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Mental healthcare Act, 2017 and the stigma around mental illness in India

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Abstract
Mental illnesses constitute one-sixth of all health-related disorders and India accounted for nearly 15% of the global mental, neurological and substance abuse disorder burden. The treatment gap, which is defined as the prevalence of mental illnesses and the proportion of patients that get treatment, is over 70 per cent. WHO also predicts that by 2020, roughly 20 per cent of India will suffer from mental illnesses. And to cater to this demographic, we have less than 4,000 mental health professionals. Those who suffer rarely get access to appropriate medical treatment as their families try to hide their condition out of a sense of shame. According to a study conducted by the National Institute of Mental Health and Neurosciences, 1 in 40 and 1 in 20 people are suffering from the past and current episodes of depression in India. Almost everywhere in the world, mental illnesses are taboo. Sometimes, society blames the patients themselves for their condition. Certain mental disorders are accompanied by peculiar or aggressive behaviour. Those who display such behaviour, are likely to encounter hatred, contempt or fear. In many places, common responses to aggressive, uncontrolled behaviour or even severe depression are still electroshocks, beatings or locking up. The new Mental Healthcare Act 2017 rescinds/revoked the existing Mental Healthcare Act 1987. The Mental Healthcare Act (MHCA) 2017 upholds patient autonomy, dignity, rights and choices during mental healthcare and thus marks a bold step in India's mental health legislation. This new Law marks a major shift in the way mental healthcare is delivered, as it aims to protect and promote the rights of people during the delivery of mental healthcare.

Keywords: mental illness, mental healthcare Act, neurosciences

Introduction

Mental health is an integral part of health it includes our emotional, psychological, and social well-being. It affects how we think, feel, and act. defined by the World Health Organization, is "a state of well-being in which the individual realizes his or her own abilities, can cope with the normal stresses of life, can work productively and fruitfully, and is able to make a contribution to his or her community". Mental illness itself occurs from the interaction of multiple genes and other factors -such as stress, abuse, or a traumatic event which can influence, or trigger, an illness in a person who has an inherited susceptibility to it. There are many Psychological Factors as well as Environmental factors that Contributes to Mental Illness such as Severe psychological trauma suffered as a child, such as emotional, physical, or sexual abuse, A dysfunctional family life and Feelings of inadequacy, low self-esteem, anxiety, anger, or loneliness Social or cultural expectations For example, a society that associates beauty with thinness can be a factor in the development of eating disorders. the exact cause of most mental illnesses is not known, it is becoming clear through research that many of these conditions are caused by a combination of biological, psychological, and environmental factors. Mental-health-related public stigma negatively impacts help-seeking by young people to a larger extent than among adults. Young people with mental health problems are more likely to experience greater social distance from the public. Additionally, compared to adults, young people do not seek help for mental health problems due to characteristic fears about lack of confidentiality, peer pressure, a desire to be self-reliant, and lack of knowledge to recognize mental health problems or lack of awareness about mental-health-related services. Unsurprisingly, adolescents in a study found it more difficult to disclose their mental health problems compared to young adults. The Government of India implemented the National Mental Health Plan (NMHP) in 1982. This plan aimed to provide minimum mental healthcare to all. It directed that knowledge about mental health must be applied in general healthcare, and the community must contribute towards the improvement of mental health within the country. The District Mental Health Program (DMHP) in 1996–97 followed the NMHP. This program further included points that would ease travel difficulties for patients, reduce stigma about mental health in society, and rehabilitate patients back into their regular life. With a growing population suffering from mental disorders, the government rescinded NMHP and introduced the Mental Healthcare Act of 2017. This new act laid the definition of mental illness. It recognised the rights of mentally sick patients to choose how they were to be treated, and decriminalised suicide. India reported a 3.4% increase in death caused by suicides in the year 2019, according to data by the National Crime Records Bureau (NCRB). In 2019, India registered around 381 suicides daily. The rate of suicide (incidents per 1 lakh population) rose by 0.2 per cent in 2019 over 2018, with suicide rates in cities being at an all-time high, as per the data. While the data reports the major causes of suicide in India, ironically enough, mental illness finds no mention. According to the NCRB report, 71 per cent of those who died by suicide due to mental illness, 64 per cent who died by suicide due to family problems, 62 per cent of those who died by suicide due to love affairs and 98 per cent of those who committed suicide due to drug abuse and alcohol addiction were males. Yet, a 2018 report by India Today, the World Health Organisation said that India is the most depressed country in

the world. According to the same report, at least 6.5% people in India suffer from some sort of mental health disorder; the number is bound to have increased by now. Even then, access to mental health care remains sparse As the burden of mental illness is increasingly recognized, funding is being increased with the hope of ensuring more people receive high quality health care. India is implementing a variety of initiatives to address this large need, close the treatment gap, and reduce the DALYs lost to mental, neurological and substance misuse disorders. These initiatives need to be supported by clear, pragmatic and robust mental health law in line with international human rights legislation.

