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ENGAGING THE POLITICS OF NGO HUMAN RIGHTS ADVOCACY: A CRITICAL READING OF AMNESTY INTERNATIONAL'S MEMORANDUM TO THE ROMANIAN GOVERNMENT CONCERNING INPATIENT PSYCHIATRIC TREATMENT

Leyla Safta-Zecheria[*]

Abstract

The present paper takes as its starting point the Amnesty International memorandum to the Romanian government concerning in-patient psychiatric treatment issued in May 2004 in order to offer a critique of the politics inherent to the human rights discourse regarding mental health care treatment in Romania. Issued just briefly before EU-accession, the memorandum had strong discursive effects, which challenged the monopoly of doctors over defining issues of psychiatric treatment. The paper looks at the memorandum from three angles: (1) investigating the linguistic manufacturing of systemic human rights violations, (2) the practice of objectifying institutionalized people and voicing claims on their behalf, as well as (3) obscuring structural issues of social and economic inequality that lead to the institutionalized of the "newly" poor. The three issues for critique are interrelated: through the linguistic manufacturing of a systemic human rights problem, the legitimacy of a claim to an unacceptable state of affairs is fabricated. This claim is in its term made on behalf of and about institutionalized people, and not elaborated together with them. Moreover, in the terms of the claim, people are reduced to instances of suffering and thus re-enforce AI's narrative, which references and replicates international human rights standards. Finally, institutionalized people are not only deprived of a voice in this process, they are also targeted by a political project that views them primarily with the lens of their right to freedom and

[*] Leyla Safta-Zecheria holds an MA degree in European Ethnology from Humboldt University, Berlin and is a PhD Candidate at the Doctoral School of Political Science, Public Policy and International Relations at Central European University, Budapest.
Contact: leylasz@yahoo.com

obscures an understanding of their condition in terms of its economic and social reality.

Keywords: human rights, mental health, deinstitutionalization, advocacy, voice, Amnesty International, Romania

Introduction

Soon after I began my research on mental health care institutions in Romania, I came across reports documenting human rights violations in psychiatric hospitals. These reports[1] were so compelling that I mistook them for a faithful and precise image of what I understood to be the reality of psychiatric institutions. Through this I became a victim (as well as a co-producer) of what Lori Allen describes as the human rights discourse's "production of the impression of immediation"[2]. This paper tries to re-work my initial identification with the human rights discourse regarding mental health care institutions in Romania, as illustrated by its most prominent document, a memorandum issued by Amnesty International to the Romanian government in 2004.

My original trust in this way of producing and presenting knowledge, characteristic of the human rights discourse came also from the availability of information. What is widely known about undignified situations people are faced with in asylum-like places outside of their walls, is known mostly through the monitoring activity of NGOs[3]. Nevertheless this activity is entangled with these NGOs advocacy practices, practices that seek to and also partly succeeded to lay the grounds for pressuring Romanian governments into policy change. As mentioned above these claims for action are based on a specific way of producing and presenting knowledge about the mental health care system, as well as on a

[1] I refer here to the reports issued by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatement or Punishment (CPT), as well as the Amnesty International memorandum, which forms the basis of the current analysis, as well as other reports issued by the Center for Legal Resources (CLR)

[2] Lori A. Allen, "Martyr Bodies in the Media: Human rights, Aesthetics, and the Politics of Immediation in the Palestinian Intifada" in *American Ethnologist,* vol. 36, no. 1, 2009, p. 164.

[3] As well as rumors and scandalizing press articles concerned with human rights violations, but these are not the object of the present paper. Certain press artictles also reproduce the logics of representation outlined in this paper, inherited from the human rights discourse.

predetermined normativity that of legally codified international human rights standards, the political implications of which I will investigate in the present paper.

Despite sharing in the general and very legitimate concern for the well-being of institutionalized people (this is the concern that made me identify with the human rights discourse in the first place), the goal of the present paper is to critically engage with the way in which human rights reporting constructs the issue of mental health care reform. For this illustration, I chose to look at the most prominent document concerning human rights issues in psychiatric hospitals in Romania, the Amnesty International Memorandum to the Romanian government sent in May 2004[4].

The Amnesty International Memorandum marked a significant moment in the recent history of the Romanian mental health care reform. Most importantly, it addressed the issue of care from a perspective that challenged the monopoly of doctors and exposed ongoing oppressive practices in such a way that they then had important effects on policy documents, as well as on the acquiring of legitimacy of then already existing progressive non-hospital centric mental health care services in Romania.

The memorandum was sent at a very timely moment: EU accession was to follow in 2007 and one of the central Copenhagen Criteria that had to be "fulfilled" before accession was to warrant the presence of stable institutions ensuring among other things the respect for human rights[5]. The AI memorandum thus formed the basis for constructing psychiatric care practices as violating human rights and including mental health care deinstitutionalization [6] as an issue to be monitored by the European Commission during pre-accession.

