

Mental Health Laws and Legislation: An Inchoate System in Pakistan

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Abstract: *Mental health refers to the mental capacity and ability to understand things rationally. Mental health is mostly disturbed when a person is caught up in any mental disorder in the form of depression or any serious mental health disease. A syndrome that affects the cognition of a person and affects his psychological and causes mental dis-functioning is called a mental disability. People living in the 21st century going through mental disabilities should be aware of their mental health rights and universally adopted principles for mentally disabled people. Following outdated and expired laws in the modern world cannot be the solution for the people of today's world. Hence new laws should be introduced, and the states where no legislation has been made should acknowledge disabled people equally as the normal people have status in society.*

Key Words: Disorder, Disability, Human Rights, Legislation, Mentally ill, Mental Health, Psychiatric Facilities, Psychologists, Social Workers

Introduction

Everyone in need should have an approach to have their basic health care facilities regarding mental health. And such assessment regarding mental health shall be in conformity with the internationally accepted medical rules and instruments. If someone is really facing some mental retardation or illness, he/she is treated under the mental health Act or laws. It is also called sectioning sometimes (Rands, 2020). A mentally healthy society can be a successful one if legislation is done properly to get things right in a circle. The whole world acknowledges and determines the mental health laws. The people who are living in this world enjoy all the rights which any national and international law provides them, but the people living with mental health illnesses and mental conditions are amongst the most abused people and are discriminated ones. Such people are kept out of work, and most of the people take such people harmful to them because of their illness.

The children and lunatics are treated very badly. People so facing such mental disabilities have some rights as the normal people do enjoy which are as such people have the liberty and autonomy to choose what is right for their lives and what is right for their treatment which means they should not be coerced to be treated by the

way we suggest. Moreover, they also have the right to be freed from any kind of abuse and shall also be kept away from the practices of restraints and seclusions. They have the right to remain in the communities and societies of their own choice. The people with any mental health problem shall have all the rights which a normal person enjoys as insurances, treatment benefits etc. they shall also have the right of privacy about their treatment and have the right to allow persons of their own choices that who can see their details and who cannot. All the above rights are treated well and given equal importance in America (Sugjura *et al.*, 2020).

Role of Judiciary for the Advancement of Mental Health Laws

The recent progress on laws has shown that the courts in all over the world treat all the mentally ill people as patients but not as criminals. It is assumed that the person with any kind of mental disability if does a crime he shall be not treated as a criminal but most probably as the patients. But the critics with the development of such concept criticized that the concept of mental illness was a myth and it was ideologically corrupt, and the mentally ill people were the scapegoats of this

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society. And later on the judicial decisions also showed that such people having mental disability were kept in civil confinement and were treated accordingly their mental disability. This led towards some changings and reforms in criminal and civil laws for mentally ill people and developed parallel programmatic approaches as followed;

- 1- Should avoid the disastrous dissocializing effects of impersonal institutions.
- 2- Should confine only those persons who are really dangerous.
- 3- He should be kept in his community but with strict supervision for confinement and treatment.
- 4- Utilize indigenous weapons/ personnel to punish them (Stone and Stromberg, 1975).

The usual approach towards the liabilities of mentally ill people has been now developing with the passage of time, but there are some countries in the world that do not even have the basic mental health facilities and treatment which the people want. It is important that such people, regardless of treatment, are excluded from the community and are kept away from enjoying their basic rights as shelter, food, education, employment, and clothing due to their mental disability. Judicial concern of a mentally ill offender is only in two scenarios;

- 1- To ascertain the mental state at the time of committing the crime and
- 2- To access the fitness of such person for the trial

Patients of such conditions shall be evaluated and treated as the outpatient or such facilities exist. The prime concern for such mentally ill people is their security. When they are imprisoned, such people should be under dual custody of the superintendents of the jail and the facility of mental health in such jails. There are several challenges that are faced in the assessment of inpatient and their care during under trial while the convict prisoners are referred to the psychiatric facilities. The lack of guidelines and legal counsel in some cases where no previous record is found of such convict causes problems mostly.