Another study, albeit based in the United States, showed that people suffering depression and anxiety had seen a sudden spike during the ongoing coronavirus pandemic. Raising awareness and mobilizing efforts in support of mental health is necessary for addressing the situation.

Treatment of mental health disorders is of utmost importance. It calls for comprehensive strategies for promotion, prevention, treatment and recovery through a whole-of-government approach. Policy makers should be encouraged to promote availability of and access to cost-effective treatment of common mental disorders at the primary health care level. As of 2021, only a few states included a separate line item in their budgets towards mental health infrastructure. After the passing of the Act in 2017, budget estimates for the NMHP increased from Rs. 3.5 million in 2017-18 to Rs. 5 million in 2018-19. However, this figure was reduced to Rs. 4 million in 2019-20 and has remained at the same level in subsequent years – even 2021-22 where several reports have indicated the worsening of mental health issues during the Covid-19 pandemic. A survey by the Indian Psychiatry Society indicated that 20% more people suffered from poor mental health since the beginning of the Covid-19 pandemic. Emerging evidence indicates that during the Covid-19 pandemic, women exhibit relatively higher levels of psychological stress among the urban poor, and households with migrant workers in rural areas – who were acutely affected by the lockdown restrictions show higher incidence of mental health issues relative to those without migrants. Students were also severely affected by the lockdowns as it required adapting to a new learning medium and environment, as well as increased concerns about future prospects. To provide psychosocial support to students during the pandemic, the government introduced an online platform, 'Manodarpan' with an interactive online chat option, a directory of mental health professionals, and a helpline number.

Insights In to The Mental Healthcare Act 2017

In India, the Mental Health Care Act 2017 was passed on 7 April 2017 and came into force from 29 May 2018.The act effectively decriminalized 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 persons with mental illness and to protect, promote and fulfill the rights of such persons during delivery of mental healthcare and services and for matters connected therewith or incidental thereto." This Act superseded the previously existing Mental Health Act, 1987 that was passed on 22 May 1987.

The previous legislation, Mental Health Act, 1987, focused on admission and treatment of persons with severe mental illness in mental hospitals when they are detained against their will. However, Mental Healthcare Act 2017 tries to regulate almost all mental health establishments (MHEs) the Act asserts that no person or authority shall classify an individual as a person with mental illness unless in directly in relation with treatment of the illness. This could be avoided by legislation focusing only on mental healthcare institutions where patients are admitted for treatment against their will. Mental Health Act, 1987 was not implemented across the country because of a severe shortage of resources. However, Mental Healthcare Act 2017 has been introduced without addressing the issues which haunted the Mental Health Act, 1987. The Mental Health Care Act 2017 includes provisions for the registration of mental health related institutions and for the regulation of the sector. These measures include the necessity of setting up mental health establishments across the country to ensure that no person with mental illness will have to travel far for treatment, as well as the creation of a mental health review board which will act as a regulatory body. The Act has restricted the usage of Electroconvulsive therapy (ECT) to be used only in cases of emergency, and along with muscle relaxants and anaesthesia. Further, ECT has additionally been prohibited to be used as viable therapy for minors. The responsibilities of other agencies such as the police with respect to people with mental illness has been outlined in the 2017 Act. The Mental Health Care Act 2017 has additionally vouched to tackle stigma of mental illness, and has outlined some measures on how to achieve the same.