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[4] This assumption rests on previous research I have conducted in this field.

[5] See Copenhagen criteria political criteria, available here: [http://europa.eu/legislation_summaries/glossary/accession_criteria_copenhague_en.htm accessed on 29 November 2014].

[6] Deinstitutionalization as a normative paradigm involves the closure of large, asylum-like psychiatric institutions and the shifting of the locus of care into the "community", through services that vary from country to country and region to region; sometimes addressing socio-economic issues such as housing and sometimes only focusing on medical treatment or occupational therapy.

This timeliness contributed to its importance in terms of discursive effects that then travelled into policy effects. The monopoly of the doctors over defining mental health care issues was cracked[7] and a new set of actors claimed legitimacy for defining the nature and quality of treatment from the "newly arrived" epistemology of human rights[8]. This was possible due to the power relations inherent to the EU accession process, which favored knowledge-production informed by a human rights epistemology over the voices of a professional class, which was strongly associated with the state and consequently with the system commonly described as "state-socialism".

In terms of content, the AI memorandum presented findings from six psychiatric hospitals, as well as accounts by professionals about the situations in other hospitals. These included observations about living conditions, lack of medication and therapy, the failure of the government to protect institutionalized people from violence (emanating from other patients) and the lack of services and opportunities in the community[9]. The main claim addressed to the Romanian government concerned starting a process of systemic reform towards deinstitutionalization, ensuring that most people in these hospitals would eventually come to live in the "community".

The report was received cautiously by the Romanian government, which chose to criticize both the claims of the report in terms of

[7] Preliminary interviews and informal conversations with mental health care professionals indicate that until today the findings of Amnesty International are disregarded by medical professionals, as they are considered to have been produced by people who weren't aware of the « real » situation in these institutions. Nevertheless, the legitimacy I refer to in this paper is one pertaining to the public discourse and not to the relevant professional circles.

[8] This modality of knowledge production was initiated by the Council of Europe's CPT (Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment) in the 1990s, but it did not have the publicizing effects the AI report had, due to the fact that reports were generally published a long time after the visits were conducted. The Center for Legal Resources' program Advocate for Dignity continues this modality of knowledge production much in the vein of AI until today. Despite describing a logic, which I see as inscribed in the human rights discourse, the findings of the present paper should not be considered to be directly and uncritically applicable to other main representatives of this discourse. The differences and similarities between the institutional logics of knowledge production within the human rights discourse warrant further reflection.

[9] See AI memorandum.

"information gathering", as well as engage on different, stigmatizing epistemic grounds, with the findings of the report. For example, the cases of violence of institutionalized people towards staff or other people within the institutions were ascribed to the "pathology" of mental illness and prolonged hospitalization[10]. At a later point in time, the government issued its own memorandum calling for a rehabilitation of the present mental health care system, as well as a compromise between the existing and the "Western model"[11].

Significant pressure during the pre-accession monitoring phase determined further changes in the mental health care system, but these will not be part of the focus of the present inquiry. It is safe to say that, as an initial moment, the publicizing of the AI memorandum at the time preceding accession to the European Union spurred strong, scandalized reaction in the public discourse, as well as in the then central political discourse of the European Commission. As this memorandum opens this very significant strand of political discourse, it makes sense to investigate its politics through the way in which it appears in the report.

In the following, I will concentrate on the politics of the AI memorandum and will approach it from three angles, after first explaining the conditions of possibility for the human rights discourse represented by AI to emerge. The three angles will allow me to critically engage with: firstly, the legitimization strategies employed by the NGO and how they travel into the presentation of their findings, fabricating an unacceptable state of affairs. Secondly, I will address the practice of advocating on behalf of institutionalized people[12], and not together with them, as embedded in

[10] See government reply to the AI memorandum (in the sources section), as well as tables in the appendix summarizing the « dialogue » between AI and the Romanian government.

[11] See government memorandum (quoted in the sources section).

[12] I have chosen the formulation "institutionalized people" to refer to those people that find themselves spending time as patients or residents in mental health care facilities. This formulation is meant to go beyond the medical discourse (seeing them as patients), as well as AI's approach seeing the same group as "patients/residents", in stressing that not all people institutionalized are really patients (and thus legitimately there). This formulation albeit constructing the research subjects in relation to the institutions allows for a distancing from the way in which this group is constructed in both discourses relevant to the present analysis, as well as stresses the power relations at play in institutionalization as a defining experience. This terminology has been introduced to the Romanian discourse by another (very different) human rights report, see Oana Gîrlescu et al., „Drepturile noastre: Drepturi

AI's approach to reporting, as well as the political consequences of this practice: the exclusion of the voices of institutionalized people from an important political project that directly concerns them. Finally, there will be an exploration, through the lens of "social cases"[13], of the way in which AI engages with creative practices of confronting the neoliberalization of welfare already existing (at the time of the visits) in the Romanian mental health care system. This will allow for an investigation into what AI constructs as a human right, an approach which is strongly focused on civil rights and freedoms, rather than on social and economic rights. The claim will be put forward: that AI's approach emphasizes an understanding of the individual as a bearer of civil rights and obscures the structural reasons that lead to the institutionalization of poor people. Thus, the report misses the opportunity of making a broader claim to remaking the texture of the citizenship relationship between the Romanian state and institutionalized people, that would include a stronger emphasis on voice and contextually situated material dignity.

