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Research Paper

Are mental health consumers asked how they want legal services provided?[☆]

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ABSTRACT

This review examines whether mental health consumers are asked how they want legal services to be provided in studies of civil mental health jurisdictions, and the extent to which consumer researchers were involved in these studies. A Consumer-perspective Critical Reflection Tool was applied to assess consumer involvement and alignment with human rights frameworks. Consumer leadership and participation were largely absent in the studies identified. Only one study included consumer researchers, and none reported consumer leadership in setting agendas, design, data collection, analysis, or evaluation. Participants' voices were frequently missing, supported decision-making was rarely operationalised, and intersectionality received little attention. Many studies adopted paternalistic or therapeutic frames that positioned lawyers as protective rather than representative of clients' expressed preferences. Few papers articulated concrete implementation plans for change or strategies to build consumer knowledge. The findings indicate a systemic disconnect between the rights rhetoric of civil mental health law and the practices of legal representation. Legal services and research should reorient to consumer-led, CRPD-consistent approaches, embed supported decision-making, and ensure routine, meaningful elicitation and documentation of consumers' will and preferences to guide advocacy and adjudication.

1. Introduction

This paper examines how studies on civil mental health commitment bodies such as mental health courts and tribunals represent consumer perspectives and include consumers as researchers. We reviewed published peer-reviewed and commissioned literature concerning legal representation and advice in involuntary assessment, detention and treatment processes within civil jurisdictions.

Our contribution is twofold. First, we map what the extant literature says about consumer involvement in the design and delivery of legal services in these forums. Second, using a Consumer-perspective Critical Reflection Tool, we assess how extensively that literature engages with rights-based approaches and consumer-led concepts. We do not prejudge the merits of any jurisdictional model. Rather, we interrogate whether legal researchers recognise consumers as rights-holders and decision-makers, and what that implies for practice and reform. The sections that follow set out the institutional context, the methods used in our review, and the results, before turning to the implications for research, practice and law reform.

1.1. Mental health civil commitment bodies

Civil commitment bodies, including mental health tribunals and civil mental health courts, are independent administrative or quasi-judicial entities that decide whether a person may be involuntarily assessed, detained or treated in hospital or the community (Macgregor et al., 2019). They are intended to limit clinical power through legal oversight. In common law jurisdictions, these tribunals are usually less formal than courts and aim to involve consumers directly in decisions. Panels are often multidisciplinary, comprising a legal member, a psychiatrist or medical practitioner, and/or a community member such as a consumer, carer or mental health professional (Carney et al., 2008).

In practice, civil mental health tribunals are often experienced as adversarial, formal and disempowering, contributing to distress and

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trauma. Many consumers attend hearings without legal representation (Swain, 2000). Effective legal representation is central to access to justice, procedural fairness and respect for legal capacity. Ferencz and McGuire (2000) described a "cycle of distress" in which participants felt powerless, dissatisfied and confused. Large attendances can be intimidating, particularly when consumers lack the support of family, friends, advocates or lawyers, and participation can strain family relationships (Carney & Tait, 2011; O'Donoghue et al., 2010).

There is some variation in the role, constitution and processes of civil commitment bodies across various international jurisdictions. In Australia, and other English-speaking common-law jurisdictions, such as the UK (Macgregor, 2022) and Canada (Grant & Carver, 2016; Moss & Redelmeier, 2010) decisions on involuntary treatment are generally made by designated mental health tribunals that operate separately from courts. In countries such as Australia and Canada, these tribunals tend to operate independently within distinct states or provinces. In most US states, decision-making power regarding involuntary mental health treatment rests with States' courts and the relevant judges (Zhang et al., 2015). In Norway, a review can be undertaken by the Supervisory Commission, constituted of a lawyer qualified to serve as a magistrate, a physician who is not affiliated with the treating hospital, and two other members (Zhang et al., 2015). In Brazil, the consumer's family or lawyers may apply to the relevant state prosecutor, who can convene a multi-disciplinary team that must include a medical member – generally a psychiatrist – to assess whether involuntary treatment is still needed (Zhang et al., 2015). Despite these jurisdictional differences, these remain fundamentally *legal* decision-making bodies, with clearly defined roles for legal representation.

Across most civil mental health jurisdictions, consumers facing involuntary assessment, detention or treatment have a statutory or common law entitlement to legal representation, yet whether that representation is free of charge, appointed automatically or meaningfully accessible varies substantially between and within countries (Boyle, 2021; Buckingham, 2018; Macgregor et al., 2019; Perlin, 2008; Zhang et al., 2015). Evidence shows that many consumers still appear without counsel, and that where representation is provided outcomes tend to be less restrictive and orders are more frequently revoked, underscoring the importance of accessible, rights-focused lawyering (Government of Victoria, 2021; Murphy et al., 2017; Paul et al., 2020; Swain, 2000; Taylor-Sands & Nicholson, 2020).Yet, little is known about how consumers experience or prefer to receive legal services in this context.