India made efforts to align its disability and mental health laws with the UN Convention on the Rights of Persons with Disabilities, visible in the passage of the Rights of Persons with Disabilities Act, 2016 and the Mental Healthcare Act, 2017. The Mental Healthcare Act states the rights of persons with mental illness, including the right to mental healthcare. Section 18 states that "Every person shall have a right to access mental healthcare and treatment from mental health services run or funded by the appropriate Government" and that "the right to access mental healthcare and treatment shall mean mental health services of affordable cost, of good quality, available in sufficient quantity, accessible geographically, without discrimination on the basis of gender, sex, sexual orientation, religion, culture, caste, social or political beliefs, class, disability or any other basis and provided in a manner that is acceptable to persons with mental illness and their families and care-givers. The act also outlines the procedure and process for admission, treatment, and subsequent discharge of mentally ill persons. Admission and treatment of persons with mental illness, with high support needs, in mental health establishment, beyond thirty days (supported admission beyond thirty days) If a person with mental illness admitted under section 89 requires continuous admission and treatment beyond thirty days or a person with mental illness discharged under sub-section (15) of that section requires readmission within seven days of such discharge, he shall be admitted in accordance with the provisions of this section. Determination of mental illness (Section 3). Diagnosis must always be done based on national/international guidelines such as the International Classification of Diseases (ICD). It would be good practice to make an ICD diagnosis and coding it accordingly to all patients, in the OP/IP records.

Medical officer/psychiatrist in charge must follow a valid advance directive (AD) under Section 10. The act has also

provided the MHRB the power to review, alter, modify, or cancel AD under Section 11. The MHP can apply to the MHRB regarding the same, which will then listen to both parties and arrive at a decision. Under Sections 13 and 14, MHCA 2017 clearly states that MHP is not liable for unforeseen consequences of following AD and the duty of making the AD available to the MHP lies upon patient/NR.

Any person admitted under Section 86 as an independent patient should be immediately discharged on request. The discharge may be delayed for 24 h to allow assessment necessary for admission under Section 89 if the mental health professional thinks that he/she is unable to understand the nature and purpose of the decisions and requires substantial or very high support from the NR.

If patient has recently threatened or attempted or is threatening or attempting to cause bodily harm to himself/herself; has recently behaved or is behaving violently toward another person or has caused or is causing another person to fear bodily harm from him/her; has recently shown or is showing an inability to care for himself/herself to a degree that places the individual at risk of harm to himself/herself, such person can be either admitted as a supported patient under Section 89 or discharged from the establishment within 24 h or on completion of assessments for admission as a supported patient under Section 89, whichever is earlier.

In "section 115 notwithstanding anything contained in Section 309 of the Indian Penal Code any person who attempts to commit suicide shall be presumed, unless proved otherwise, to have severe stress and shall not be tried and punished under the said code. The bill was referred by the Rajya Sabha to a standing committee on 18 September 2013, which submitted a report on 20 November 2013. In its report, the standing committee expressed three concerns on article 124: firstly, that the presumption of mental illness would subject persons to 'mental health treatment', secondly, concerns about the consequences on Section 306 of the Penal Code, which concerns abetment to suicide, and thirdly, concerns regarding the "institutionalization in silencing victims of domestic violence."

A police officer in charge of a police station shall report to the Magistrate if he has reason to believe that a mentally ill person is being ill-treated or neglected. The bill also imposes a duty on the police officer in the charge of a police station to take under protection any wandering person; such person will be subject to examination by a medical officer and based on such examination will be either admitted to a mental health establishment or be taken to her residence or to an establishment for homeless persons.

Prisoner with mental illness an order under section 30 of the Prisoners Act, 1900 or under section 144 of the Air Force Act, 1950, or under section 145 of the Army Act, 1950, or under section 143 or section 144 of the Navy Act, 1957, or under section 330 or section 335 of the Code of Criminal Procedure, 1973, directing the admission of a prisoner with mental illness into any suitable mental health establishment, shall be sufficient authority for the admission of such person in such establishment to which such person may be lawfully transferred for care and treatment therein Provided that transfer of a prisoner with mental illness to the psychiatric ward in the medical wing of the prison shall be sufficient to meet the requirements under this section. Provided further that where there is no provision for a psychiatric ward in the medical wing, the prisoner may be transferred to a mental health establishment with prior permission of the Board.

MHEs need to be fully compliant with the new act. There are extensive guidelines about running an MHE which need to be followed, beginning with the renewal of the license from state mental health authorities, registering as an MHE. There is an urgent need to conduct self-audit, assess mental health capacity of all inpatients, and to take their consent for continued admission. If they do not consent for a stay, discharge planning has to be done with the help of family members, and the patients and caregivers have to be educated about alternatives like shelter homes, half-way homes, etc., which the appropriate government has to provide. There is a need to educate the patients about their rights in accordance with the new act. We need to educate families and orient them toward the MHCA.