Determination of psychological condition of the convict by the time he was committing an offence is also challenging because the individual is often sent to the psychiatrists after a very long period of commencement of trial when the facts are not much clear as they are ought to be on time exact after the commission of offence but not being late. Hence judiciary in such condition lacks the newest legislation regarding the mentally retarded people because mental health laws have not been there for a long time in both developing and developed countries too.

Figure 1 Shows the Mentally Ill Person who is portraying to be a symbol of a denied citizen just due to his illness. Human rights violations of such people lead towards the increase in crimes when they are neglected .



Figure 1: (https://www.who.int/mental_health/policy/legislation/testimonies/en/)

UN Conventions for People with Mental Disabilities

After development of mental health laws and when judiciary played a vital role in determining the status of such psychologically ill people UN also passed some treaties and conventions for such people which are as followed

- 1- The Convention on the Rights of Persons with Disabilities (CRPD)
- 2- The International Covenant on Economic, Social and Cultural Rights (ICESCR)
- 3- The International Covenant on Civil and Political Rights (ICCPR)

- 4- Convention Against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (CAT)
- 5- Convention on the rights of a child (CRC).

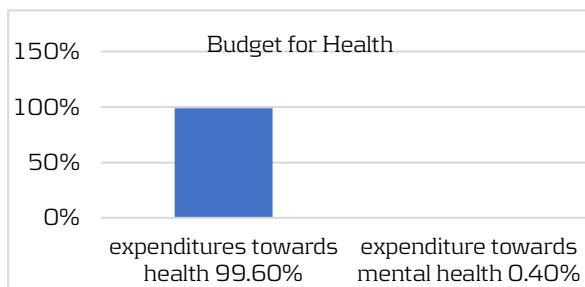
Numerous other regional treaties are signed for mentally retarded people ([Organization, 2001](#))

Mental Health Laws in Pakistan

Separation of Islamic Republic of Pakistan in 1947 with the subcontinent was having only the Lunacy Act 1912, which was enforced in the time of British rule in India. The main focus of this Act was on detention rather than on the cure, especially the introduction of the psychotropic medication. The lunacy Act 1912 seemed very old and the new legislation was the need of the hour. That led to the establishment and formation of a newfangled Mental Health Act in 1992. It was dispersed for analysis to the psychiatrists and formulate their views on this legislation. And finally, in 2001, the Mental Health ordinance 2001 replaced the Lunacy Act 1912 and was presented before the psychiatrists' society in Islamabad. After the 18th amendment in the

constitution of Pakistan, it has now been the task of the provincial governments of the Pakistan to establish and form new laws regarding mental health care.

Similarly, the current condition of Pakistan is below average because only of the two provinces of Pakistan having mental health acts. The dire need of the time for Pakistan is to make and establish new laws in all the provinces of Pakistan for the protection of the mentally ill people for their rights ([Tareen and Tareen, 2016](#)). The least development of mental health laws has shown the lacunas in legislating such important laws. One of the key factors behind such lagging is also that the country is lacking psychiatrists as Pakistan has barely 200 psychiatrists to treat over 13 million people ranging from mild to serious mental diseases. These figures mean 70% of the people living in rural Pakistan have no access to psychiatric facilities. Moreover, the budget expenditure received for health towards mental health disabilities and mental hospitals is just 0.40%, rest of the 99.60%.



Graph 1

The current issue for the mental health laws is that they are not being implemented properly as there is no specifically identified or recognized way in the police department neither law nor the psychiatrists have developed any structure for such laws to be implemented. One of the most important problems is also that relatives of such mentally ill person have no identified method to reach them in case of emergency. This thing makes any of the relatives think over the non-availability of such precautionary measures and proper authority and health care laws regarding such mentally ill people. Things with such lacunas question the human rights foundations and international community on non-availability of such laws, which the dire need of the time is now a day. The condition of Pakistan regarding mental health is much vulnerable because most of the government hospitals are almost non-functional. Moreover, the patients and the hospitals running

privately are not even registered to the central or provincial government, which can not exactly give an idea of the number of people surviving with mental issues.

Rights of Mentally ill People under the Constitution of Pakistan

The constitution of Pakistan 1973 can also be dealt with in accordance with the mental health laws as there are some clear and implicit references to the mental health written in various articles of the constitution as:

1. Article 9 describes the security of a person, and hence all persons, including the people with mental disabilities can also enjoy the right of having security.
2. While on the other hand, article 14 is about the inviolability of dignity of a man that nobody shall be treated harshly and dignity

of man shall not be violated. And no legislation shall be done against the dignity of the man.

