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Mental Illness, Mental Disability, and the Exercise of Human Rights: Key Differences and Similarities According to Mental Health Administrators and Managers Within Brazil

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Abstract

This qualitative study identified the perception of administrators and managers of the interrelation between mental disability and mental illness. It investigated experiences in which these differences facilitated or impaired the exercise of fundamental rights by persons with mental illness in a city in the state of São Paulo, Brazil. From this perspective, it is important to discuss the exercise of human rights in mental health. It is a key issue for social work practitioners and service managers, who are often the frontline responders to individuals with mental illness. Data were collected through semi-structured interviews analyzed through Bardin's content analysis technique. The following categories resulted from the analysis: clear perception of mental illness and mental disability definition and legislation; situations of fundamental rights fulfillment; and situations of disrespect of fundamental rights. Mental health managers noted the difficulties experienced when those with mental illness attempted to exercise their fundamental rights. Such attempts were often frustrating and fruitless. This situation is caused by the absence or limitation of a special legislation regarding fundamental rights of persons with mental illness in the country. In this context, the legislative power is primarily responsible for developing special acts and including them in general laws, especially considering the contributions of mental health legislation to a life with dignity for persons with mental illness.

Keywords Fundamental rights · Persons with mental illness · Legislation · Mental illness · Mental disability · Human Rights, Brazil

Introduction

Since the 1980s, the Psychiatric Reform in Brazil has been deeply marked by the idea of fundamental rights defense and citizenship rescue of persons with mental illness, especially considering that this group has repeatedly suffered some of the worst indignities of all vulnerable groups. They have often been excluded from opportunities for meaningful participation in society and denied opportunities to live with dignity. Like other vulnerable groups, persons with mental illness have endured inequality, discrimination, serious social stigma (Gable et al. 2005), and marginalization as institutionalization persists in many countries (Hunt and Mesquita 2006). In this sense, Scholten and Gather (2017) define mental disability, including mental disorders, neurodevelopment and neurodegenerative disease, organic brain damage, learning disability and intellectual disability.

In this context of failures to respect the rights of persons with mental illness, some countries, especially in the Global North, took significant steps to enact protection laws regarding the rights of persons with mental illness (Gostin and Gable 2004). These laws proposed the discussion of matters related to the inclusion of these individuals in society, focusing on the consolidation of their rights as the main goal. From this perspective, the development of appropriate services, additional

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policy, and legislative initiatives are a prerequisite to put into practice the right to health for persons with mental illness, as befitting the fundamental rights of every human (WHO 2005).

In 1988, when the seventh Federal Constitution (CRFB) was enacted, Brazil assured the right of every citizen to health, prioritizing primary health care, and universal care. Within the Unified Health System (SUS), and guided by the principles of universal and equal access, Brazil can be identified as one of the first countries in Latin America to establish mental healthcare legislation and rehabilitation policies focusing on the community and on the human rights of persons with mental illness (Ventura 2011).

It is argued that mental health care cannot be discussed without addressing human rights, as its realization is critical to advance the legislation to protect the rights of persons with mental illness. "Human rights" refers to the rights consolidated in international documents, of which the Universal Declaration of Human Rights is particularly important, approved in several international fora (Piovesan 2010). The fundamental rights correspond to the human rights incorporated into the countries' internal laws, usually in constitutional texts (Mazzuoli 2007). Despite the mentioned distinctions between these terms, the interest lies in the reciprocity of these rights.

International human rights law is important in the context of mental health as it legitimizes international scrutiny of mental health policies and practices within a sovereign country (Gostin and Gable 2004). The achievements in this area emerged from efforts of two social movements: the human rights movement and the disability rights movement. In this sense, the disability rights movement has championed the rights of persons with mental disabilities, in which persons with mental illness are included, often using human rights' principles and language (Gable et al. 2005). The only international treaty on persons with disabilities, the "International Convention on the Rights of Persons with Disabilities" (CRPD), incorporated into the Brazilian legal system, does not exclusively contemplate persons with mental illness. Thus, in Brazil, the legislation protecting the rights of persons with mental disabilities is considered more comprehensive than the legislation focusing exclusively on persons with mental illness. The Brazilian Constitution expresses the rights of persons with disabilities, with the goal of fostering policies to promote and ensure their rights (Brasil 1988; United Nations 2006).