Conditions of possibility

Although AI had started its monitoring visits in late 2003, the spark that made the human rights discourse thoroughly enter the public discourse came from a visit to one of the few forensic psychiatric hospitals in Romania, that of Poiana Mare. AI found that at least 17 people had died in the two winter months preceding the visit (January, February)[14], apparently from malnutrition and hypothermia, and that 84 institutionalized people had died under similar circumstances the previous

sexuale și reproductive ale femeilor cu dizabilități intelectuale și psihosociale", 2014 [http://www.drepturisexuale.ro/wp-content/uploads/2014/05/OUR-RIGHTS_raport-1.pdf]

[13] "Social cases" are cases of medicalized poverty, in the sense that this term is used by doctors to refer to people that would not qualify for a medical diagnosis warranting institutionalization, but who are considered to require institutionalization mainly on the grounds of being seen as too poor to live outside of the hospital settings. For an analysis of "social cases" in the Romanian mental health care system, see Jack R. Friedman, "The 'Social Case'. Illness, Psychiatry, and Deinstitutionalization in Postsocialist Romania" in *Medical Anthropology Quarterly*, vol. 23, no. 4, 2009.

[14] Amnesty International AI Index EUR 39/002/2004.

year. Press reports speak even of 170 people that had died in 2 years (from a capacity of about 500 beds)[15].

It was this terrible occurrence that made the action of AI of investigating the conditions in the hospitals legitimate. A visit by a representative of the Ministry of Health had taken place one day before the NGO monitoring visit that uncovered these horrible occurrences[16], pointing to the fact that internal monitoring mechanisms had turned a blind-eye on such bluntly horrifying conditions[17].

It was this initial situation that conferred AI a privileged position of presenting its findings: not just because EU accession was near, but also because the findings from Poiana Mare pointed to the existence of appalling conditions. The scandalous nature of these specific findings was then presented by AI as being representative of the whole system[18] and became the basis for establishing the human rights discourse on mental health care.

It is here that an analytical distinction in terms of conditions of possibility should be made between two different occurrences that appear intuitively and intrinsically linked in the human rights discourse.

First, what had happened at Poiana Mare, as well as the precarious infrastructure AI observed in the hospitals visited by the delegate, as well as staff shortages appear as consequences of a shrinking, delegitimized state. Some of the conditions of possibility[19] relate to precarious-ized infrastructure, insufficient funds[20] and, in the case of Poiana Mare, the isolated nature of the hospital and its hospitalization effects on both institutionalized people and staff[21].

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[15] [http://www.9am.ro/stiri-revista-presei/Actualitate/32628/Genocidul-Poiana-Mare.html] and [http://www.gds.ro/Actualitate/2006-11-13/Lobby+pentru+Spitalul+Poiana+Mare/]

[16] [http://www.gds.ro/Actualitate/2006-11-13/Lobby+pentru+Spitalul+Poiana+Mare/]

[17] Or maybe chose not to publicize such findings, this was also previously the case of monitoring visits conducted by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), the findings of which were generally publicized only two or three years after the visits.

[18] AI memorandum, p. 1.

[19] This list of conditions of possibility is by no means exhaustive, but it should suggest the polictical economy behind these occurences.

[20] See *Gazeta de Sud* (2002) quoted in Mental Disability Advocacy Center, "Romania - Poiana Mare Psychiatric Hospital: Background Research", 2004.

[21] CPT report 1998, p. 85. The report was published after a surpize monitoring visit in 1995.

Second, the conditions of possibility for the way these undignified practices were "discovered", presented and carried by and into the human rights discourse as arguments supporting an agenda of deinstitutionalization should be addressed. For the propagation of the human rights discourse championed by AI to become institutionalized and acquire the strength it did, the conditions of possibility relate to, AI's reputation in engaging with human rights (as a "clean" actor, as opposed to the tainted "post-socialist", corrupt state). Furthermore, the accession to the European Union that was to take place in 2007 played a decisive role in the legitimization of the human rights discourse. This coincided with a wide-spread push for deinstitutionalization around the globe, which saw this process as offering the premises for better, less oppressive and less stigmatizing treatment.