1.2. The convention on the rights of persons with disabilities

Civil commitment bodies are bound by the laws that have established them and empower them to review the involuntary detention and treatment of consumers (Carney et al., 2008). However, according to an authoritative interpretation of Article 12 (Equal recognition before the law) by the CRPD Committee, involuntary detention and treatment of people with mental health-related disabilities is prohibited under the CRPD. The General Comment on Article 12 by the CRPD Committee interprets the right to equal recognition before the law for people with disability as requiring the abolition of legal substituted decision-making regimes, such as guardianship and mental health laws. The CRPD Committee has stated that "substitute decision-making regimes such as… mental health laws that permit forced treatment… must be abolished in order to ensure that full legal capacity is restored to persons with disabilities on an equal basis with others" (Committee on the Rights of Persons with Disabilities, para. 7). The Committee has further stated that "States parties must abolish policies and legislative provisions that allow or perpetrate forced treatment, as it is an ongoing violation found in mental health laws across the globe, despite … the views of people using mental health systems who have experienced deep pain and trauma as a result of forced treatment" (Committee on the Rights of Persons with Disabilities, para. 42). The United Nation's former Special Rapporteur on Torture and Other Cruel, Inhumane or Degrading Treatment or Punishment, Juan E. Méndez, has commented that the involuntary medicating of disabled people can amount to torture and breaches the CRPD, especially when this occurs over extended periods of time (Méndez, 2013). Thus, many of the international civil commitment regimes discussed are fundamentally inconsistent or incompatible with these comments. Despite the authoritative General Comment by the CRPD Committee, countries such as Australia and Canada have made interpretive declarations that they do not interpret the CRPD as requiring the abolition of substitute decision-making and some scholars argue for an interpretation of the CRPD that allows for authorising involuntary detention and psychiatric treatment in some circumstances (Szmukler et al., 2010).

1.3. The consumer/survivor/ex-patient movement and consumer involvement in research

The consumer, survivor and ex-patient movement has reframed mental health knowledge production by insisting on participatory and co-produced research that centres lived experience as epistemic authority, rather than treating consumers as research subjects (Chamberlain, 1978; Epstein, 2013; Holmes & Papps, 2018; Spandler, 2006). This research has, in turn, amplified the consumer voice in law and policy reform, informing CRPD-aligned agendas that prioritise dignity, autonomy and supported decision-making, including advance directives, independent advocacy, the reduction of restrictive practices, and entrenching consumer involvement in legislative reviews and governance of mental health systems (Committee on the Rights of Persons with Disabilities, 2019; Government of Victoria, 2021; Maylea et al., 2021). However, as the findings below show, the consumer voice in studies on legal representation and services in the context of mental health lawyering have not yet widely adopted these participatory methods.

2. Materials and methods

2.1. Methods

The purpose of this study was to assess the degree to which mental health consumers are asked how they want legal services provided by lawyers. We conducted a literature review using a systematic search of academic and grey literature focusing on mental health lawyering in a civil mental health jurisdiction.

Two of the authors of this paper are experienced consumer perspective researchers. They were paid at casual researcher award rates for all work on this project. Their involvement was instrumental to all steps of the process and analysis, including question development, design, collection and analysis. The development of the tool was consumer led, but the development of this paper was led by non-consumer perspective team members.

2.2. The consumer-perspective critical reflection tool

A Consumer-perspective Critical Reflection Tool was developed by members of the research team to assess the relevant literature (Karanikolas et al., 2024). Consumer researchers on the research team consulted with consumer leaders in the development of the tool. The tool aims to make clear quality criteria and standards for research held by consumers and consumer academics in academic research. The tool was developed with the intention of providing a separate, stand-alone resource that allows users to evaluate and assess the quality of research from a consumer perspective and was designed for use on all research that impacts consumers. The tool asserts that quality research consists of analysis, interpretation and dissemination informed by consumer expertise, as such the tool was suitable for guiding our inclusion and exclusion of papers for the purpose of our review and analysis (Karanikolas et al., 2024). The tool is, at the time of writing, neither

Table 1
Search strings for each database.