An important debate emerges from the absence of agreement regarding terminology in the area of mental health. There are different connotations and meanings of terms such as "mental illness," "mental disorder," "mental incapacity," "psychiatric disability," "mental disability," and several others. They reflect debates and the discussion about a medical or a social model of functioning. The term "mental disability" is internationally used as an umbrella, including psychiatric disabilities and intellectual disabilities (Hunt and Mesquita 2006).

In this respect, the differences and similarities between mental illness and mental disability in the Brazilian legal system should be noted. Persons with mental disabilities are defined as "those with physical, mental, intellectual or sensory impairments, which in interaction with various barriers may hinder their full and effective participation in society on an equal basis with others" (United Nations 2006, p. 4). Their impairments or limitations in performing some activities are now seen as personal development difficulties.

On the other hand, persons with mental illness and psychiatric disorders can also have functional limitations and disabilities, but mainly due to "relational" deficits, such as in personal, professional, and social relationships. These people show functional limitations and disabilities such as decreased concentration, isolation, negativism, blunted affect, hallucinations, psychomotor slowing, and decreased energy (Stefanelli et al. 2008). Globally, mental illnesses are currently estimated to account for 12% of the global burden of diseases, and one in every four persons is likely to suffer from a mental illness at some stage of life (WHO 2001). Yet, despite the prevalence of mental illnesses, mental health is among the most grossly neglected elements of the right to health (Hunt and Mesquita 2006).

In Brazil, Law 10216/2001 is considered the main legal instrument to protect persons with mental illness (Brasil, 2001). This Law establishes the prerogatives for the National Mental Health Policy, but it is almost exclusively dedicated to the right to health care and does not fully contemplate other fundamental rights of persons with mental illness. The health care for persons with mental illness is offered through a Psychosocial Care Network (RAPS), including Psychosocial Care Centers (CAPS), Psychosocial Care Centers for Users of Psychoactive Substances (CAPS-AD), Psychosocial Care Centers for Children and Adolescents (CAPSi), and Therapeutic Residences and Psychiatric care offered in general hospitals (Brasil 2016), although the right to mental health care is assured by law, a long road lies ahead before its actual accomplishment.

Therefore, there is a continuing fight to preserve the rights of persons with mental illness in Brazil, confirming the importance of the effective integration between law and mental health in the country (Ventura 2011). There is a need for research on how the fundamental rights of persons with mental illness are upheld because it is clear that these rights are not always fulfilled. Hence, the general aim of this study was to identify the perception of mental healthcare administrators and managers from the city of Campinas in Brazil of the interrelation between mental illness and mental disability concepts, verifying experiences in which these differences facilitated or impaired the exercise of rights by patients with mental illness. The effective exercise of human rights in mental health is a key issue for social work practitioners and service managers, who are often the frontline responders to individuals with mental illness (Berthold 2015). Social work is regarded for challenging inhumane treatment of vulnerable people, aiming at enabling people to manage social factors and build resilience individually, and within their networks and communities (Lundy and van Wormer 2007).

Materials and Methods

This was a qualitative study in which participants were managers from the mental health services in the city of Campinas, the second largest city in the state of São Paulo in Brazil, with 1,170,000 inhabitants. Participants included in the study confirmed that they had experienced situations related to mental health patients' exercise or lack of exercise of their rights. Data were collected through semi-structured interviews with the managers who were at the time of data collection working in the following mental health care services: (CAPS III = 2, CAPSi = 1, Therapeutic Residential Service = 2, Mental Health Nucleus = 1, Health insurance manager = 1, Superintendence assistance = 2, Candido School = 1, and Community Care Center = 1). All 11 managers from mental health services meeting the inclusion criteria were invited and accepted to participate in this study.

The data collection instrument was designed based on a literature review and was validated by two experts in the field of mental health and two experts in the field of law. It included closed-ended questions (socioeconomic and professional data) and open-ended questions (difference between mental illness and mental disability and the influence of this difference on the exercise of rights by persons with mental illness, knowledge on the legislation regarding mental disabilities and mental illness, and situations experienced concerning the exercise of or lack of exercise of rights by persons with mental illness). Three preliminary interviews were performed with mental health care professionals to adjust the instrument. The interviews were digitally recorded and lasted 1 hour and 15 minutes on average.

The Thematic Content Analysis, proposed by Bardin, was used for data analysis (Bardin 2011). The analysis comprised the following steps: (1) Pre-analysis, consisting of material selection (corpus) and meticulous reading; (2) Encoding, step in which raw data were transformed from the corpus, making use of records which were grouped in the future; (3) Categorization, organization phase and classification of the corpus around different initial themes; (4) Interpretation, which consisted of the inferential process to reach the final themes (Gondim and Bendassolli 2014).