3. Article 25 of the constitution states that all of the persons living in the state are equal before the eye of the law, and hence mentally ill people shall not be treated as second class people, and they should be treated equally as all citizens of Pakistan are.
4. Article 38(d) of the constitution of Pakistan describes that it is the responsibility of the state to provide necessities to the people who are unable to earn their bread and butter by any means or sickness ([Hasnain et al., 2008](#)).

Development of Mental Health Ordinance into Law in Pakistan

The word ordinance is the source of law that is given by the president at the time of emergency when the parliament is not working or not in session. In such conditions, the president has the authority to pass laws in the form of ordinances, but the time limit for such laws is three months. The ordinance of 2001 was almost a broken hope because it was not a complete law, and there was always a fear that the ordinance being expire after a certain time. But this broken hope changed many things in the law that already were being used as some of the terms were changed as before they were called criminal lunatics, and later on, the law said they are irresponsible for any of the Act they do. Moreover, the word mental health was made the title of the Act, and asylum was

suggested for such people. Such developments gave a new concept and clear path to the laws for ill people with mental diseases.

The important development towards the mental health laws was the establishment of the Federal Mental Health Authority, which comprised of

- 1- Seven psychiatrists with at least ten years' experience.
- 2- Seven other members especially bureaucrats

The important responsibilities to this authority given were to have an eye on the prevailing and current situation of mental health care in the state and to perform and build new ways towards the betterment of mental health laws in Pakistan. This authority was also liquefied in 2010. The Mental Health Act then replaced mental health ordinance. After that, Sindh legislated its mental health law in 2013 for the province, and Punjab followed it in 2014, right after one year that was later adopted by K.P.K in 2017. While at present, the federal capital's Islamabad mental health Act 2020 is in its initial form in drafts ([Khalil et al., 2020](#)).

Various reports and reports of WHO in 2009 illustrated that the number of mental hospitals in the whole country was five, and the number of human resources at that time working on mental health in Pakistan were 87.023 over the 100000 population, which is alarming. The numbers of health officials in Pakistan are 342 psychiatrists; 25782 other medical practitioners (not being psychiatrists); 13643 nurses; 478 psychologists; and 3145 social workers.

GRAPH 2.5 - PATIENTS TREATED IN MENTAL HEALTH FACILITIES BY DIAGNOSIS

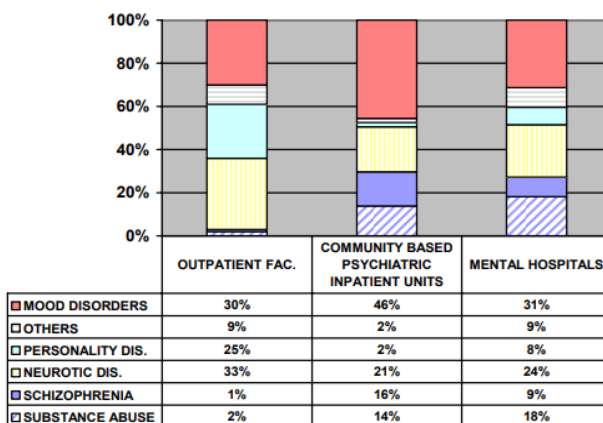


Figure 1: Showing a Report by WHO of Patients Treated in Mental Health Facilities Elaborating an Alarming rate of People Having Mental Disabilities ([Bibi et al., 2020](#))

Main Characteristics of Mental Health Ordinance 2001

1. Section 7 Care in the Community (Section 7)

It states about the provisions of education, guidance, and rehabilitation after the cure and the preventive measures in public (Family, workplace educational institutions, or home)

2. Section 8 Care and Treatment on an Informal or Voluntary Basis

Any of the Patient who comes himself or is brought by his/her relative, referred by any of the medical practitioners for specifically a Psychiatric assessment. And is then examined by such a Psychiatrist or medical officer. Treated on the outpatient basis or otherwise may be discharged on withdrawal of his own consent.

