WORLD OF DIFFERENCE
He Ao Whakatoihara kore

# From substitute decision making to supported decision making in psychiatry

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# Article 12

Substitute decision-making regimes are prohibited by the CRPD. States parties' are obliged to replace substitute decision-making regimes with supported decision-making regimes. The development of supported decision-making systems in parallel with the maintenance of substitute decision-making regimes is not sufficient to comply with article 12 of the Convention.

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# Anti-CRPD stance

- ‘Captured’ by radical elements of the patient’s rights movement
- ‘Thoughtless’ ratification by Nation States
- By default, the ‘extreme’ position of the CRPD supports ‘business as usual’
- Involuntary interventions are supported by service users
- The position of the CRPD goes against ‘common sense’

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# NZ mental health inquiry

**Conclusion**: *The Mental Health Act is out of date, inconsistent with New Zealand's international treaty obligations and sometimes results in trauma and harm to compulsorily treated patients. The use of compulsory treatment orders varies around the country, and there is far too much use of seclusion and restraint, especially for Māori and Pacific peoples. Clinicians working under the Act have developed a culture of risk aversion and defensive practice.*

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# Themes

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- We already do this or we at least have good intentions to do this
- But the training was good and had an impact on thinking (mainly) and practice
- However: the nature of mental illness and capacity means there will always be a need for seclusion/substitute decision-making and will always be a barrier to supported decision-making
- Or is it actually (or do the barriers primarily or also include) powerlessness: system; role, relationships with other staff and perceived self status; and society?

*There's definitely a conflict of resources, which ends up having implications for the patients, basically.*

*...usually advance directives, you need quite a lot of time to get that piece of work done. And we generally don't have that kind of time*

*Whenever we do try to advocate for lower seclusion, and the nursing staff will say "there's not enough staffing to accommodate that"...*

*I think I realized more and more throughout the run how insignificant I am and how much I'm governed by the bosses, the charge nurses -- I'm a pawn.*

*And it's hard again like, it's not our call at all. It's the consultant's call. Trying to tactfully suggest to my consultant to not do that is really hard.*

*...it's met with a lot of resistance. Almost to the point of abuse from some of the charge nurse managers the next day and things, which is really quite uncomfortable because I work with them in my day to day as well. And that can really make my life difficult, if they wanted to.*