



Aktion
Psychisch
Kranke e.V.

WPA World Congress, Berlin

MEDICAL TREATMENT AS BENEFIT OR VIOLATION OF HUMAN RIGHTS –

A CHALLENGE FOR PSYCHIATRY

Margret Osterfeld, Psychiatrist, Psychotherapist
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Medical Treatment as Benefit or Violation of Human Rights – A Challenge for Psychiatry

General current status:

Understanding of medical treatment with a Human Rights or strictly medical perspective – two opposite approaches

Is it time for a new approach?

Mixed approach: Understanding of medical treatment should include or at least reflect both perspectives - **interdisciplinary elements**

➤ Necessary condition: establishment of a dialogue between both directions



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With focus on Germany:

- **German legal guardianship** - the norm is substituted decision making, the duty of information is passed on to guardians, the medical duty to provide information is neglected
- This often leads to disproportionate or excessive use of arbitrary detention and additionally to coercive medication
- Case studies support these findings and Constitutional Court has to deal with psychiatric coercion more frequently than ever
- The thesis of “beneficial coercion” supports a lax approach
- The principle of Ultima Ratio (using coercive measures only as last resort) is pushed into the background as procedural changes on practical level are still missing



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Challenges:

- German legislation allows coercion only as ultima ratio but a decrease in use of this measure by psychiatrists is not visible yet
- Constitutional rights of persons with diagnosis of SMI are not protected in mainstream psychiatry

- Main problems:
 1. The wording of the law, imprecise legislation
 2. Its interpretation by the psychiatric profession
 3. A lack of milder alternative measures
 4. The professional perception: Individual rights overlap (e.g. article 2 (1) German constitutional law right of freedom and self determination and the “right of mental health”)



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Conclusion:

Medical treatment can be both, a benefit and a violation of human rights!

The established mainstream practise in psychiatry has to change

The compass is published by the UN Special Rapporteur of health
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The compass is available in German now, translated by “Deutsche
Gesellschaft für Soziale Psychiatrie” (DGSP)

www.dgsp-ev.de

[UN-Report_Puras_Übersetzung_DGSP_2017.pdf](#)



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VIELEN DANK FÜR IHRE AUFMERKSAMKEIT!

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THANK YOU VERY MUCH FOR YOUR ATTENTION!

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