3. Section 10 Admission for Assessment

A patient can in his own interest for the protection of other persons in good faith as it seems that the care and the treatment in the community on an informal and voluntary basis are not possible. Hence, on the medical recommendation, either by a medical practitioner or a psychiatrist can be detained for 28 days. And similarly were the following ones as the important sections of the ordinance.

4. Admission for Treatment (section 11)

5. Admission for Assessment in case of Urgency. (section 12)

6. Emergency Holding (section 13)

The Legal Status of Mentally Disabled People

Various factors show that the mental health system in Pakistan has failed to cope with the situations since 1947. The world is developing towards the betterment of the mental system to treat mentally disabled people. In the era of war during the First World War and the 2nd world war, there was a question to both the international institution at their time to League of Nations and United Nations organization too that how to give mentally disabled people status of international personality. And hence in

"Article 12 of the Convention on the Rights of Persons with Disabilities requires States parties to recognize persons with disabilities as individuals before the law, possessing legal capacity, including the capacity to act, on an equal basis with others. The centrality of this article in the structure of the Convention and its instrumental value in the achievement of numerous other rights should be highlighted."

Which means that all persons have a legal status and equal legal capacity as all people enjoy? As there is no universally accepted concept of legal capacity hence it firstly makes such a person as the subject of international law, then it gains the legal capacity in international law.

The negative aspect of this article is that the approach normally people understand through this article is that people with such disabilities must be kept in confinement and be kept far away from the community, but they are forced for their medical treatment and are confined for a long time on the name of treatment, and when we look up deeply into this article we come to know that the person should enjoy all equal rights as all others do and so far as the treatment is concerned people do have the liberty to be treated on their own choice and are not forced but the confinement for treatment clearly violates this article which is also a lacuna to be thought properly upon. It is a violation of Article 14 and 12 of UNCRPD itself. Taking charge of someone's life without his consent is not the right of equality we give to such people with mental disabilities ([Minkowitz, 2011](#))

Also, the Council of Europe, Commissioner for Human Rights, Human rights and disability: Equal rights for all, says that

"Independence and personal autonomy are not about being able to do everything on your own, but about having control of your life and the possibility to make decisions and have them respected by others."

These things make us to understand that the Universal declaration of human rights (UDHR) empowers that every person has equal rights in society, and this one is also declared in International Covenant on civil and political rights under its Article 16 Everybody shall have the right of recognition universally as a person before the law.

Under the Republic of Estonia and Poland, they interpret this article as follows:

"The Republic of Estonia interprets Article 12 of the Convention as it does not forbid restricting a person's active legal capacity when such need arises from the person's ability to understand and direct his or her actions. In restricting the rights of the persons with restricted active legal capacity, the Republic of Estonia acts according to its domestic laws."

"The Republic of Poland declares that it will interpret Article 12 of the Convention in a way allowing the application of incapacitation, in the circumstances and in the manner set forth in the domestic law, as a measure indicated in Article 12(4), when a person suffering from

a mental illness, mental disability or other mental disorder is unable to control his or her conduct.”

Article 12 of CRPD states that:

1. 12(1). "States Parties reaffirm that persons with disabilities have the right to recognition everywhere as persons before the law."

Equal acknowledgment before the law

2. 12 (2) "States Parties shall recognize that persons with disabilities enjoy legal capacity on an equal basis with others in all aspects of life."

Which is better explained by OHCHR as;

It does not matter that whether the presence of infirmity is a direct or indirect ground to be a declaration of the legal inability of any person, legislation/law-making, especially of this type, always contradicts with acknowledgement of the legal capacity of persons with the infirmities preserved under article 12.

The legal capacity of the disabled people is described below under the European Commission of Human Rights (ECHR) as;

Article 5- States about the freedom and security that it is the right of everyone to enjoy freedom and security, and nobody can be deprived of such liberty in accordance with the prescribed Lawful detention of such (unsound) persons and every one who shall be deprived of his liberty as to his arrest or imprisonment shall be decided by the court and his release should be ordered if the detention is not lawful.

