://www.psychrights.org)
- [tminkowitz@earthlink.net](mailto:tminkowitz@earthlink.net)