Google Scholar	(“mental health consumer” OR “involuntary treatment” OR “compulsory treatment” OR “civil commitment”) AND (“legal representative” OR “legal representation” OR “lawyer” OR “lawyering” OR “mental health tribunal”)
Scopus	((“mental health” W/3 consumer*) OR (“civil commitment”) OR ((involuntary OR compulsory) W/3 treatment)) AND ((“legal represent*”) OR (“lawyer*”) OR (“mental health” W/3 tribunal*))
ScienceDirect	((“mental health consumer”) OR (“involuntary treatment”) OR (“compulsory treatment”) OR (“civil commitment”)) AND ((“legal representative”) OR (“legal representation”) OR (“lawyer”) OR (“lawyering”) OR (“mental health tribunal”))
PsycINFO	(“mental health” ADJ3 consumer*) OR “civil commitment” OR (involuntary OR compulsory) ADJ3 treatment AND (“legal represent*” OR “lawyer*” OR “mental health” ADJ3 tribunal*)
ProQuest Central	((involuntary OR compulsory) NEAR/3 treatment OR (“civil commitment”) OR (“mental health” NEAR/3 consumer*)) AND ((“mental health” NEAR/3 tribunal*) OR (“lawyer*”) OR (“legal represent*”))
Lexis Advance	((“mental health” W/3 consumer*) OR (“civil commitment”) OR ((involuntary OR compulsory) W/3 treatment)) AND ((“legal represent*”) OR (“lawyer*”) OR (“mental health” W/3 tribunal*))
Hein Online	((“mental health consumer*” ∼ 3) OR (“civil commitment”) OR (“involuntary treatment” ∼ 3) OR (“compulsory treatment” ∼ 3)) AND ((“legal represent*”) OR (“lawyer*”) OR (“mental health tribunal*” ∼ 3))

peer-reviewed nor robustly validated, but makes a claim to legitimacy based on being informed by the CRPD and consumer perspectives.

2.3. *Search strategy*

The search strategy involved a multi-phase approach. Initial rapid literature searches were conducted between April and October of 2022. A subsequent update and cross-checking search was undertaken in June 2024. In July 2025, the search strategy was updated in consultation with a Senior Research Librarian to develop a more robust systematic search protocol in order to retrieve more comprehensive results. Searches were conducted across Google Scholar, Scopus, ScienceDirect, PsycINFO, ProQuest Central, Lexis Advance and Hein Online. Search terms and search engines were agreed upon by the research team with key consideration given to consumer perspectives. The search string was developed using Boolean operators, truncated search terms and proximity searches tailored to each database. Proximity searches were limited to search terms appearing with three words.[1] The search strings for each database were:

Two researchers completed the initial literature search and imported all results into Covidence systematic review software. A single researcher completed the subsequent literature search and imported results into Covidence. The inclusion criteria for title and abstract screening were that the paper referred to legal representation for a mental health treatment order or civil commitment, and that the document was peer-reviewed or was a commissioned report.

Documents published prior to 2006 were excluded on the basis of the CRPD adoption in 2006 (although not into force until 2008). Blogs, magazines, or newspaper articles were excluded. The selection criteria for full text review stage was an assessment of whether the document was specifically about mental health lawyering in a civil mental jurisdiction. Google Scholar was used to locate grey literature.

Our initial literature search captured a total of 4094 articles, of which we excluded duplicate articles ($n = 464$). The remaining articles ($n = 3630$) were individually screened, identifying 228 articles as relevant for a full text review. A further 193 articles were excluded for the following reasons: published before 2006, not about lawyers or lawyering, in the wrong form, or not peer reviewed. We concluded with 35 articles for the extraction phase.

These 35 documents were then comprehensively analysed by two researchers and assessed using the Consumer-perspective Critical Reflection Tool, which was input into Covidence and utilised via the Quality Assessment Template function. The Tool consists of 49 questions. Each question was answered either “yes”, “somewhat”, or “no/not reported”. Each answer was assigned a point value to allow for a more accessible numerical interpretation of the results; “yes” answers yielded two (2) points, “somewhat” answers one (1) point, “no/not reported answers” zero (0) points.

After the analysis had been performed, all results were extracted to a data spreadsheet. Responses for all questions were tallied, and each document was given a final numerical score reflecting the degree to which the research engaged with consumer perspectives. Documents were then ranked based upon their scores to inform subsequent analysis.

This paper has elected not to include the individual numerical results of each publication assessed with the Consumer-perspective Critical Reflection Tool. This is due to the broad framing of the discussion regarding whether consumers are asked how they want legal services provided. This paper does not seek to identify or vilify specific publications or authors. There are multiple extraneous factors that would have contributed to the results of the relevant analysis of each publication, some potentially out of the control of the relevant authors. This paper ultimately seeks to initiate a broader discussion about the way legal services and representation are provided to consumers in the context of civil mental health law.

