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## **UNVEILING HUMAN RIGHTS ISSUES IN MENTAL HEALTH CARE: A CALL FOR REFORM AND EMPOWERMENT**

Navneet Kaur<sup>1</sup>

### **ABSTRACT**

*This article explores the reckoning issue of mental health, shedding light on the grave human rights violations faced by mentally ill patients around the world. The struggles of the mentally ill people are manifold, ranging from emotional and physical abuse to the discrimination arising out of social stigma, inadequate access to the medical care and lack of societal awareness towards their situation. International reforms, such as the United Nations Convention on the Rights of Persons with Disabilities (CRPD), the World Health Organization's Mental Health Gap Action Programme (mhGAP) and the State legislative measures are few initiatives that are shaping the way forward towards the betterment of the people suffering from mental illness. Raising Awareness, peer support and self-help groups, strengthening mental health services and supportive employment programmes are few effective strategies that would ensure the empowerment of the people suffering from mental health issues. Through a comprehensive approach that involves the international reforms, national legislative policies and strategies of empowerment, the dignity and human rights of the mentally ill people can be restored and protected.*

### **KEYWORD**

*Human Rights, Mental Health, Disability, United Nation, Privacy.*

### **1. INTRODUCTION**

Mental health care constitutes an important component for the overall well-being of a human being but it is often undermined or violated.

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People with mental health issues regularly experience human rights violations. These violations are often motivated by the stigma, myths and misconceptions associated with the mental illnesses which can, in turn, also impact on their ability to gain access to appropriate care and reintegrate into community.<sup>2</sup> Though this research paper the author has tried to bring forward the stigma and complexity associated with the mental health care, highlighting the requirements for comprehensive strategies, improved support system, necessary reforms and increased awareness in order to empower and uplift the individuals facing mental health challenges.

## **2. UNDERSTANDING MENTAL HEALTH**

Mental health refers to a person's overall emotional and psychological well-being.<sup>3</sup> It represents a person's feelings, thoughts, behaviour as well as the ability to cope up with the life's challenges, manage stress, and maintain healthy relationships. It also plays a vital role in an individual's daily functioning, productivity, and quality of life.

Good mental health involves having a positive outlook towards life with a sense of self-worth, having an emotionally balanced lifestyle and the ability to handle stress and to adapt to the changing circumstances in life. It is inevitable to note here that mental health is not merely the absence of mental illness rather it is a state of well-being wherein an individual can realize their full potential, cope with the normal stresses of life, work effectively and contribute to their community.

Mental illnesses can manifest in various ways, such as depression, anxiety, bipolar disorder, schizophrenia, and more. These conditions can

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<sup>2</sup> Carla A. Arena Ventura, 'International Law, Mental Health and Human Rights' (*The Center for Civil & Human Rights*, June 2014) <<https://klau.nd.edu/assets/331758/venturamentalhealth.pdf>> accessed 30 June 2023.

<sup>3</sup> Karthik Magaji, 'What Are 20 Important Tips for a Better Mental Health?' (*Linkedin*, 2 Jan. 2023) <<https://www.linkedin.com/pulse/what-20-important-tips-better-mental-health-karthik-magaji>> accessed 30 June 2023.

negatively affect a person's thoughts, emotions, behaviour and overall functioning, making daily life and interpersonal relationships challenging.

### **3. STIGMA AND DISCRIMINATION ASSOCIATED WITH MENTAL HEALTH**

Mental illnesses can occur and manifest itself through various ways, such as mood – swings, anxiety, depression, disorders, bipolar disorder, schizophrenia etc. The symptoms of mental illness may include extreme mood swings, irrational fears, persistent sadness, delusions, hallucinations, difficulties in concentration, disrupted sleep patterns and impaired memory. These symptoms can cause distress and impact an individual's ability to carry out everyday tasks, maintain stable relationships, hold employment and engage in social activities.

Individuals with serious mental illness are often challenged on two fronts. On one hand, they struggle with the symptoms and disabilities arising out of the mental illness and on the other hand they face the prejudice and stereotypes due to the widespread misconceptions about the mental illness in our society.