Legal capacity under UNCRPD is as neither ability nor disability has been clarified by article 12 of UNCRPD, but when we see there are basically two approaches of any person to have a legal capacity or not. One is a status approach which only focuses on a certain characteristic of a person, while the second is a cognitive approach that deals with the decision-making of a person that checks the mental capacity and mental health of a person that how he makes a decision on some certain thing. The later approach, the cognitive one, is further divided into the outcome-based approach and the functional approach. The outcomes-based approach looks over the prior decision of a person and then looks at the outcomes of such decision, while the functional approach accesses the behavior on a specific issue ([McSherry, 2012](#)).

While on the other hand, ECHR is also defines in article 6 as the Right to a fair trial.

"In the determination of his civil rights and obligations or of any criminal charge against him, everyone is entitled to a fair and public hearing within a reasonable time by an independent and

impartial tribunal established by law. Judgment shall be pronounced publicly, but the press and public may be excluded from all or part of the trial in the interests of morals, public order, or national security in a democratic society, where the interests of juveniles or the protection of the private life of the parties so require, or to the extent strictly necessary in the opinion of the court in special circumstances where publicity would prejudice the interests of justice."

The approach of ECHR to the right of free trial in concerns of the legal incapacity of the persons has basically focused on four elements.

- 1- Rights of hearing to the persons
- 2- Role of the judge in such a matter
- 3- Procedural safeguards
- 4- Their rights to access the justice

Moreover, article 8 of ECHR also describes the safeguard and rights of mentally disabled person's family.

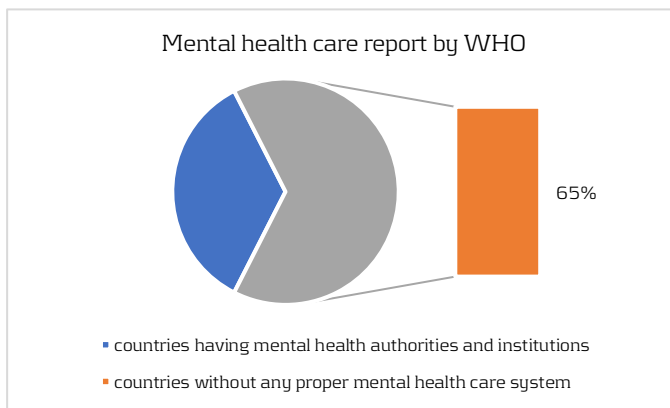
Article 8- Right to Respect for Private and Family Life

- 1- "Everyone has the right to respect for his private and family life, his home, and his correspondence.
- 2- There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety, or the economic wellbeing of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others" ([De Sabbata, 2020](#)).

Comparison of Mental Health Laws Development in South Asian Countries

As the United Nations Convention on the rights of persons with disabilities, UNCRPD adopted the mental health law in 2006. Which is ratified by the 177 countries in the world since now? Although most of the developed and developing countries have not updated their Mental health laws to be in accordance with the international human rights conventions and laws. The condition of many countries is so bad that after more than 70 years, they have not developed their own mental health laws and proper mental health maintenance system. Only a few countries have developed their mental health laws.

For example in a report by WHO it stated that only 65% of the countries in the world that are categorized under low or lower middle income groups did not have any sort of psychological health care authorities.



Graph 2

Over the last five years, numerous countries in South Asia have gone under legal improvements. And surely it was done partly in response to the WHO's action plans on mental health law reforms all over the globe. Four of the countries, Bangladesh, India, Pakistan, and Sri Lanka, were included in this review and as they belong to the South Asian region and are considered developing countries according to the WHO. Hence because all of these countries went under a huge British colonial rule and thus they inherited the lunacy Act of the 19th century.

After the independence of Pakistan and India, both the countries adopted the lunacy act of British 1912, and Bangladesh accepted the Lunacy Act in 1971 when it gains independence. Sri Lanka was having this Act named as the Ceylon Lunacy Ordinance in 1873. Because of the outdated Act now in these days this Act is considered as an obsolete and orthodox one. Though all of the countries did many legal reforms after the independence, they have not touched the mental health laws for a long time until it was alarmed by WHO.

Overall, despite the resemblances and numerous differences within the legislation, all of those four countries stated above Pakistan, India, Sri Lanka and Bangladesh they share some mutual deliberations concerning about the practical facet of implementing their laws in their several countries; for instance, unwell developed mental state facilities, poor mental condition attainment and because of lack of satisfactory resources. It is of quite importance that with the 28 years once the legislation of the mental state Act 1987 in India, solely 11% of the Indian federations have formal mental health rules in situ, and seemingly many of the nations are still unaware of these procedures (Dey et al, 2019).