3. Limitations

This study has several limitations that should be considered when interpreting the findings. First, the literature review relied on existing publications, many of which lacked comprehensive details regarding consumer involvement. This limited the depth of analysis possible concerning the role of consumers in shaping legal services. The quality of the reviewed literature varied, with many studies failing to provide transparent or explicit documentation of consumer engagement processes. As a result, the conclusions drawn may not fully capture all existing efforts to include consumers in research and legal service development.

Second, the review was constrained by the availability of peer-reviewed literature and commissioned reports, which excludes other reports or unpublished work that might offer valuable insights into consumer experiences and involvement. The exclusion of these sources means that some innovative or effective practices in consumer participation might not have been represented in this review. Barriers to consumer participation in peer-reviewed authorship are likely further reducing consumer perspectives in the literature.

Third, there was a lack of diversity in the consumer perspectives presented in the available literature. Most studies did not adequately reflect the experiences of diverse consumer groups, such as those from different cultural backgrounds, gender identities, or socioeconomic contexts. This limitation restricts the generalisability of the findings and highlights the need for future research to actively seek out and include a broader range of consumer voices.

Finally, the Consumer-perspective Critical Reflection Tool used for analysis is an aspirational framework, meaning that its criteria represent ideal standards for consumer involvement in research. The gap between these standards and current practice may appear larger because the tool

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[1] Proximity searches and truncated search terms were not supported in Google Scholar or ScienceDirect. Exact phrases were used instead.