As a result of this twofold struggle, the individuals facing mental illness are often hindered from seeking help and support due to constant fear of being judged, rejected, or labelled. The stigma associated with the mental illness impacts their self-esteem and confidence which impacts their ability to seek opportunities for education, employment, housing and social integration and further sideline them in a social isolation exacerbating the challenges already dealt by them. This discrimination violates the principles of equality, social security, dignity, and non-discrimination enshrined in the human rights frameworks.

### **4. ACCESSIBILITY AND AFFORDABILITY OF THE MENTAL HEALTH CARE**

Accessibility and affordability of mental health care are the crucial factors to ensure that the seekers of mental health care receive the necessary treatment and support in order to cope up with their illness. Unfortunately, these aspects are challenged in many parts of the world.

One of the major challenges faced by India today is the shortage of the mental health professionals. India homes a diverse population of over 1.3 billion people and the accessibility of mental health care for such a vast population is a matter of concern especially when there is a prevalence of large social stigma associated with it. As per a report published in the *Hindustan Times*, there are not enough mental health care professionals to treat people who do seek help in India. This is true especially in the rural areas of India. There are only 0.75 psychiatrists for every 100,000 patients in India.<sup>4</sup> India faces a severe shortage of qualified and trained psychologists, psychiatrists, and mental health counsellors particularly in the remote and rural areas. This scarcity limits the availability of timely and appropriate care for the people who are struggle with the mental illness.

In addition to the lack of mental health care infrastructure the financial barriers also pose a significant challenge to the mental health care accessibility in India. The cost of the mental health care services including medications, consultations and therapy sessions can be prohibitive for many individuals seeking medical treatment, especially for those who belongs to the lower – income groups. Insurance coverage for mental health care is often limited and the out-of-pocket expenses places a substantial burden on the pocket of the individuals seeking medical treatment. Thus, the financial barrier along with the lack of mental health care infrastructure majorly contributes to the disparity in accessing mental health care across India.

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<sup>4</sup> Deutsche Welle, 'India Fails to Address Growing Mental Health Problem' (*Hindustan Times*, 29 October 2022) <<https://www.hindustantimes.com/lifestyle/health/india-fails-to-address-growing-mental-health-problem-101667038300362.html>> accessed 30 June 2023.

Mental health services, which include community and hospital-based psychiatric care, housing, and access to medications, routinely receive inadequate funding from both public and private sources, potentially leaving people with mental illness with an absence of enforceable legal protections and life-saving services.<sup>5</sup> The lack of accessibility and affordability of the mental health care violates the human rights to health, equality and an adequate standard of living. Further denying individuals the access to the affordable health care also causes discrimination on the basis of their economic and financial status.

## **5. INVOLUNTARY DETENTION AND TREATMENT**

Involuntary detention and treatment of the patients suffering from mental health issues is a complex process that raises concerns for the violation of various human rights. There may be situations where the involuntary measures including detention might be necessary to ensure the safety and well-being of the individuals suffering from mental illness but at the same time it is very important to carefully navigate the delicate balance between protecting the individuals suffering from such illness as well as upholding their human rights.

**5.1** Right to Liberty is one of the primary human rights that gets violated in those cases where there is an involvement of involuntary detention and treatment of patients suffering from mental illness. As per the International human rights instruments every individual has the fundamental right to freedom from arbitrary or unlawful detention although involuntary detention infringes upon this right when it is implemented in absence of the adequate legal frameworks, review mechanism and legal safeguards in place.

**5.2** Right to freedom from torture, inhuman, cruel or degrading treatment is also negatively impacted in cases of involuntary detention

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<sup>5</sup> 'The Numbers Count: Mental Disorders in America' (*NIMH*)  
<<https://img3.reoveme.com/m/1d173cf27093146a.pdf>> accessed 30 June 2023.

and treatment. It is imperative to ensure that individuals subjected to involuntary measures are treated with respect, dignity and utmost care in order to overcome the significant human right challenges posed by such involuntary detention and treatment.