Mental Health Laws and Blasphemy

In recent years, it has been noted that the cases of blasphemy are increasing day by day. And it is thought in a view of a criminal act as a conduct of criminal, but it may also be noted that it should also be seen in the context of mental diseases as it has been observed that people after the conviction against blasphemy were found mentally ill. And to some extent mind of any ordinary prudence can understand that a person knowingly of the consequences of blasphemy how can do such acts; until or unless such person is mentally ill or has any other mental burden like depression, pressure, etc.

For instance, it has been seen that a person named Muhammad Asghar was convicted of blasphemy by the courts of Pakistan. Later on, he was diagnosed with paranoid schizophrenia by a reputed hospital in the UK. On which the Pakistani medical officials refused to that report in consideration and took that incident was done in an actual manner as a mitigating circumstance, this example and many others are also on record which proved that most people are convicted are later diagnosed in mentally illness. And it is not considered that he was innocent or not because of the non-availability of any witness, and hence a dire need of legislation is there in Pakistan for such mental incapable people.

Studies have suggested that there is an increase in psychiatric morbidity amongst prisoners. About 10% of men on remand and 14% of women prisoners had signs of a psychotic illness. While 59% of men and 76% of women on remand have signs of a neurotic illness. The risk of suicide has also been increased in prisons (Abbasi et al, 2012).

The news report once stated that the health field of Pakistan is the most neglected field, and in

health field further mental health sector is neglected on a high level as it stated that almost 10-16% population of Pakistan is afflicted in mental illness. And according to the census in 2013 the 10% population amounts 18,210,000 people in total population which is an alarming figure for Pakistan in health sector. And all of them are at a very high level of human rights abuse and all of the above people are so severe that it can result in life imprisonment or death sentence. Which is the clear indication that Pakistan is unable to implement article 25 of the constitution accordingly what it states ([Mahmood, 2014](#))?

According to a report, 46% of the Americans face a psychiatric disorder at least one time in their whole life. But it does not mean all the 46% of the Americans should be put into mental hospitals it means that they do not even bother to treat their mental disorders from the start. When anyone feels some kidney problem and does not consult a doctor likewise people are reluctant to go to a doctor for their psychiatric checkup ([Kopel and Cramer, 2014](#)).

Mental Health Laws and Jail Laws

Almost 450 million people in the world are facing mental health issues and this amount is more precisely prevailing in the prisons of every country. And this is high so because of many factors like: Misconception regarding mental disorders being harmful; intolerance; proper medication; less rehabilitation; poor access to mental health services; overcrowding of prisoners; violence in prisons; solitude; suicidal thoughts amongst prisoners; lack of privacy; lack of productive activities; less socialization of prisoners.

These factors lead prisoners to mental distress and hence the risk and rate of suicide has been increased in prisons. Due to non-availability of medical facilities in most of the country's jails, there always remains a high risk of diseases and mental disabilities. For instance, it has been observed that the HIV cases are more likely increased in jails due to unhygienic conditions over there. Use of narcotics substances and other substances are easily available in jails which increase the rate of mental disabilities of people there. Being away from social norms, society and people whom they love the prisoners fall in deep depression and mental disabilities sometimes leading to madness. The lack of separate building of psychiatric patients and prisoners also increase the number. The nuisance and violent behaviors are also the factors because the criminals living together mostly show deviant behavior and cause violence which impacts greatly on the prisoners. Hence the solution for such things to be controlled

must be done by legislation. Countries facing mental health care issues must also focus on their jail laws and the antidrug and narcotics laws and their use in prisons ([Haney et al., 2020](#)).

In a world of selfishness and full of lacunas living in 21st century we are still fighting with the stigma of psychological health diseases/illness in the world. The mental laws and the health always intersect in many ways as changes for understanding the treatment modalities, rehabilitation of mental disorders which are necessary to make changes in law that views and see issues related to the mental health. The primary concern about the mental health issues was basically the criminal aspects of mental health.