Therefore, the questions and answers were transcribed in full and were analyzed, using a posteriori categorization. Both authors participated in the process of coding and recoding, until there was a consensus on the final themes. The results were discussed based on the literature on the topic, especially international, regional, and Brazilian instruments regarding the rights of persons with mental illness and mental disabilities.

The project received approval from the University of São Paulo at Ribeirão Preto College of Nursing Ethics Committee, and statements were identified with the letter P for each participant followed by the number indicating the sequence of the interviews.

Sample

Of the 11 participants, 10 were female and one male, 10 had partners and their ages varied from 30 to 58 years. The majority (7) had graduated over 20 years earlier and had completed *stricto* sensu (4) and *lato* sensu (4) graduate programs in the area of mental health. With respect to their professional experience in the area of mental health, all of them had at least 10 years of experience; six had 24–30 years of experience; four had 13–17; and one had 10. Their experience as managers of the mental health services varied from 5 to 23 years. Six of them had worked in the services more than 10 years and five fewer than 10 years.

It is important to emphasize the participants' average age of 46 years and the average experience of 19 years working in mental health and of 12 years working in managerial positions. This experience includes both the time of graduation (average 21 years) and time of activity. They also held *lato* sensu and *stricto* sensu graduate degrees in the mental health area, which is desired and expected to perform this function. These characteristics, in terms of maturity, experience, and professional qualification, seem appropriate for management.

The guiding questions led to the analysis of the interviews, which resulted in the following categories: clear perception of mental illness and mental disabilities definitions and legislation; situations of fundamental rights fulfillment; and situations of disrespect of fundamental rights. These categories are detailed and discussed below.

Results and Discussion

Clear Perception of Mental Illness and Mental Disability Definitions and Legislation

Initially, questions were asked on the definitions of mental disability and mental illness. Participants hesitated to address the definition and legislation regarding persons with mental disabilities. This probably happened due to their daily experience and focus on persons with mental illness and not on mental disability as, despite the presence of comorbidities, these services were designed to provide care to persons with mental illness.

Based on the participants' discourse, however, a clear perception of the definition of mental illness and mental disabilities and their legislation was observed. The answers gather distinctive testimonies in terms of the concepts and legislation.

When participants were questioned about the definition of mental disabilities, their answers indicated two main grouped definitions, which are, respectively:

> [...] an inborn characteristic of the person [...], they have a cognitive limitation for learning. (P1) [...] associated

> with mental retardation, lower cognitive level. (P2) It's something that can arise from a genetic issue, pre-natal or birth complication (P9) [...] linked to some kind of deficit, [...] we used to focus much more on special needs than on disability. (P11)

> [...] it can be from the syndromic perspective. [...] or caused by a mental illness, which starts very early. I do not believe that everybody is born with some impairment, it can happen in the course of life, and it can cause some harm. (P6). [...] you can have a schizophrenic with mental impairment, it's syndromic. [...] there are three basic structures, neuroses, psychosis and perversion, which can be a mental impairment. (P7)

The first group emphasized congenital impairment and its cognitive aspect, and the other emphasized the acquired impairment and the syndromic view on impairment.

The last update of Brazilian legislation, provided by Law 13146 of July 6, 2015, embedded the CRPD concept, addressing the biopsychosocial assessment of the disability to be conducted by a multi-professional and interdisciplinary team, considering: I—impairment in the body's functions and structures; II—socioenvironmental, psychological, and personal factors; III—limitations on performing activities; and IV—restriction on participation (Brasil, 2015).

Similarly, the International Classification of Functioning (ICF) establishes criteria that combine functional limitation with socioenvironmental and economic factors (WHO, 2004). To define disability in Brazil, however, the ICD (International Classification of Diseases) is still used, which requires caution, due to the change in the concept set forth by the recent law (Brasil 2014). Although efforts have been made to standardize and classify mental and behavioral disorders, the WHO acknowledged, in their introduction to the ICD-10 classification, that "disorder" is not an exact term, but is used to imply the existence of a clinically recognizable set of symptoms or behaviors associated with distress and interference with personal functions (Leung 2002).

The participants' statements showed a diversified use of nomenclature, varying from terms such as "retardation," "deficit," and "special needs." These data reflect the vague definition of mental illness (Leung 2002). The nomenclature update needs to be applied in the Brazilian standards and in scientific research. This is not only a terminology change—in addition to reflecting on conceptual matters—but also a new way to look at and deal with disabilities and their relations with others in society. This involves changes in values that are rooted in people's culture (Brasil 2014).