**5.3** Right to non-discrimination is another such human right that is negatively impacted due to the wrongful practice of involuntary detention and treatment of the patients suffering from mental illness. Human Right Commission in its thirty sixth session, while reaffirming its report before United Nation General Assembly, recognized that persons with psychosocial disabilities, persons with mental health conditions, and users of mental health services face widespread discrimination, stigma, prejudice, violence, abuse, social exclusion and segregation, unlawful or arbitrary institutionalization, over-medicalization and treatment practices that fail to respect their autonomy, will, and preferences.<sup>6</sup>

## **6. VIOLATION OF PRIVACY AND CONFIDENTIALITY**

The violation of privacy and confidentiality in mental health care leads to the gross human rights violation. Privacy and confidentiality are the rights that protects the personal information of the patients and promotes a degree of trust in their dealing with the healthcare providers. Breach of these rights have far-reaching consequences.

Breach of privacy and confidentiality in mental health care occurs when sensitive information about an individual's mental health condition or treatment are disclosed without their prior consent. Such violation severely impacts the individuals suffering from mental illness and they feel being mocked, exposed and vulnerable to social stigma, exclusion, denial and discrimination which further undermines their right to equality, dignity, and non-discrimination. The violation of privacy and

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<sup>6</sup> General Assembly Res. 36/13, Mental Health and Human Rights (Sept. 28, 2017).

confidentiality also hampers the individuals' ability to access and seek medical help due to the fear of being exposed which ultimately impacting the effective diagnosis and treatment of their mental illness.

The medical information of the patients given to the health care providers shall not be divulged to others unless the patient gives his consent to disclose such information to others. The confidentiality of a patient should be maintained because the communication of personal information or records may create personal or professional problems while the patients depend on doctors to keep their medical information private.<sup>7</sup>

## **7. INADEQUATE SAFEGUARDS AND OVERSIGHT**

The presence of inadequate safeguards and oversight in mental health care raises significant concerns regarding human rights violations.

**7.1** Informed consent is one of the fundamental ethical principles that ensures that the patients suffering from mental illness are given the right to make autonomous decisions about their treatment. The process involves imparting individuals with understandable and comprehensive information about their diagnosis, potential risks and available treatment options. Although obtaining informed consent can be challenging as the mental illness hampers the decision-making capacity of the patients however by establishing a therapeutic relationship based on trust, respect, and open communication this milestone can be achieved by the medical professionals and therapists.

In other scenarios where the patient is unable to form an independent decision and give free consent due to patient's severe mental illness, it is common to involve a guardian or a third party as an overseer of the

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<sup>7</sup> Kashish Kundlani, 'Confidentiality and Privacy in Healthcare' (*iPleaders*, 23 February 2020) <<https://blog.iplayers.in/confidentiality-privacy-healthcare/>> accessed 30 June 2023.

process of informed consent in order to safeguard the interest of the mentally ill patients. Although there is an irony in such protective safeguards. Transferring the paternalistic role from the psychiatrist or medical professionals to a third party, such as a Mental Health Act Commissioner or other patient' advocate, does not restore the autonomy of the patient. It merely substitutes someone else as a spokesman for the patient.<sup>8</sup>

**7.2** Inadequate oversight and lack of monitoring mechanisms at the healthcare settings also contribute to the instances of neglect, mistreatment, physical and psychological abuse, seclusion and cruel inhuman treatment which further contributes to the gross human right violations of such mentally ill patients. Inadequate living conditions such as a lack of or inadequate clothing, poor sanitation and hygiene, inadequate and poor quality food, lack of privacy, being forced to work, or being subjected to physical, mental, and sexual abuse are frequently experienced by mentally ill people residing in the mental health facilities.

## **8. INTERNATIONAL REFORM INITIATIVES**

International organizations and governments have initiated various reforms to protect the rights of the mentally ill patients. Some of the key initiatives includes:

### **8.1 United Nations Convention on the Rights of Persons with Disabilities (CRPD)**

The CRPD was passed by the General Assembly of the United Nations on 13<sup>th</sup> December 2006. As of June 2023, it has 164 signatories and 187 parties.<sup>9</sup> CRDP aims to sets out the major rights that shall be

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<sup>8</sup> Allen R Dyer and Sidney Bloch, 'Informed consent and the psychiatric patient' (1987) 13 *Journal of Medical Ethics* 12-16.