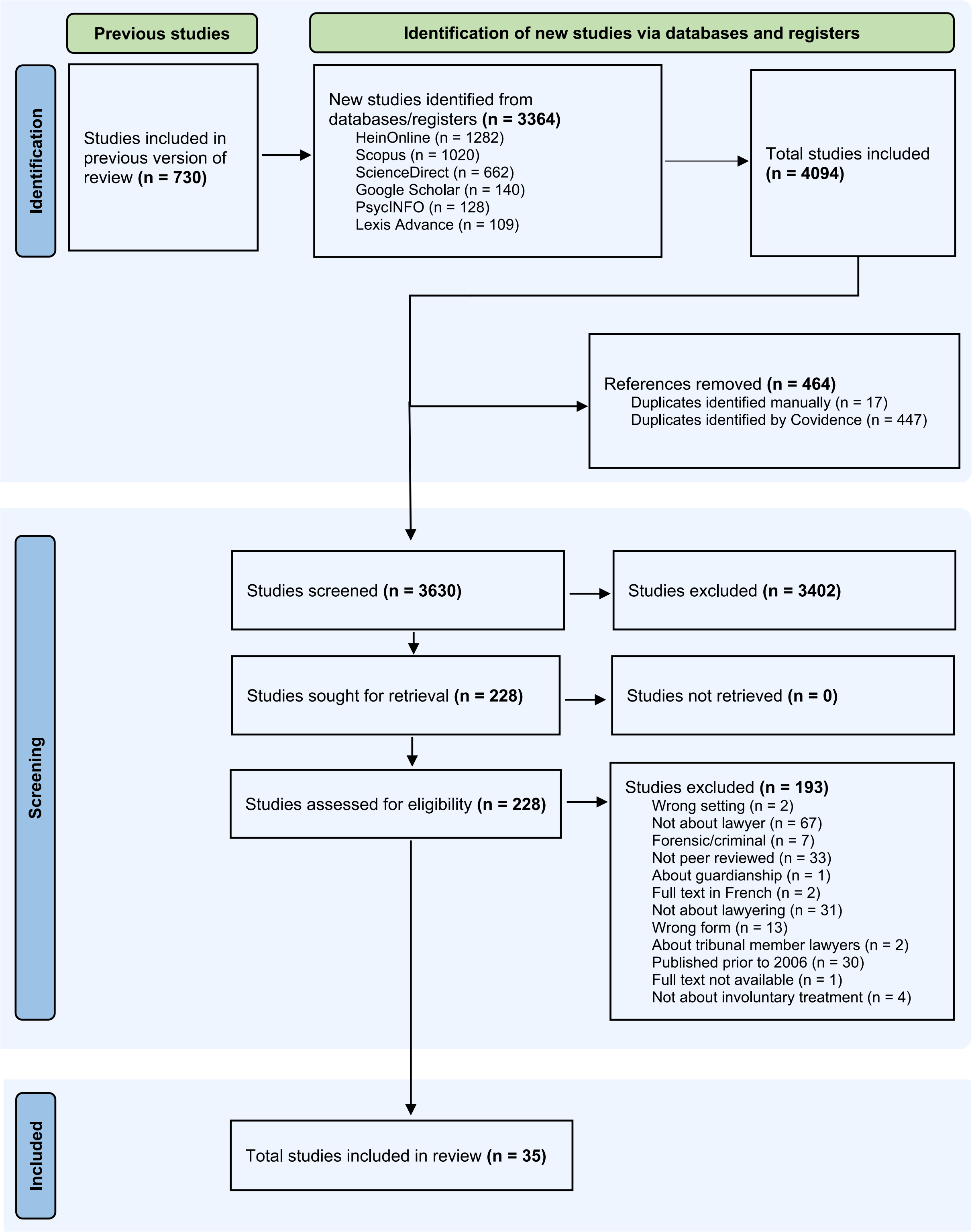

Fig. 1. PRISMA flow diagram of search strategy (Page et al., 2021).

sets a high bar for consumer engagement. While this highlights areas needing improvement, it may also mean that some progress has been under-recognised in this analysis. The tool also contains many subjective assessments, not least being poorly defined categories such as who counts as a consumer researcher and who does not. Additionally, we acknowledge that the tool has not been published in a peer reviewed journal, nor has it been validated beyond the testing used in its initial development.

4. Results

This section presents the findings of the literature review, examining how mental health consumers are involved in the provision of legal services within civil mental health jurisdictions. The analysis identifies significant gaps in consumer participation. The review reveals that consumer perspectives are often underrepresented or overlooked, both in practice and in the research that informs legal service delivery. Key

Table 2
Results of the critical reflection tool.

Questions	100% (*n* = 35)		
	Yes	Somewhat	No/Not Reported
Was the research led by or conducted in partnership with consumers?			
1. Did the research team include consumers?	3% (1)	0% (0)	97% (34)
2. Is there evidence that there was thought involved as to what specific consumer expertise and experience was relevant?	0% (0)	3% (1)	97% (34)
3. Is there evidence the research team sought out a range of different perspectives and included consumers representing a range of experiences and backgrounds?	0% (0)	3% (1)	97% (34)
4. Is there evidence that the topic or question was shaped by consumers?	0% (0)	3% (1)	97% (34)
5. Is there evidence consumers were partners or leaders in setting research agendas and in research design?	0% (0)	0% (0)	100% (35)
6. Is there evidence consumers were partners or leaders in data collection?	0% (0)	0% (0)	100% (35)
7. Is there evidence consumers were partners or leaders in analysis and communication of findings?	0% (0)	0% (0)	100% (35)
8. Is there evidence consumers were partners or leaders in research evaluation?	0% (0)	0% (0)	100% (35)
9. Is there evidence consumers occupied a variety of positions across the research team?	0% (0)	0% (0)	100% (35)
10. Is there evidence that the time necessary to co-produce research was provided?	0% (0)	0% (0)	100% (35)
11. Is there evidence that all researchers were appropriately remunerated?	0% (0)	0% (0)	100% (35)
12. Is there evidence that researchers were employed in secure work?	0% (0)	0% (0)	100% (35)
13. Is there evidence that accessibility needs and reasonable adjustments were offered and provided to all team members to allow full participation?	0% (0)	0% (0)	100% (35)
14. Is there evidence that processes of safety were considered and addressed with all team members?	0% (0)	0% (0)	100% (35)
15. Is there evidence that all team members had access to appropriate training and supervision?	0% (0)	0% (0)	100% (35)
16. Is there evidence that non-consumer researchers engaged in their own reflection, development, and growth?	0% (0)	6% (2)	94% (33)
17. Is there evidence that consumers had access to professional networks?	0% (0)	0% (0)	100% (35)
18. Is there evidence that consumer researchers were able to draw on their lived experience?	0% (0)	0% (0)	100% (35)
19. Does the research draw on existing consumer knowledge?	3% (1)	26% (9)	71% (25)
20. Does the research contribute to existing consumer knowledge and conceptual thinking?	9% (3)	43% (15)	48% (17)
21. Did participants' expertise inform the process and/or products of the research?	29% (10)	0% (0)	71% (25)
22. Is there evidence that participants were valued?	3% (1)	3% (1)	94% (33)
Is the methodological framework adherent to lived experience principles?			
23. Is subjective experience valued?	29% (10)	20% (7)	51% (18)
24. Does the paper contain participants' voices?	37% (13)	9% (3)	54% (19)
25. Is there evidence participants were paid appropriately and in a manner of their choice?	0% (0)	3% (1)	97% (34)
26. Is there evidence participants were provided a choice around anonymity?	3% (1)	3% (1)	94% (33)
27. Do research outputs include the assertion that consumers always maintain the legal right to make decisions about their treatment and life?	15% (5)	37% (13)	48% (17)
28. Is the work interpreted through frameworks and concepts introduced or developed by people with lived experience, as developed by people with lived experience?	0% (0)	9% (3)	91% (32)
29. Is the research founded upon a social model of disability?	6% (2)	29% (10)	65% (23)
30. Do research outputs challenge the dominance of biogenetic disease formulations?	3% (1)	9% (3)	88% (31)
31. Is the research informed by the United Nations Convention on the Rights of Persons with Disabilities (CRPD)?	40% (14)	20% (7)	40% (14)
32. Is intersectionality considered?	3% (1)	15% (5)	82% (29)
33. Is there thought given to who may have been included or excluded from participating in the research?	3% (1)	12% (4)	85% (30)
Is the content critical and reflexive?			
34. Are the paper's contribution and findings situated within the context of contributions to knowledge from the consumer movement?	0% (0)	9% (3)	91% (32)
35. Did the researchers situate themselves and reflect on their positionality in the research?	0% (0)	3% (1)	97% (34)
36. Are terms used to refer to people explained, and/or rationale provided for why they are adopted?	9% (3)	6% (2)	85% (30)
37. Is there reflection on how the research process could have been improved to increase integrity of consumer involvement?	3% (1)	12% (4)	85% (30)
38. Is there honest reflection on how to better realise co-production or consumer leadership in future research?	0% (0)	6% (2)	94% (33)
39. Does the research explicitly cite the work of other consumer researchers or those writing from a lived experience perspective?	0% (0)	3% (1)	97% (34)
40. Were consumer perspective structures reported on, such as consumer advisory groups that examined aspects of the research?	0% (0)	6% (2)	94% (33)
41. Was there evidence of connecting with the consumer/ex-patient/survivor movement?	0% (0)	3% (1)	97% (34)
Does it contribute to systemic change?			
42. Do researchers advocate for the voice of consumers?	32% (11)	34% (12)	34% (12)
43. Is there evidence the research develops consumer knowledge and supports the development of consumer knowledge?	0% (0)	9% (3)	91% (32)
44. Are recommendations for social change included?	29% (10)	51% (18)	20% (7)
45. Is there a plan to implement research findings and recommendations?	3% (1)	9% (3)	88% (31)
46. Does the research elaborate on the value of consumer leadership in research, or on partnering with consumer researchers?	3% (1)	3% (1)	94% (33)