Whereas the conditions of possibility for the unnatural and unjust deaths and living conditions to occur formed the basis for the diagnosis of the problem of psychiatric treatment as violating human rights, the conditions of possibility for the AI discourse on human rights to flourish inscribed deinstitutionalization as the solution to the problems of psychiatric treatment in Romania.

In short, by interpreting this state of affairs in its report, AI created the impression that because such horrible things have been proved to happen in psychiatric hospitals, the only way to stop human rights violations would be to proceed with deinstitutionalization and close hospitals.

Nevertheless, while the conditions of possibility for the occurrence of these terrible situations relate to a shrinking state infrastructure, the claims inscribed in the demands of AI push the shrinking of the state even further by envisioning a downsizing of what is presented as an illegitimate human rights violating infrastructure. As will become apparent from the following, these kind of transformations of the infrastructure of psychiatric care may push the poorest of institutionalized people onto the streets, as both the family and the community as envisioned spaces for the fulfilment of human rights, may further the marginalization of institutionalized people that AI claims to counter.

The report also describes conditions similar to those found by AI 10 years later, proving the path-dependency of these conditions.

Three angles of entry into the politics of the report

In the following, I will analyze the report from three angles: firstly, I use a discourse analytical perspective highlighting the strategic functions of language, developed by Chilton and Schäfner[22], to address how the reality of systemic human rights violations is created through the reporting practices of AI. In this I will built on the strategic function of language as a means for legitimization and delegitimization.[23]

AI and the Romanian government find themselves in a relationship of power, which is dis-favorable to both at the same time. AI, as an NGO, needs to justify how its limited findings are both credibly systemic (despite the limitations in number of places visited), and striking enough to make a convincing case of the full neglect by the state that legitimizes their intervention in a space over which they have no "jurisdiction". This is the case, despite the fact that as an international NGO and a marker of the "new post-socialist times", AI can be considered to enjoy a high amount of legitimacy. As will become apparent from the following, legitimization strategies travel into the language of the report, homogenizing the reality presented beyond what can be inferred from the limited observation that had taken place.

Secondly, the construction of institutionalized people in the reporting of AI will be addressed, and to what extent we can ascertain that the report speaks on their behalf, and, if not, to what extent their existence and everyday life is objectified in the process, dispossessing them of the representation of their identity beyond the objectified image of human suffering[24].

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[22] Paul Chilton & Christina Schäffner, "Discourse and Politics" in Teun A. Van Dijk (ed.), *Discourse as Social Interaction*, London: Sage, 1997, pp. 206-230.

[23] *Ibidem,* pp. 206-230.

[24] This practice of objectifying subjects as well as « policy or action targets » is somehow inherent to most social policies and humanitarian interventions, a broader genealogical investigation into this practice would be neccessary. Nevertheless, for the parsimony of the account at this point, I will draw on the following observations regarding the representation of refugees in humanitarian discourse, which I find also holds true for the context at hand: "[…] humanitarian agencies represent refugees in terms of helplessness and loss. It is suggested that this representation consigns refugees to their bodies, to a mute and faceless physical mass. Refugees are denied the right to present narratives that are of consequence institutionally and politically." see Kumar Prem Rajaram, "Humanitarianism and Representations of the Refugee" in *Journal of Refugee Studies*, vol. 15, no. 3, 2002, p. 247.

Finally, the construction of "social cases", as people arbitrarily deprived of their liberties, will also be called into question and contextualized. This will allow to ask what kind of a political claim is made by the report and what are its inherent and arguably unresolvable tensions.

The way legitimization strategies shape findings: looking beyond systemic human rights violations

The Romanian government did not request an evaluation of the protection of human rights within the services provided by the institutions under its administration. When AI sent its memorandum it had therefore to argue that there are sufficient grounds for concern to legitimize the demand for action made by an actor operating outside of the state. Moreover, the fact that AI is an external, non-government funded body, supposedly also imposed limitations on the extent of the documentation the NGO could perform before issuing its report. However, despite these limitations, the report did manage to argue for the need of a systematic reform. This involved a strategic use of both the structure and language of the text of the report, which will be analyzed in the following.

The AI report is based on six visits to psychiatric hospitals in Romania by an AI delegate in November 2003, as well as February 2004.[25] There the AI delegate allegedly talked to staff members and administrators, which were mostly very cooperative. Additionally, the report is based on media reports, as well as "substantial" information received from "people who have worked in many psychiatric wards and hospitals in Romania over a period of many years"[26]. The report remains unclear regarding how this information was passed on to Amnesty International.

This concern is not trivial, considering that the Romanian psychiatric system comprises 36 psychiatric hospitals, as well as 75 psychiatric departments in general hospitals[27] and a number of state and NGO provided services outside of the hospital-system. Given the resources

[25] AI memorandum, p. 1

[26] *Ibidem,* p. 2. Interestingly, on page 10 of the memorandum, interviews with patients are also mentioned as a source supporting a claim, although this procedure is not listed with the other methods in the beginning.