<sup>9</sup> 'Convention on the Rights of Persons with Disabilities' (*Wikipedia*, 2023) <[https://en.wikipedia.org/w/index.php?title=Convention\\_on\\_the\\_Rights\\_of\\_Persons\\_wit](https://en.wikipedia.org/w/index.php?title=Convention_on_the_Rights_of_Persons_wit)

enjoyed by the people facing disabilities in a fair society. People with disabilities are those who experience chronic mental, physical, sensory or intellectual impairments that, when combined with other factors prevent them from productively participating in the society. It is important here to note that this definition is not exhaustive and includes people with mental illness and psychosocial disabilities.

## **8.2 World Health Organization's (WHO) Mental Health Gap Action Programme (mhGAP)**

The WHO Mental Health Gap Action Programme (mhGAP) aims at scaling up services for mental, neurological and substance use disorders for countries especially with low- and middle-income. The programme asserts that with proper care, psychosocial assistance and medication, tens of millions could be treated for depression, schizophrenia, and epilepsy, prevented from suicide and begin to lead normal lives– even where resources are scarce.<sup>10</sup>

## **8.3 National Mental Health Policies and Legislation**

Governments around the world have developed their own mental health policies and legislations to protect the rights of mentally distressed people. India adopted the Mental Healthcare Act in April 2017 which was implemented from May 2018. The act effectively decriminalised attempted suicide, which was punishable under Section 309 of the Indian Penal Code. The law was described in its opening paragraph as an act to provide for mental healthcare and services for people with mental illness and to protect, promote and fulfil the rights of such persons during delivery of mental healthcare and services and for matters connected therewith or incidental thereto." This act superseded the former Mental Health Act, 1987.<sup>11</sup>

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[h\\_Disabilities&oldid=1161873783](#)> accessed 30 June 2023.

<sup>10</sup> 'Mental Health and Substance Use' (WHO) <<https://www.who.int/teams/mental-health-and-substance-use/treatment-care/mental-health-gap-action-programme>> accessed 30 June 2023.

<sup>11</sup> IBEF, 'India's Mental Health Policy' (*India Brand Equity Foundation*, 21 Jan. 2021)

This Act aimed at promoting mental healthcare through government-funded health care services and schemes. It also decriminalized suicide and prohibited solitary confinement for mentally unwell patients. The Act directed at setting up of the Central and State Mental Health Authorities for providing proper training to medical professionals in order to effectuate their medical dealings with such people along with mandating the insurance companies to provide mental health insurance.

## **9. EMPOWERING MENTALLY DISTRESSED PATIENTS**

By empowering and uplifting the mentally and psychologically distressed people the grave violation of their human rights can be curtailed. Key strategies to empower these vulnerable people can be as follows:

### **9.1 Raising Awareness**

Raising awareness regarding mental health would enable people to understand the symptoms of mental illness and to seek timely and effective medical professional help, if their situation so warrants. The awareness would help people in understanding and fighting back with the common issues that are being faced by a large section of our society such as anxiety, depression, traumatic stress disorder, schizophrenia, and suicidal ideation. In a society where mental illness is associated with stigma and shame, lack of awareness further pushes the people suffering from such symptoms to unhealthy coping mechanism such as drugs and alcohol.

The following actions can be advocated to increase awareness regarding mental health in the society:

- **Public Education Campaigns:** Various education and awareness campaigns can be conducted to educate the general public about

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<<https://www.ibef.org/blogs/india-s-mental-health-policy>> accessed 30 June 2023.

mental health conditions and symptoms. These campaigns may involve community events, media advertisements, public service announcements and social media events. Such campaigns by raising awareness about mental health would also challenge the stigma and discrimination associated with the same.

- **Collaboration with Influencers and Celebrities:** In every society there are certain celebrities and influencers who have faced the menace of mental illness at some point of time in their life. Such celebrities and social media influencers shall be encouraged and promoted to share their experiences and raise positive awareness towards mental health and allied issues.
- **Mental Health Screenings:** Government hospitals along with various NGOs and private health care centres shall offer free mental health screenings to the public. This would help individuals in identifying potential mental health risks and encourages early intervention and treatment for the same.
- **School and College Programs:** By integrating mental health education into schools and colleges curricula would help raise the awareness regarding mental health. Various activities such as guest lectures, workshops and seminars can be organized at schools and colleges to encourage brainstorming and open conversation upon mental issues between the students, parents and teachers.