According to the CRPD, mental disability is a result of attitudinal and environmental barriers that hinder persons with impairments from participating fully and effectively in society on an equal basis with others (Craigie 2015).

Two participants emphasized an association between mental illness and the onset of disability, when addressing the possibility of the presence of disability in several of them. They referred back to concepts presented herein, regarding their limitation or incapacity to perform activities associated with adaptive skills (communication, personal care, social skills, use of community resources, safety and health, academic skills, leisure, and work). These can be physical, intellectual, and sensory impairments that may prevent their full and effective participation in society. It is relevant to note that the international society has requested the inclusion of the term "psychosocial" in the person with disability concept, in order to represent another group of persons that should also be considered (Brasil 2014). For Brazil and a few other countries, however, agreeing with the inclusion of psychosocial disorders as one of the hypotheses of disability could make the Convention ratification process more difficult, because we distinctly address disability and mental illness in our legislation (Brasil 2014).

The conditions often regarded as "mental illness" and treated by psychiatrists or members of related professions are widely varying in nature just as even the sense in which they are "disorders" differs (Mattews 2000). Thus, it is extremely important to have a clear definition of mental illness, especially for this target group and an audience that encompasses patients and their families, healthcare professionals, and law and court workers, as they need to make decisions based on clear definitions (WHO 2005).

Participants reinforced the difference between mental disabilities and mental illness, reaffirming that, although they are aware of the comorbidity, the person who only has a mental illness is not mentally disabled. Participants showed, in these statements, a trend to associate mental illness with psychosis, not identifying it with other types. Regardless of the type of mental illness, answers showed concern with the suffering human being and their subjectivity in the illness process.

> [...] some people who have both, mental disabilities and psychotic disorders. [...] at the behavior change, perception change level. They do not affect intelligence...(P3) [...] I think mostly about mental disease issues. [...] schizophrenia, not associated with disability. (P2) Psychosis has nothing to do with IQ. (P5) [...] it is neurological, psychical. [...] acquired over time, it might have a genetic factor or not, maybe environmental. (P1) [...] a predisposition that the person has and is kept deep inside, and something happens and brings it to light or not. [...] it can result from an organic problem, a trauma, a sequel. (P8)

> [...] it is the mental disease itself [...] brings cognitive and social consequences, and causes suffering. (P6) [...]

> there's pain [...] It's a way of being in the world, [...] they build a paranoid bond with the world or a rupture with life. [...] theoretical conception of psychosis. (P5)

In addition, other serious mental illnesses are experiencing exponential growth, such as depression. It is estimated that one in every 20 individuals say that they have experienced a depressive episode in the course of life, thus it is a major cause of disability, as well as a cause of death by suicide (WHO 2012). In this sense, mental illnesses are increasingly prevalent in developing countries, such as Brazil (Kogstad 2009).

> We think more of mental illness when we talk about psychosis, but it is not actually like that [...], they are also suffering from serious mental illness [...] depression, panic syndrome, anorexia, bulimia. (P7)

Another topic observed was the criticism of mental illness definitions under the ICD perspective.

> [...] a logic within the International Code of Diseases [...] in practice, there is not much of a biological base of evidence, it is a lot more susceptible, [...] so many cases that, at first, oh, looks like [...] psychosis, schizophrenia, [...] a hallucination symptom arising from alcohol withdrawal. Also, the opposite, cases which we thought were neurotic, [...], and it was a psychotic structure, but with symptoms not deriving so much from a more classic psychosis. (P4) [...] in the diagnostic classification, it has a therapy applied to medication. [...] I observe that these are children with a rupture of significant bonds. [...] the initial idea is to medicalize everything which is not standard behaviour. (P9)

On this aspect, it is relevant to point out that the ICD, in its periodic reviews, has had an enormous expansion in the number of mental illnesses. This implies an increase in diagnostic possibilities, which can cause damage, especially in children's psychiatry. Children are increasingly being treated for hyperactivity and attention deficit disorder. In this context, it is crucial that people, mainly children, are protected from the excess of psychiatric diagnoses and medication.

Thus, it is challenging to define mental illness, as it is not a single condition, but a group of disorders with a few common points. It is critical to discuss the conditions which should be included in the definition of mental illness, taking into consideration the legislation as an important determinant for the exact limits of the category (WHO 2005). For example, in this study, in which legislation is focused on positive and negative rights, the respective mental illness definition must search for its widest possible form to encompass its benefits to all persons with mental illnesses, in accordance with society's social, cultural, economic, and legal context.