WHO Recommendations about Mental Health Issues

- For countries having no legislation WHO says that set urgencies for mental health laws in harmony with the realities of the country. Should review both health and non-health lawmaking to see where the prior legislation is needed. Should empower the organizations and advocacy groups for better legislation.
- For the countries having less mental health facilities WHO say that identifies what is missing and target such areas where the prior legislation is needed. Consult the stakeholders, politicians, ministers of such deprived area to legislate properly.
- For the countries where legislation is done but not adopted WHO says that send that drafts to the executive for its enforcement over the certain area to control as much as the mental health issues. Mobilize the organizations, advocacy groups for moving such drafts to organize it with the public education and awareness.

As per WHO, "there is no national mental health legislation in 25% of countries with nearly 31% of the world's population, although countries with a federal system of governance may have state mental health laws. Of the countries in which there is mental health legislation, half have national laws that were passed after 1990. Some 15% have legislation that was enacted before 1960, i.e., before most of the currently used treatment modalities became available ([Organization, 2001](#)). The existence of mental health legislation does not necessarily guarantee the protection of the human rights of people with mental disorders. In some countries, indeed, mental health legislation contains provisions that lead to the violation of human rights."

That means that 31% population of the biosphere is unaware of the mental health legislation. And surely they are unaware of their mental health rights. From this thing we can understand in a better way than it is the need of hour to legislate mental health laws to make people aware about their rights. Mental health legislation is indispensable for complementing and for reinforcement of the mental health policies and providing a legal outline for achieving its objectives.

Such lawmaking surely protects the human rights, and enhances the eminence of mental health services, and endorses the incorporation of persons with mental illnesses into the communities. These objectives are always an integral and widespread part of state mental health policies of any nation ([Markou and Hands, 2020](#)).

Discussion & Analysis

As most of the countries are lacking mental health laws should work on it to provide all the basic and necessary facilities about the mental health care to the people of their countries such rights are cannot be violated as it is acknowledged by the international conventions and autonomies such as discussed above by ECHR, WHO, ICRC, UDHR UINCRPD, IHL, OHCHR and other international institutions. Moreover, the constitution of every state stating the fundamental rights as Pakistan, India, U.S.A, Bangladesh and almost every state acknowledge the mental health rights and treat all people equally. Rest of the world lacking such legislation and rights must legislate for their people as it is the basic right of every living being.

Ongoing concerns and contemporary issues must be resolved in due course to provide on time rights to the people with mental disabilities. Countries like Pakistan, whose health sector is much worse than it's budget is too short that health is far lagging behind and thus WHO listed such countries to look over their health sectors. Spending less budget on health have shown the disadvantage in Pakistan when the current pandemic Corona took over the entire world into its devastating era. It showed all the countries about their lacking in their health sectors. Pakistan saw that it is lagging very far because at one time when this pandemic flew on peak Pakistan had very few resources to beat up this enemy.

Moreover, less number of doctors, paramedic's staff and even ventilators and other things that are necessary in any hospital in case of emergency. The condition of government hospitals in developing countries is worst because all of the countries focus on paying their debts and

fighting with their unstable economy neglecting their health sectors along with other important sectors which are basic necessities for every human being. Countries should basically try to focus on their prisons as well because the increase in mental health cases comprise on large number of prisoners and the reasons discussed above shall be controlled. An increase in mental health issues have increased the number of suicidal cases too.

The young generation now a day is being mentally ill having no psychiatric helps when falling depression move towards the suicide. The role of psychiatrists in controlling mental health cases are just like a relation of mother and her children. Psychiatry and rehabilitation in such cases work as a mother making their children understand the consequences of the disease. Only increasing the number of psychiatrists and specially psychologists for mediation and counseling can control the alarming situation of such mentally disabled people. Building mental health institutions like mental hospitals and rehabilitation center are the prime need of the time to control the situation. Increase in violations in prisons and society have lead every human being losing their patience even on a very little issue thus these things have increased mental health issues too.

As far as the role of the judiciary is concerned judiciary should also focus on the soft convictions to seriously mentally ill people. Rehabilitation should be the primary focus for the convicts and civil confinement for those who are seriously ill and dangerous should be imposed on such convicts. Before passing any order or judgment, there should be a proper medical consultation and psychiatric checkup of such convict to know his mental health history. Moreover, it has been observed too that keeping such people away from the society and their families has increased the risk of increasing the mental health cases that's why less ill people should not be separated from their families. Instead of keeping them in jails, they should be treated properly by mental health care institutions and doctors. Due feedback and response shall also be taken on time to get recent data of such persons and the condition.