(*continued on next page*)

Table 2 (*continued*)

Questions	100% (*n* = 35)		
	Yes	Somewhat	No/Not Reported
47. Is there a community report and a plain language summary of the findings?	0% (0)	0% (0)	100% (35)
48. Is the paper freely available?	57% (20)	26% (9)	17% (6)
49. Is there a plan to disseminate the research through methods to the community?	0% (0)	0% (0)	100% (35)

themes emerging from the analysis include: exclusion of consumers and lived experience principles in the research process, limited adherence to human rights principles in methodological frameworks and limited contribution to addressing broader systemic issues. These themes will be explored in detail, providing insights into the current state of legal service provision and areas requiring urgent reform.

4.1. Exclusion of consumers and lived experience principles in the research process

The purpose of the first part of the Critical Reflection Tool was to ascertain whether the literature included consumer researchers as part of the research team; or whether lived experience expertise was utilised in the research process.

The analysis revealed that explicitly identified consumer voices or lived experience researchers were almost entirely absent from the research teams. Stomski et al. (2017) produced the only paper that included consumers explicitly within the research team ($n = 1$). While authors often advocated for, or amplified consumers' voices ($n = 23$), many papers did not actually include direct quotes or perspectives from consumers ($n = 9$). The results depict a varied approach to the researchers' value of lived experience when developing their research. Another critical issue highlighted by the review is the lack of attention to power differentials between consumer and non-consumer researchers. None of the studies explicitly reported on efforts to ameliorate power imbalances or ensure that consumer researchers were adequately supported and remunerated. There was no evidence that consumer researchers were employed in secure roles or provided with adequate resources to support their participation. Moreover, the professional development of consumer researchers was largely ignored, with no opportunities for training or access to professional networks reported.

4.2. Methodological framework and adherence to human rights principles

The purpose of questions 23–33 and 34–41 of the Critical Reflection Tool was to evaluate whether the research methodology was consistent with consumer ethics, quality research and the content was critical and reflexive.