## 9.2 Peer Support and Self-Help Groups

It is extremely important that people with mental illness have access to the peer support and self-help groups, which provide a safe and supportive environment where they can connect with people who have experienced similar issues. Most peer support groups are led by people with personal experiences related to mental health. Having a peer support group creates a sense of community and understanding which might be difficult in finding anywhere else. They provide a non-

judgmental space where individuals can openly discuss their struggles and journey towards mental health. Such a collaborative environment encourages individuals to take an active role in their own recovery rather than being completely reliant on mental health professionals and medical care.

### **9.3 Strengthening Mental Health Services**

In order to meet the requirements of people with mental health disorders, it is crucial to strengthen mental health services. To provide comprehensive and high-quality care for those who are in need of assistance, proper investment in training and resources is necessary. The availability of mental health specialists, greater access to medications and therapies, and integration of mental health care into primary healthcare systems are the crucial factors that strengthen mental health services.

In order to address the rising demand for mental health services, firstly there must be a sufficient number of mental health specialists. This comprises counsellors, social workers, psychologists, psychiatrists, and other mental health professionals. To ensure a large enough workforce to meet the various requirements of people with mental health disorders, it is important to invest in the recruitment, training, and retention of mental health professionals. Furthermore, measures like loan forgiveness, scholarship programmes, and competitive pay might aid in luring in and keeping qualified workers in the industry.

Another crucial component of boosting mental health services is expanding access to medications and therapy. This entails making psychotropic drugs affordable and available to individuals who need them. It also entails assuring a consistent supply of these drugs. Government programmes and partnerships with pharmaceutical firms

can help to increase access to necessary pharmaceuticals at cheaper prices. Offering effective treatment options also requires the provision of evidence-based therapies like cognitive-behavioral therapy (CBT), dialectical behaviour therapy (DBT), and trauma-focused therapies. These evidence-based techniques are taught to mental health practitioners to help them provide better care and achieve better treatment outcomes.

#### **9.4 Supportive Employment Programs**

Programmes for supportive employment are intended to help people with mental illness find and keep fulfilling jobs. These programmes provide the appropriate job training, accommodations, and continuous support in an effort to bridge the gap between mental health recovery and the workforce. Supportive employment programmes main objective is to make it easier for people with mental illnesses to join the workforce. They understand how crucial employment is to a person's overall wellbeing since it offers a feeling of meaning, financial security, and social inclusion. These programmes assist people with mental health disorders in building the skills and confidence needed to find and succeed in job by providing vocational rehabilitation services.

### **10. CONCLUSION**

In our world the trauma and agony of the mentally ill people have been ignored for far too long but today a powerful movement is arising that champions the human rights, dignity, and well-being of such people. Through international reform and empowerment, we are paving a road for the future where the human right abuses against mentally ill patients would be a thing of the past.

These mentally ill individual's lives are negatively impacted by the prevalence of widespread abuse, prejudice and deep-rooted social stigma

associated with their mental condition. However, there are several international groups and impassioned supporters working tirelessly to create a culture that values compassion and inclusion.

The United Nations Convention on the Rights of Persons with Disabilities (CRPD) shines as a beacon of hope since it explicitly recognizes the rights of persons with mental disabilities. This innovative concept calls for the removal of stigma and discrimination as well as the provision of community-based mental health care. These individuals' lives are negatively impacted by the prevalence of abuse, prejudice, and constrained access to care. However, there are several international groups and impassioned supporters working tirelessly to create a culture that values compassion and inclusion.

In order to ensure that the mental health care is effectively available and is that of the greatest caliber, it is imperative to strengthen mental health services. By making investments in training, resources, and integration with primary healthcare systems, we are laying the groundwork for a day when mental health is given top priority and mental health practitioners are capable of offering the necessary assistance. Together, let's create a culture that not only values the humanity of people with mental illnesses but also recognizes their tenacity, fortitude, and distinctive talents. We are illuminating the way to a brighter, more compassionate future, one in which no one is left behind and the rights of all people are upheld by confronting human rights breaches and adhering to the ideals of inclusiveness and empowerment.