When questioned about the awareness of the legislation on the rights of persons with mental disabilities and/or persons with mental illness, participants referred to the framework of the Brazilian special legislation on persons with mental illness:

> Of mental disability, I know very little. (P1) I do not know. (P2) [...] there are many mental disability incentive laws. (P3) [...] you see jobs on the internet. (E5) There's the quota act. [...] a law for bus fare, free tickets (P3)

> We work a lot with the Psychiatric Reform law. (P3) [...] mental health treatment offered by the CAPS, community centers, income generation workshops, therapeutic home services. (P1) I think we healthcare professionals have a tendency to think of legislation as a milestone, which enables treatment in the Community, insertion in the family [...] there's RAPS of how the psychosocial care network should be built. (P6)

Situations of Fundamental Rights Fulfillment

Throughout history, persons with mental illnesses have been feared, demonized, patronized, and deprived of rights (Schierenbeck et al. 2013). Thus, mental health laws and policies need to be based on human rights, as this might be the most effective way to prevent violations and discrimination, fostering autonomy and freedom of persons with mental illness and persons with mental disabilities. Individuals have the right to living conditions that respect and promote dignity. In this context, there is growing jurisprudence in the field, as well as an increasing interest from civil society and academics. Care has been traditionally focused on the civil and political rights of persons with mental disabilities and mental illnesses. However, social, economic, and cultural rights are beginning to attract greater attention and concern (Hunt and Mesquita 2006).

From this perspective, in Brazil, some theoretical studies emphasize the "minimum existential" theory applied to the right to health, which consists of a group of social rights composed of the basic assets and utilities indispensable for a dignified human life (Novelino 2008). In this sense, the Federal Supreme Court judge Celso de Mello voted that the idea of the minimum existential, which results from some constitutional provisions (CR, art. 1, III, and art. 3, III) should be noted. It comprises a group of prerogatives whose realization is capable of warranting proper conditions for a dignified existence. It aims to ensure, to the individual, an effective access to the general right to freedom, and also positive provisions from the State. This should enable the full enjoyment of basic social rights, such as the right to health, education, full protection of the child and teenager, right to social care, right to housing, right to eat, and right to security (Brasil, 2011; ARE 639.337-AgR, Rep. Just. Celso de Mello, j. 23.08.2011, 2nd Group, *DJE*, of September 15, 2011).

Considering the aspects of the fundamental rights addressed in this study and linked to the right to mental health care, the answers associated with the fruition of these rights have been organized as follows: social security, work and profession, housing, transportation, education, culture, and sports. The Brazilian Constitution describes social security as "an integrated set of actions by the Public Powers and the society designed to warrant the rights related to health, welfare and social care" (Silva 2007).

> Welfare issues can be associated with benefits [...] Practically all the residents receive benefits [...] we are successful. (P2) The Continuing Benefit Conveyance [...] we often get it. [...] it helps the family [...] they are no longer a dead weight, which is how they are treated, unfortunately. [...] it gives them the opportunity to have housing [...] or to buy the things they need to live. [...] those in serious conditions would have no chance to enter the labor market [...] so, they have this income supplementation to be able to give quality to their lives. (P1)

According to the participants, the housing issue was mostly associated with social care represented by the Organic Law of Social Welfare LOAS and the Legislation called Returning to Home. These benefits were emphasized because they are the main or the only alternative way for persons with mental illness to exercise their right to housing.

Thus, the right to housing consists of the right to obtain dignified and proper housing, revealing itself as a provisional positive right because it legitimizes its holder's intention to realize this right through a positive action by the State. Among the fundamental objectives of the Federative Republic of Brazil, the Constitution states that building a fair and solidary society, eliminating marginalization, and promoting the good of all assumes, as a minimum, having somewhere dignified to live (Silva 2007).

> They can even access the right to housing. [...] it's not something fast and easy. It's the enrollment, a long waiting time. (P3) There are housing programs [...], Minha Casa Minha Vida (My House My Life), or housing complex [...]. (P5).

In addition, the right to work is an important right to implement and ensure a dignified life to all, and it is responsible for giving meaning to their existence (Lenza 2013). Below, the mention of work opportunities for persons with mental illness appears, through partnerships and their inclusion in the quotas for persons with disabilities. This certainly favors the right to work and is something to be addressed when defending the rights of persons with mental illness.