Most studies did not adopt a methodological framework consistent with consumer-led principles or human rights-based approaches. Only about a third of the studies adopted a social model of disability, meaning that some papers accepted (or did not question) biogenetic or medicalised approaches to understanding ‘mental illness’. While some studies referenced the CRPD, the commitment to these principles was often superficial, with no substantive discussion of how consumer autonomy and legal capacity were respected in practice. Intersectionality was also largely overlooked, with no critical reflection on who was included, or excluded from participating in the research.

Most studies failed to adopt conceptual frameworks consistent with consumer-led principles or, post-CRPD, human rights-based approaches. Only about a third of the studies adopted a social model of disability, and there was little evidence of questioning dominant biogenetic disease formulations. Of the 32 papers published after the CRPD came into effect in May 2008, only 14 referenced the CRPD, and 5 explicitly reflected the relevance of Article 12.

A recurring theme was the promotion of therapeutic jurisprudence as a protective measure for consumers engaging in the legal system, without including consumers voices in the decision (Hollander et al., 2017). This perception of consumers was mainly informed by practitioners, as consumers' voices were largely absent from many of these papers ($n = 13$). When considering these papers, there was a strong correlation between the role of lawyers and the responsibility to ensure therapeutic jurisprudence (Cucolo & Perlin, 2017; Maurer, 2012). Many papers included lawyers as participants who viewed their role as protective of the consumer's “best interests”, rather than representative (Dahl, 2003). Others commented on the role of lawyers' as “protecting the public” when representing their client, favouring this paternalistic view of the legal system over consumers' autonomy (Luchins et al., 2006, p. 497).

4.3. Contribution to systematic change

The purpose of the final part of the Critical Reflection Tool was to determine whether the literature developed consumer knowledge and advanced the goals of the consumer movement.

Many papers also did not develop or acknowledge a plan to implement the research findings and recommendations ($n = 31$). Despite acknowledging the recommendations, very few authors discussed the implementation of these recommendations for social change ($n = 4$), and none of the papers developed a plan to address how these recommendations could be implemented. The authors who did somewhat address implementation did so fleetingly, often remarking on the need to strengthen current processes, or adopting more collaborative approaches (Beaupert, 2009); or advocating for systematic changes towards the perception of consumers and reforms to mental health tribunals (Carney et al., 2008; Weller, 2011).

5. Discussion

The findings of this literature review highlight a profound lack of evidence for consumer participation and leadership in higher-level decision making in research regarding legal services provided in the context of civil mental health law. This absence is particularly concerning given the decades of advocacy for lived experience leadership in knowledge production processes and the increased emphasis on participatory approaches in mental health (and social services) globally (Chamberlain, 1978; Epstein, 2013; Holmes & Papps, 2018; Spandler, 2006), which has not been matched in mental health law research or, as shown above, in the practice area of mental health law. The results indicate that, with limited exceptions (see, e.g. Canvin et al., 2005; Corring et al., 2017; Edan et al., 2019), legal professionals and researchers alike have been slow to adopt consumer-led approaches which have been more readily embraced in other disciplines (Scholz, 2024; Scholz et al., 2024). This disparity suggests an urgent need for legal research and practice to evolve, ensuring that consumer perspectives are meaningfully integrated.

Recent scholarship on supported decision-making highlights its centrality to consumer participation in law and policy reform. Supported decision-making is a relational practice grounded in respect for the consumer's will and preference regarding their treatment, rather than relying on substituted decision-making in law and practice. Gooding (2013) argues that supported decision-making operationalises Article 12 of the CRPD and provides a legal mechanism to realise autonomy for people with psychosocial and cognitive disabilities, while acknowledging challenges in translating this principle into everyday legal and service contexts. The Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability's final report (Government of Australia, 2023) endorsed this rights-based model, recommending systemic reforms to embed supported decision-making. Together, these developments have reinforced the consumer/survivor/ex-patient movement's call for research and law reform that recognises experiential expertise, repositions consumers as active agents in knowledge production and legislative change, and promotes the CRPD's emphasis on rights-based approaches to recognising legal capacity and self-determination.

The review also sheds light on the structural issues inherent in civil commitment bodies. These bodies, ostensibly designed to balance the powers of mental health professionals, often fail to fulfil this role effectively for consumers (Rolfe et al., 2008). The highly formal and adversarial nature of tribunal processes, as described in the literature, can be intimidating and disempowering, particularly when consumers do not have access to appropriate legal representation or advocacy (Macgregor et al., 2019). This adversarial approach not only undermines consumer autonomy, but also exacerbates trauma and distress, contradicting the intended therapeutic aims of mental health law (Ferencz & McGuire, 2000). This finding is also evident in the broader literature on civil commitment bodies (Macgregor et al., 2019; Murphy et al., 2017).