[27] Information based on the government report, quoted in the sources section.

of AI, the field research was necessarily selective, but the selection process could have been presented in a more open manner.

This was arguably a strategic choice, as we can infer from the further structuring of the presentation of the findings: in the very beginning of the report the visited hospitals are nominally mentioned (Bucharest, Poroschia, Mocrea, Gătaia, Ştei and Nucet). Yet, later on, there is little and sometimes no distinction made between observations made during visits and interviews on the spot and what had been reported by other informants of AI or the media. This has a black-boxing effect making the extent of the knowledge that AI had at the point artificially look larger. This can be observed for example in a quite elaborate passage describing the conditions in the Tărnaveni psychiatric ward:

> *The majority of the patients in the women's psychiatric ward of the Târnăveni general hospital were accommodated in 2003 in two large rooms which were kept constantly locked. There were around 100 patients in the so-called 'upper locked ward' and about 50 patients in the 'lower locked ward'. Adjacent to the latter was the 'lower locked side ward' where about 10 women with very severe disabilities were held with no access to running water and the toilet had no plumbing. Patients did not have access to basic toiletries and had only one opportunity a week to shower. All women on the wards were expected to shower within two hours when hot water was available on Fridays and no towels were provided. Staff did not ensure that women in the 'lower locked ward' and 'lower locked side ward' were appropriately dressed. Patients often walked around scantily clothed or naked and very few had shoes. The hospital floor was often cold and wet. In the 'lower locked side ward' the floor was often covered in faeces and urine because many patients held there were incontinent. Some patients spent the entire day in urine-soaked or faeces-covered clothing and bedding. Patients did not have an adequate and varied diet. In the 'lower locked ward' and 'lower locked side ward' the patients were made to take their meals in the dormitory area, although there was a dining area close by. They were served through a small opening in the door and were not supervised by the staff during the meal. They were not provided with cutlery and ate using their hands. Metal bowls used at mealtimes were often thrown by patients at each other, frequently resulting in injuries. The bowls were not collected*

> *immediately after mealtimes. At lunch time patients had to hand in the bowls that they had used for the soup, which were then reused by another patient without being washed. Women in the locked wards had their hair cut very short or shaved. Patients often had to share beds, particularly in the 'lower locked wards' where, because of shortage of adequate mattresses and blankets, patients were sometimes huddled three to a bed.*[28]

The impression is conveyed that this situation was observed by the AI delegate: the reader is introduced into the reality of 2003 (which corresponds to the time frame of the first AI visits), details are given about the small events of everyday life and a general impression of participant observation is constructed. Nevertheless, when the reader returns to the passage introducing the sources, it is easy to observe that the hospital in Târnăveni had not been visited by an AI delegate. The reader is then left to ask, whether the account came from professionals working in the hospital or from a media report.

Furthermore, throughout the rest of the report, representativeness of the findings for the entire Romanian psychiatric system is produced through linguistic devices. Certain findings that were characteristic of visited hospitals are presented as a general situation through attributes such as "many" and "most". Examples include: "Many of the buildings containing psychiatric hospitals visited by Amnesty International's representative as well as those described in the reports received by the organization were in a poor state of repair and required major refurbishment. Most wards were inadequately furnished and decorated; in many place the mattresses and bedding were poor, sometimes completely inadequate."[29] and "In many wards and hospitals the level of personal hygiene was generally inadequate. Patients and residents took showers in poor facilities, usually only once a week."[30]

Admittedly, this type of presentation contributes to the parsimony of the account. However, it should be noted that naming the hospitals, where this seems to be the case, would have contributed both to the

[28] AI memorandum, p. 7, I have quoted the passage extensively, as I will refer to it at a later point in the paper as well.

[29] *Ibidem,* p. 6.

[30] *Ibidem,* p. 6.

traceability of the account and could have been perceived as an act of helping the government identify the institutions that require further attention. The choice to black-box the exact location of inadequacies is consistent with AI's goal of demanding a systematic and thorough reform that would shift the locus of care from hospital to community and not an issue-driven rehabilitation, as the one the government originally proposed[31]. Similarly, the generalist wording deployed, contributes to the wider goal of stigmatizing psychiatric hospitals as such.

Finally, when concrete examples are given (as is the case with the elaborate quote detailed above regarding the situation in the Tărnaveni psychiatric ward), they are deployed to illustrate situations of extreme human tragedy, isolation and neglect.

The strategic use of language by AI serves primarily the purpose of producing the legitimacy necessary for its claims to be acquire legitimacy in this context, but it also contributes to the subtle strategy of dissimulating the actual weakness of the material presented.

This construction of failure of the entire system (based on arguably weak, yet shocking material), allows AI to do two things: first, it supports its claim of systematic reform towards deinstitutionalization, arguing for the closure of such institutions. Secondly, it delegitimizes the state as the carer for the well-being of institutionalized people.