> We have a job workshop [...] (P6) which is the Center of Workshops and Jobs, [...] the patients who stood out had the opportunity to get into another project, the Partnership Project, [...] a good baker, [...] washer, [...] cooker, so there were job openings in these sectors in the institution. And then, they became legitimate openings that were framed into the quotas act. (P11) Campinas also has the distinction of having formalized now [...] persons with mental illness are hired and protected by the quotas act of the Labor Ministry. (P1)

The constitutional rule relating to education determines that the State should equip itself to provide educational services to all. Ideally, this would increasingly expand the possibilities for everyone, equally and immediately, to fully exercise this right (Silva 2007). The statements show that there are scarce opportunities to exercise this right:

> Candido has a partnership with the Municipal Education Foundation, FUMEC. [...] the Community centers have classes for basic education adult literacy [...] (P1 [...] many of the classrooms are inside the community centers, so persons with disabilities learn how to deal with it. (P5) This has very important and healthy results. (P2)

The right to culture anticipated in the Constitution provides that the "State shall warrant to all the full exercise of cultural rights and access to the sources of national culture, and shall support and stimulate the valorization and diffusion of cultural manifestations" (Silva 2007, p. 317). Such activities are certainly very useful for the social insertion or reinsertion of the users. In addition to their therapeutic function, they also are reflected in the improvement of persons with mental illness as individuals and citizens.

> There has been an advance in points of culture [...] a policy by the Ministry of Culture. (P6) It's an online radio, it has a fully equipped studio and extends to the computer and digital literacy project, photography, newspaper, which is Candura. [...] there are a lot of travel events, exhibitions, online radio programs that are 24 h, events published in the newspaper.. (P1)

> [...] they go on day trips [...] (P8) [...] farm-hotels, the beach. They enjoy a lot, they like it a lot. [...] they have partnerships with the community, "June celebration" [...] it's a tradition in the community, among neighbors. [...] there are no sports, maybe because of the age, the profile [...] there's not much participation/interest. (P2)

Situations of Disrespect of Fundamental Rights

The perception of the exercise of rights by persons with mental illness reflects the restriction of their fundamental rights (Ventura et al. 2014, 2017). Participants also noted the lack of knowledge by the legislators and society of possible disability or limitation, temporary or permanent. This is a warning of the need for society's cultural and educational change in understanding the psychosocial functioning of persons with mental illness, as this prevents or makes it very difficult for them to exercise their rights. The reports below point to problems experienced by mental health care managers associated with the exercise of rights.

> [...] mental disability [...] has something more concrete. A visual or hearing-impaired individual, people can see it, and understand that there is an impairment, and I see that there's something to be protected, in terms of rights. (P11)

> [...] for the persons with mental illness, the citizenship matter is more complicated. (P11) [...] they have more difficulty accessing rights. (P3) [...] it is actually complicated to exercise a right in a serious, psychotic, delirious state. (P7) [...] psychotic patients, the more serious neurotic, I see a greater difficulty in accessing these rights. [...] (P7) There's a lack of technical understanding even by those writing the laws [...]. (P1) We can capture the essence of the patient's reasoning, but others not so much. (P7)

Moreover, the participants most questioned the rights that involve social security, welfare, social assistance, and healthcare. Although they considered it important to use the benefits offered to persons with mental illness, they deal with everyday difficulties to implement those rights.

> The issues with welfare are numerous. (P3) An actual difficulty is found, it is impossible for the people to get a permanent benefit, to be able to lead quality lives. (P1) The clinical condition situation does not show up in any tests, it is clinical, symptomatic. (P3) [...] many crazy individuals are not crazy all the time, and I do not know what the experts think that they should be totally nuts, so this is a very common situation, we often need to refer again. (P5)

> There's also the illness aid thing. It's very controversial. Oh, the user who drinks, they have no right to be removed by the welfare. [...] and the use of alcohol is sometimes followed by a condition, for example, a serious depression… And we have been watching the welfare experts denying them often. (P4)

The participants' emphasis on welfare and social assistance is due to the fact that these also offer the greatest number of benefits for the protection of mental health patients' rights. From this perspective, the study showed that, for many professionals in a general hospital, it was difficult to establish an approach with the persons with mental illness. The professionals found it difficult to understand their role as caregivers for these people. Consequently, the mentally ill were rarely admitted as patients. Also, the results of this research showed the need for qualification, and the non-acceptance and lack of skills for nursing care in mental health (Silva et al. 2012). In the statements, this situation was also found in the exercise of the right to health:

> As incredible as it seems, our greatest difficulty is in healthcare. (P2) This is where things really start to heat up. [...] there's a lot of resistance by the professionals to see, to understand, that it is not just the person who is being a handful, there's a condition behind all that, to see that, in addition to mental health, there's physical health. [...] (P11) [...] very often, the person with mental illness is in need of surgery [...] We have heard we are not going to do it because he or she is a psychiatric patient. And, if they need to be admitted, they require a companion. [...] (P2)

> Of all practices, from the Healthcare Center, if they arrive stammering too bad, they soon dismiss them. [...] depending on who sees them and listens. There's the difficulty to get access. (P3) Actually dealing with prejudice that they bring out in other people, even those graduated in healthcare areas [...] we have had situations in which doctors refused to offer a PAP test, ultrasound, merely because of prejudice. [...] (P7)

The situations the participants experienced regarding work, transportation, and housing areas showed few favorable occasions of access to these rights. This indicates the need for expansion and creation, as well as educational actions in different areas of society, to fight stigma and the violation of rights, expressed in the following statements:

> [...] the severe patients, I would not consider helping them to look for jobs, they get the benefit or inclusion in income-generating projects. (P1) [...] there are few initiatives that foster insertion in the labor market, professionalization. And it's also a very cruel market reality. So many get a job after some improvement, but it's a job that cannot even enable them to continue treatment. To be working, they need to be in a condition, quote, absolutely healthy. And this healthy... means in accordance with market expectations [...] which is to work, produce and have consuming power. (P4) Another difficulty, for

> example, for them to go into the regular labor market, is that they have to dismiss LOAS to be hired and, if they do that and have a recurrence, it'll be very difficult to get LOAS again. (L2).
>
> Transportation is difficult. [...] they provide the fare to the treatment and back, and not to work, [...] it's incompatible, they cannot participate in leisure activities, and suffer a lot from that. (P5)
>
> For new residents, there are difficulties finding accommodation [...] they are not entitled to the Back-Home benefits, without any institutionalization period. There's a long waiting list [...] there are no openings. It lacks financing. (P2)

Participants also affirmed that there are some rights of persons with mental disabilities which they do not exercise.

> The disabled person has the quota act that really helps in daily life and with jobs. Those with mental illness are not included in this quota act. (P8) Acknowledging the lack of resources for the person with mental illness, you frame a diagnosis, for them to get into a better school or to get free transportation. (P9) [...]
>
> The only thing they have during the day is basic education. There's no high school, not during the day, only in the evening. So, there's no offer. [...] They have difficulty in accessing it or there are no vacancies, [...] some say "Oh, I went there, but it looks like I cannot enroll. There's this exclusion thing "This guy is a handful, so bye". (P3) [...]now, we have this autism ordinance, but it leaves out the boys with mental illness. The special education teacher is there for the disabled and autistics. The persons with mental illness become monsters. (E9)

In this respect, "the law can grant no specific treatment, favorable or not, to cover peculiarizing traces and circumstances of a category of individuals if there is a rational adaptation between the distinctive element and the regimen given to those framed in the differentiated category" (Mello 2006, p. 39).

Therefore, aiming at respecting the legal equality principle, the law can distinguish situations and individuals and check if a certain act is in accordance with this principle, verifying if the differentiating element used in the act or law is serving a constitutionally protected purpose (Novelino 2008). Moreover, the equality sought is not only formal but also (actual or factual) material equality, promoting the equalization of the unequal by granting substantial social rights, and this can be seen in the realization of social rights.

Through a systematic interpretation, we find evidence that it is a challenge for persons with mental illness to reach and obtain the realization of fundamental rights, reaching material equality, as already observed in other vulnerable populations. The exercise of rights is often limited by the lack of knowledge and understanding of persons with mental illness by society and its representatives. These may be from the executive, legislative, or judiciary power where, once again, stigma and prejudice are some of the many elements that hinder the exercise of rights in community life. This can be associated with negligence by lawmakers who are unaware of the life context of those with mental illness. This results in the absence of a special law regarding the fundamental rights of such groups.

In addition, participants questioned if there would be any difference between the exercise of rights for people with mental illness and people with mental disabilities, considering that users, healthcare professionals, and law operators did not consider this difference:

> It may be in the law, but in the daily life of these individuals, there's no such difference in the exercise. [...] it has no influence because people do not know about this difference. (P2) [...] the difference between the legislation for the disabled and those with mental illness is not something that generally interferes in the exercise of their rights. (P4)

This situation is also found among healthcare professionals and legal operators, among others, who do not act in mental health practices. The result is a lack of understanding regarding the functioning of those with mental illness, of their illness process with its limitations and possibilities.