Another critical point is the lack of consumer involvement in the research process itself. The review found that very few of the studies engaged consumers in designing, conducting, or analysing research, despite the clear value of lived experience in informing meaningful and effective legal practices. This omission reflects a broader issue of epistemic injustice, where consumer knowledge is undervalued or dismissed altogether (Fricker, 2007; Holmes & Papps, 2018). The minimal inclusion of direct consumer quotes or perspectives within the reviewed papers further demonstrates the marginalisation of consumer voices. Legal research must therefore move beyond merely discussing consumer perspectives in abstract terms and actively involve consumers in research teams and decision-making processes.

Ideally, consumers should not only be involved but should set the research agenda. This will require substantial upskilling of non-lived experience legal researchers and adequate resourcing for consumers to be able to ensure effective partnerships (Rose et al., 2018). Consumer leadership in research is critical to overcoming the tokenistic engagement often seen in mental health legal research. Scholz (2022) emphasises that consumer leadership must extend beyond mere involvement or engagement, calling for consumers to be in leadership roles where they can shape research agendas and influence decision-making processes (see also: Faulkner & Thompson, 2021; Werner-Seidler & Shaw, 2019). This leadership is crucial to address power imbalances and ensure that consumer expertise is genuinely valued and integrated into research outcomes, not just as contributors but as equal partners throughout all stages of the research process. Scholz (20220 argues that while co-design and co-production are higher levels of participation, they often fail to fully address the necessary shifts in power dynamics. Moving towards true consumer-led research means positioning consumers as decision-makers rather than relegating them to supportive roles, thereby aligning research practices with the principles of the CRPD and fostering authentic consumer empowerment.

Moreover, while many papers included in the review called for reforms that align with consumer rights under the CRPD, few offered concrete pathways for implementing these changes. The lack of detailed plans for social change points to a gap between theoretical recommendations and actionable strategies. This suggests a need for research that not only highlights areas of non-compliance but also provides a roadmap for achieving the necessary systemic changes. Future research should prioritise the development of specific, practical frameworks that can guide the implementation of consumer-led reforms in legal practice.

The findings ultimately underscore the need for a cultural shift in how legal services are provided to mental health consumers. This shift requires greater respect for consumer autonomy, an emphasis on supported decision-making, and genuine engagement with consumer perspectives in both research and practice. Legal services must move away from paternalistic models and towards a human rights-based approach that is consistent with the CRPD, especially in the context of civil mental health and capacity law The integration of lived experience advisory groups within legal services could serve as a starting point for ensuring that the voices of consumers are heard and valued, thus facilitating a more inclusive and effective legal system for people with mental health conditions.

6. Conclusion

This study underscores the significant gaps in consumer involvement in the provision of legal services within civil mental health jurisdictions. Despite an increased global focus on participatory or co-productive approaches, consumer voices remain largely excluded from both the research and practice of mental health law. The findings indicate that, while there is broad acknowledgment of the need for consumer participation, the actual implementation of consumer-led practices is limited and often superficial.

The review highlighted several areas where improvements are essential, including the integration of lived experience in research, addressing power imbalances, and the adoption of methodological frameworks that genuinely reflect human rights principles. The lack of diversity among consumer voices further limits the applicability of existing research and points to the need for more inclusive practices that encompass a broader range of perspectives.

For future progress, it is critical that researchers and practitioners move beyond tokenistic engagement and work towards genuine partnerships with consumers at every stage of the research and service delivery process. This includes adopting a human rights-based approach that respects consumer autonomy and legal capacity as enshrined in the CRPD. By doing so, the legal services sector can ensure that it is better equipped to meet the needs of mental health consumers and uphold their rights effectively.

CRediT authorship contribution statement

Chris Maylea: Writing – review & editing, Writing – original draft, Validation, Supervision, Project administration, Methodology, Investigation, Funding acquisition, Formal analysis, Data curation, Conceptualization. **Panos Karanikolas:** Writing – review & editing, Methodology, Investigation, Formal analysis, Conceptualization. **Esther Le Couteur:** Writing – review & editing, Project administration, Investigation, Formal analysis, Data curation. **Joey Cook:** Writing – review & editing, Writing – original draft, Project administration, Methodology, Formal analysis, Data curation. **Zali Stevens:** Writing – review & editing, Writing – original draft, Formal analysis, Data curation. **Hamilton Kennedy:** Writing – review & editing, Methodology, Conceptualization. **Stephanie Stewart:** Writing – review & editing, Methodology, Conceptualization.

Declaration of competing interest

None.

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Appendix A. List of the 35 articles used in the extraction phase

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