The Mental Health Establisment must be informed within 7 days of a supported admission (3 days in the case of a minor or woman). The admitted person, his/her NR, or an appropriate organization may appeal this decision. If a Section 89 admission has to continue beyond its allowed maximum duration of 30 days and ongoing supported admission is required, this can be done under Section 90. At this stage, the Mental Health Establishment should be informed, and they must review the admission within 21 days and either permit the admission or order discharge of the individual. These reviews of a supported admission continue at a maximum frequency of 180 days. Should an individual no longer fulfill the criteria for a supported admission, the supported admission must The Mental Health Establishment without registration shall be liable to a penalty which may extend to ₹ 50,000 for the first contravention, up to ₹ 2 lakh for a second contravention, and up to ₹ 5 lakh for every subsequent contravention. For initial contravention, imprisonment for a term up to 6 months or fine up to ₹ 10,000 or both. For any subsequent contravention, imprisonment up to 2 years or fine up to ₹ 5 lakh or both. Where a company has committed an offense under this Act, every person who, at the time the offense was committed, was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

Stigma around mental health among people

"What will people say?" this is the first question which comes to mind when a person thinks to take mental health issue seriously and the family members and relative even friends try to tell its just a period of time you will feel better soon, but what if the person suffering from Mental illness doesn't feel well, what if he/she needs real help? Should that person stop themselves just because "what people will say?" and suffer in darkness? As a teen I feel it's my responsibility through this article to tell how important Mental Healthcare is and People need to be aware of there rights and not ashamed. Anyone who is suffering from Mental illness should take necessary required help and people around them should support and help them through this not ridicule them for doing something required for themselves. India is home to a third of the world's youth. Mental health problems are likely to adversely impact the productivity and capabilities of India's youth. Among youth included in this review, one-third had poor knowledge and negative attitudes, and one-fifth intended to or had actually discriminated against a person with mental illness.

Mental health is not a priority in a country where basic amenities like clean water, power, food, education and housing are sorely lacking is not surprising, but deep stigma also contributes to the denial and shame around the subject, cutting across lines of religion, class, caste and gender. The what-will-people-say mentality is so widespread that some village programs have attached psychological services to the local temples so that people can seek help in the guise of religious activity to avoid the shame of exposure. This mentality is propagated in no small measure by the insensitive and tone-deaf attitudes toward mental health. For instance, Indian politicians and public personalities often ridicule their opponents by weaponizing terms like "dumb," "deaf," "mentally ill," "retarded," "bipolar," "handicapped," "dyslexic" and "schizophrenic." India passed a law protecting the right to equality and non-discrimination of people with mental illness. Through a systematic review and meta-analysis, this study aims to estimate the magnitude or prevalence of mental-health-related public stigma among a sub-group of the Indian population, i.e. young people aged 10–24 years old belonging to the general population; identify common problems in knowledge, attitude and behaviours associated with mental health; and collate recommendations for reducing mental-health-related public stigma. "Challenging the taboos surrounding trauma is key. Disclosing a trauma history or symptoms of mental health distress require one to be vulnerable and that is simply not a safe thing to be if it will expose you to discrimination, bias or retaliation," says Dr. Jain. "If victim-shaming tactics persist, then the silence and denial surrounding trauma will continue. Legal and societal protections for victims [are] non-negotiable."

Conclusion

MHCA 2017 comes out to be a praiseworthy effort for addressing the long-standing problems encountered by patients and clinicians in the sector of mental health. This act has the potential to bring a radical change in the way mental health care is delivered in our country. The guidelines need to be reviewed on aspects such as primary prevention, reintegration, and rehabilitation because without such strengthening, its implementation would be incomplete and the issue of former mental health patients will continue to exist. Hence, being optimistic about the bill, there is a need to wait and watch for its implementation. Mental health should not be treated facetiously under any circumstances, but less so in India, where roughly one in three people seeking medical help could be suffering from depression, meaning that some 23 million may be in need of mental-health care at any given time. India also has one of the highest rates of suicide in the world, losing over 220,000 a year according to World Health Organization data; a student commits suicide every hour in India. There is a big need to engage with the media, police, NGOs, human rights activists, etc. It is imperative that they are seen as partners and taken on board. Mental health professionals need to actively write articles on mental health in periodicals, appear in debates, and conduct regular workshops and education programs on mental health and the MHCA for police, media, and NGOs.

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