In this context, the importance of the healthcare professionals' awareness about their role with healthcare users is emphasized. The intention herein is not to minimize the relevance of the specific technical actions of healthcare professions. In addition to the excellence in the performance of their activities, healthcare professionals perform functions, in their practices and daily situations, that lead them to also act as political agents in search of changes, acting as healthcare users' "advocates" (Ventura et al. 2012).

Thus, healthcare advocacy can and should be the competency of healthcare professionals in the defense of several aspects of healthcare, representing, in democratic societies, an essential citizenship exercise for the nation's social development, aiming at equity in healthcare and the assurance of the individuals' physical, mental, and social well-being (Germani and Gonçalves 2013).

Finally, it should be emphasized that mental illness can cause disabilities, as stated in the CRPD (WHO 2012). Therefore, it is recommended that the comprehensive action plan on mental health needs to include, among other things, the protection, promotion, and respect for the rights of persons with mental illness. Thus, it is fundamental to consider that care should be taken not to encourage dependence, but the person's autonomy, always counting on the indispensable Unique Therapeutic Project, which is the tool *par excellence* for people's' step-by-step assessment until they reach levels of independence that approximate autonomy. In general, however, there being no guarantee, the professionals tend to maintain their patients in a regimen of dependence, out of fear that they might lose their protection rights and benefits.

In this context, it is important to point out that there is insufficient protection under Brazilian law of the rights of persons with mental illness (Correia Júnior and Ventura 2014). Where such protection laws exist, they are almost uniquely directed to persons with serious illnesses, more specifically schizophrenia, while others with minor or moderate illness face more restrictions and lack of rights.

Undoubtedly, the advance of the rights of persons with mental illness cannot be ignored, considering the inclusion of the persons with mental illness and their treatment in community life, with the purpose of fighting prejudice and promoting their rights. Persons with mental disabilities have legal instruments essential to the exercise of their fundamental rights, such as the Convention on the Rights of Persons with Disabilities. However, it is a different scenario for those with mental illness. It is crucial to promote the inclusion in general laws and to create specific instruments for the protection of fundamental rights of persons with mental illness in the Brazilian legal system.

It is evident that legislation by itself does not mean a transformation in the quality of life of persons with mental illness, and the implementation of material acts to make such legislation effective is indispensable. With these laws, however, there will be support to search for the implementation and practice of fundamental rights through legal and/or administrative instruments available in the country's system.

Conclusions

The perception of mental health managers of the fundamental rights of persons with mental illness and the situations experienced while exercising these rights has confirmed the precariousness and inefficacy of these individuals' exercise of their rights. This situation is caused by the absence or limitation of a special legislation regarding fundamental rights of persons with mental illness. Many of the fundamental rights have no regulation for their fruition, which would be crucial to promoting minimum conditions for human dignity in this vulnerable group of the population. On the contrary, persons with mental disabilities are subject to many regulations and can enjoy a wider range of rights, while persons with mental illness are isolated from this special protective framework.

It is a great challenge regarding the cultural changes in society, political systems (legislative and executive), and the judiciary, as well as the persons with mental illness themselves, who feel stigmatized and discouraged with the repeated discrimination processes. Considering education is a unique strategy for building a culture of human rights, it is imperative to foster educational actions for the advancement of the fundamental rights of persons with mental illness, involving social workers, healthcare and education professionals, legal operators, families, and the persons with mental illness, among others. Social workers are trained professionals interested in improving and enhancing the quality of life of people, including the very vulnerable populations, such as persons with mental illness. Hence, the importance of their roles and responsibilities toward people and the society should be included in any effective mental health improvement. There is a significant need to incorporate human rights perspectives in the day-to-day clinical work of social work professionals. Social work education and training needs to build the capacities of professionals in human rights–based approaches so that social workers are able to recognize and address discrimination and human rights violations in their practice. Furthermore, the legislative is responsible for elaborating the special legislation and including it in general regulations to protect the fundamental rights of persons with mental illness in the Brazilian legal system, in virtue of the already evidenced legislation's contributions to mental health and to a life with dignity for this group of the population.

Compliance with Ethical Standards

The project received approval from the University of São Paulo at Ribeirão Preto College of Nursing Ethics Committee.

Conflict of Interest The authors declare that they have no conflict of interest.

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