Advocating on behalf of people and the representations it implies

Let us now return to the above mentioned extracts from the report with the question of representation in mind. As already detailed above, among the sources narrating discontents with psychiatric treatment in Romania, we find visits to hospitals, as well as information provided by staff and people who have previously worked in the system. Apart from a passage on page 10, where patient interviews are mentioned (the passage reads "few patients interviewed by Amnesty International had been informed about the medication that had been prescribed to them and their effects"), the general picture seems to have been obtained from the staff of the visited, as well as of other institutions. This leaves the question open:

[31] For a summary of the differences between the two approaches please see the Appendix.

what narratives would have arisen, had AI asked the people in these institutions about their understanding of their condition?

This question has broad implications for the argument AI makes as such, which is made on behalf of the "lives, dignity and well-being" of patients and residents in psychiatric hospitals which AI states are not protected sufficiently. Yet, dignity, I argue, is taken away from the people AI seeks to protect through rendering them speechless in an important political project involving proposals of "a better life" to be "granted" to them by the state.

This image of speechlessness and helplessness[32] is constructed also through the use of a passive voice in describing the situation of institutionalized people. This is visible in the elaborate quote from the report presented above, but also runs through the entire report. Examples include: "the admission of such patients was carried out at the request of patients families"[33], "The vast majority of its 98 residents had been transferred to Nucet from institutions for children"[34], and later in the report "The majority of the patients were inappropriately dressed, mostly in pyjamas, which were in some cases in tatters. […] At mealtimes there were always disturbances, fights breaking out between patients and residents who were poorly supervized"[35].

These accounts go beyond mere helplessness and speechlessness, as they objectify the people living in these institutions as mere and "pure" victims of state policies and bureaucratic-medical action. In this AI, as an NGO, seems to have inherited a state-discourse of objectification of those perceived only as "policy targets" and ignores the creative potential that integrating their voices could bring to the practice of advocacy. The paternalist (welfare) state discourse is re-inscribed into a similarly paternalist discourse, but which does not take responsibility for any action, limiting itself to only voicing discontent on behalf of those it paternalizes.

[32] Cf. Rajaram, *op. cit*.
[33] AI memorandum, p. 5.
[34] *Ibidem*, p. 5.
[35] *Ibidem*, p. 7.

Social cases and arbitrary detention

"Social cases" have been described as arising from the intersection between the dismantling of the welfare state in the nineties, the competitive economical model, which forced people into situations of poverty, and psychiatrists' desire to protect these people.[36] This protection takes the form of providing people, wo are considered by psychiatrists to be very poor, with a diagnosis that will allow them to access the welfare provisions of hospitals.

Theorized by anthropologist Jack Friedman, "social cases" replicate a concept, which is still much in use by mental health professionals today. As a reference point and category, it is part of the medical discourse regarding psychiatric treatment in Romania and therefore pertains to a different discursive repertoire, which AI engages with on its own grounds. The medical discourse was already dominant ahead of the publishing of the AI memorandum.[37]

It is not surprising that the framing of the issues of "social cases" is strikingly different in the AI report from the one outlined above. The report states:

> *Many of the people placed in psychiatric wards and hospitals throughout the country apparently do not suffer an acute mental disorder and many do not require psychiatric treatment. Their placement in psychiatric hospitals cannot be justified by the provisions of the Law on Mental Health and they should also be considered as people who have been arbitrarily deprived of their liberty. They had been placed in the hospital on non-medical grounds,*

[36] Jack R. Friedman, *op. cit*.

[37] Interestingly, Friedman also contrasts his conceptualization of "social cases", emphasizing that it is different from that of AI (Friedman, *op. cit.*, p. 387). In his elaboration, he only mentions the second part of the quote detailed below, which stresses the trans-institutional biography of "social cases" addressed by AI, delimiting AI's conceptualization from his own. In my view, his conclusions about social cases outlined above hold true for those addressed by Amnesty International as well, as "arbitrary detention" occurs in relation to the dismantling of the welfare state and the downsizing of services outside of hospitals, as well as the increased difficulty of making a living in the present economy. My preliminary interviews with mental health care users, medical and social professionals, also point to the existence of "social cases" that can be understood in similar terms, what the relationship to neoliberal welfare politics is concerned.

> *apparently solely because they could not be provided with appropriate support and services to assist them and/or their families in the community. […]A large number of people, who are sometimes referred to by the hospital staff as 'social cases', are young adults who had been placed in the psychiatric hospitals following their release from institutions for children with mental disabilities. Their needs, particularly to be integrated into the life of the community, are not being addressed.*[38]

This framing is primarily a legal one, subtly accusing the state and conclusively those professionals involved in this process of arbitrarily detaining people, which is a serious criminal offense. Friedman also outlines that people are generally unaware of their "diagnosis", as social cases, which he sees as indicative of the fact that they are not subverting the welfare state for benefits (he refers here to Scott's "weapons of the weak" and how it doesn't work in this context)[39]. Seeing the people subjected to this form of combating poverty as unaware of their condition (and negating their capacity of understanding what makes them appear sick[40]), makes AI's claim of "arbitrary detention" quite plausible.[41]

Nevertheless, the underlying issue of the political economic forces that push people into this situation of institutionalized and medicalized poverty is not addressed directly by the report. At the end of the report a key-word solution involving an enumeration of appropriate services in the community is mentioned.[42] It is questionable whether the services proposed could be offered at all given the precarious state infrastructure that lead to the human rights violations that made possible the publicizing of the AI memorandum.

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[38] AI memorandum, p. 3.

[39] See Friedman, *op. cit.*, p. 389-390.

[40] *Ibidem*, p. 390.

[41] Friedman is also unclear onto how this process of becoming a social case is seen by the people affected by it. His conclusion that they are unaware of their condition seems quite implausible to me and warrants further investigation trough ethnographic fieldwork.

[42] This is done at the very beginning of the recommendations when a very comprehensive, but quite neutral set of services that should be developed by local authorities is mentioned (including case-management, protected, protected housing and protected employment). See AI memorandum, p. 17.

What remains is that the claim for the deprivation of liberty and an infringement on the human right to freedom, which is a civil right (following T.H. Marshall's distinction of civil, political and social rights[43]) is made as a primary claim. Secondary to this, appears a less substantial engagement with the social and economic rights of these people once outside the realm of the hospital. Here a wider and more far-reaching claim of economic or social empowerment could be made by addressing the situation institutionalized people are likely to be faced with once they will leave the realm of the hospital. Here the structural roots of the problem of "mis-diagnosis" should be addressed, as well as the likeliness of being stigmatized in the "community" and the broken family ties that are likely to have resulted after (long) periods of time of institutionalization.[44]

If psychiatric institutions were for a long time, and still are one of the last institutions that could act – albeit very problematically – as a "poor house", the question arises which institutions could fulfill such a role (and eventually make it unnecessary), once people are to be discharged from the hospital. This would entail re-thinking the economic and social relationship fabric between the state and the citizens known as "social cases" that have been (at least according to the report, Friedman's article and media reports) purposefully misdiagnosed in order to access otherwise unavailable support structures. Stigmatizing mental health institutions as places of arbitrary detention and discrediting the support system they offer neglects

[43] T. H. Marshall, "Citizenship and Social Class" in Sian Lazar (ed.), T*he Anthropology of Citizenship*, Chichester: Wiley Blackwell, 2013.

[44] Joao Biehl (in *Vita: Life in a Zone of Abandonement*, Berkley and Los Angeles: University of California Press, 2005) offers a compelling illustration of well-meant deinstitutionalization and its entaglement with the practices of marginalization acting through the family and the imagined community. (See especially Part 3). For example on p. 125 Biehl writes: "Meanwhile, Catarina [the ethnography's main protagonist, whose story Biehl follows through as it becomes entagled with the Brazilian psychiatric deinstitutionalization] psychiatric records narrated the pharmaceutization of care and her successive abandonment to the family and by the family, working in the end as proxy-psychiatrists. ", as well as later on p. 138, generally on the effects of the reform: "the mad were literally expelled from the overcrowded and inefficient psychiatric institutions, little new money was allocated for alternative services, and the responsibility for caring for patients was left to communities that did not in fact exist ". These two imagined spaces for care outside of hospitals (the family and the community) both fail in Catarina's biography and she becomes a resident of Vita, a place that Biehl describes as a "zone of abandonment".

contextual and political economic factors and ignores their social function within the everyday welfare-politics of "transition". The solution proposed by AI of eventually establishing community based services, including protected housing and employment is a good starting point, but it only tips the tip of a more far-reaching iceberg. Furthermore, by mentioning keywords of a potential transformation of infrastructure, the memorandum reduces the potential political claim to mere "technical" components of services, thus adding a further dimension to the de-politicization of this issue through the exclusion of institutionalized people's narratives.

Conclusion

The three issues for critique presented above are interrelated: through the linguistic manufacturing of a systemic and in service structural terms universal human rights problem, the legitimacy of a claim to an unacceptable state of affairs is fabricated. This claim is in its term made on behalf of and about people who were at that time institutionalized, and not elaborated together with them. Moreover, in the terms of the claim, people are reduced to instances of suffering and thus re-enforce AI's narrative, which references and replicates international human rights standards[45]. Finally, the people from within these institutions are not only deprived of a voice in this process and portrayed as impersonal instances of suffering, they are also targeted by a political project that views them primarily with the lens of their right to freedom and obscures an understanding of their condition in terms of its economic and social reality. This makes them be targeted by a reform that seeks to dismantle (an albeit very oppressive) system that has found a creative (yet very problematic) way of addressing the issues arising from being trapped in a condition of poverty by the economic environment governed by competition that emerged in the 90s.

[45] Violation of international human rights standards is a recurring motif in the memorandum (see for example p. 2), this situates AI in a legal understanding of human rights, which are legal in nature (albeit tied to an international, nationally ratified set of codifications) and not necessarily human rights pertaining to anyone, because of his or her human condition (which would have been a more inclusive understanding, not tying rights to membership in a political community). As outlined above this has implications for the kind of claims AI's memorandum is limited to, namely those of rehearsing international human rights standards and "best professional practice" (see p. 1 and p. 16 for illustration).

AI's politics pushes an agenda of deinstitutionalization, which is insensitive to the structural constraints that have pushed people into a condition of poverty, which was then medicalized by well-meaning psychiatrists taking the shape of the "social case" "diagnosis". This insensitivity shapes the politics of AI setting it in line, at least partially, with the neoliberal welfare transformations, which have structurally co-produced this "diagnosis".

Yet, this congruence (of neoliberal welfare transformations and AI's politics) should not be overstated. The AI memorandum does mention social rights, such as protected housing and protected employment and care rights in the form of out-patient treatment on one of the final pages of the report[46]. The report also stresses that the reform should ensure the fulfillment of social, economic and cultural rights, as well as the rights to education and family life[47] and freedom from abuse[48]. These claims though lacking the strong argumentative support offered in favor of closing institutions set the report aside from one promoting a long-term neglect of institutionalized people.

Nevertheless, AI's understanding of individuals is one of primarily bearers of civil rights, which could best be fulfilled away from the paternalism of institutions. At this point, it makes sense to ask whether a more-open ended and context-sensitive solution, which would overcome state and medical paternalism, but at the same time emphasize material dignity would be possible and how it would look like. For this an open-ended process of reform, involving the incorporation of the creative potential of narratives of institutionalized people would be necessary.

[46] AI memorandum, p. 17.

[47] *Ibidem*, p. 16.

[48] *Ibidem*, p. 17.

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Appendix

Summary of the dialogue between Amnesty International and the Romanian (Năstase) government prompted by the release of the memorandum in May 2004 (for references see the sources section above):

	AI memorandum	Gov. reply	AI reply	Gov. memorandum
Speaker's position	Initiative	Reactive	Reactive	Initiative
Document type	Memorandum	Statement/ reply	Statement/ reply	Memorandum
Purpose	Demand action from the government	Justify non-action; challenge the AI report	Challenge the gov.'s justification, add information	Outline measures to be taken
Length	20 pages	3 pages	4 pages	8 pages
Language	Romanian/ English[49]	Romanian	English	English

Legitimacy and credibility strategies as apparent form the documents analyzed in this chapter (summary)

	AI memorandum	Gov. reply	AI reply	Gov. memorandum
Sources	6 visits to psychiatric hospitals and accounts by professionals	Ministerial controls and professional accounts	Includes additional media reports	6 visits to psychiatric hospitals by Inter-ministerial Commission
Production of credibility	Appeal to the "universality of human rights standards", contrasted with depictions of extreme "human tragedy"	De-escalation Challenging Validity/ Facticity of the AI report	Emphasis on the "human tragedy" Personalized universalism	Appropriating part of the goals Subtle exposure of AI "universalism" as Western

[49] The English language document has been selected for the purpose of this analysis, as it was the dominant language in the analyzed "dialogue".

	Selective findings in a general manor Ascribing blame	Presenting contradictory information Externalizing blame	Sweeping generalizations Further black-boxing of information collection as "field research"	Emphasis on resource limitations

Evolution of policy frames (categories based on Verloo, 2005)

	AI memorandum	Gov. reply	AI reply	Gov. memorandum
Diagnosis	Systematic human rights violations: Placement Living conditions Lack of medication and therapy Failure to protect against violence Lack of services and opportunities in the community	Fundamental rights as protected Mental illness pathology Prolonged hospitalization as producing violence Opportunities in the community exist Legal framework is directly applicable	Crisis of services producing "human suffering" Government as in denial of "reality"	Recognition of overcrowding General problems with sanitation and heating acknowledged Special legal provisions and CPT provisions as respected Deaths ascribed to chronicle affections Alternative therapies as present
Prognosis	Transformation of the entire system to be in line with international human rights standard	Solutions for certain issues	Trans-formation of the entire system to be more humane	Rehabilitation of the system Priority within the framework of health reform Compromise between existing health care system (including available resources) and the Western model :

				Legal framework Infrastructure Improvement of living conditions and sanitation Staff training Need to restructure services
Normativity	Global deinstitutionalization frame International Human Rights Treaties Reform necessity as fundamental	Malfunctioning as regular and acceptable	Need to end a tragic situation Universal morality	Reform as quality enhancing of services