Private sectors shall be encouraged by the governmental institutions and shall be given as much as support them needs to eradicate the mental health issues. Building new hospitals and private doctors shall also be encouraged by the private sectors. The world full of mental distress can never be turned into the happiest one in a spur of moment but at least everyone should work on the roots making this world mentally depressed and this can only be done by making people aware

about their mental health rights. The legislation done in countries shall be implemented immediately and the legislation not done should be started in due course of time because when international law has recognized such people's rights, then countries should also declare their equal status.

Conclusion

Law is the basic thing in a society which can make that society properly aligned. Thus it can never be the same as it was 150 years ago as the time have changed and people and society have also adopted new things for survival in the world, so should the law do. Outdated laws can never make a society better. It is evident that law always needs amendments as new things and new

conditions are observed in any society. And hence laws which countries like Pakistan were having since 1912 are of no use in today's world they are useless and disregarded and hence new legislation is always needed. A country working on its mental health laws should also see the factors which are becoming the reasons for its increase, and if legislation is linked with the legislation of such factors, the governments and parliament of such countries should have a prior focus on eradicating such factors. Laws regarding mental health should also be kept an eye on a regular basis, and prevailing conditions should be made in accordance with the legislation. Countries should have advocates, psychiatrists, and mental health officials to keep an eye for the advancement of mental health laws.

References

- Abbasi, A., Bhutto, A. R., Butt, N. & Munir, S. M. (2012). Correlation of serum alpha-fetoprotein and tumor size in hepatocellular carcinoma. *JPMA-Journal of the Pakistan Medical Association*, 62, 33.
- Bibi, A., Margraf, J., & Blackwell, S. E. (2020). Positive imagery cognitive bias modification for symptoms of depression among university students in Pakistan: A pilot study. *Journal of Experimental Psychopathology*, 11, 2043808720918030.
- De Sabbata, K. (2020). Dementia, Treatment Decisions, and the UN Convention on the Rights of Persons With Disabilities. A New Framework for Old Problems. *Frontiers in Psychiatry*, 11.
- Dey, S., Mellsop, G., Diesfeld, K., Dharmawardene, V., Mendis, S., Chaudhuri, S., Deb, A., Huq, N., Ahmed, H. U., & Shuaib, M. (2019). Comparing legislation for involuntary admission and treatment of mental illness in four South Asian countries. *International journal of mental health systems*, 13, 1-9.
- Haney, C., Williams, B., Lobel, J., Ahalt, C., Allen, E., Bertsch, L., Beynon, J., Bien, M., Kempf, K. & King, R. (2020). Consensus Statement from the Santa Cruz Summit on Solitary Confinement and Health. *Nw. U.L. Rev.*, 115, 335.
- Hasnain, R., Shaikh, L. C., & Shanawani, H. (2008). Disability and the Muslim perspective: An introduction for rehabilitation and health care providers.
- Khalil, A., Gondal, F., Imran, N., & Azeem, M. W. (2020). Self-Stigmatization in children receiving mental health treatment in Lahore, Pakistan. *Asian journal of psychiatry*, 47, 101839.
- Kopel, D. B., & Cramer, C. E. (2014). Reforming Mental Health Law to Protect Public Safety and Help the Severely Mentally Ill. *Howard LJ*, 58, 715.
- Mahmood, A. (2014). Mental illness in Pakistan: The toll of neglect. *DAWN [Internet]*.
- Markou, C., & Hands, L. (2020). Capacity Ex Machina: Are Computerised Assessments of Mental Capacity a Benchmark or. *Is Law Computable*.
- Mcsherry, B. M. (2012). Legal capacity under the Convention on the Rights of Persons with Disabilities. *Journal of Law and Medicine*, 20, 22-27.
- Minkowitz, T. (2011). Why Mental Health Laws Contravene the CRPD—An Application of Article 14 with Implications for the Obligations of States Parties.
- Organization, W. H. (2001). The World Health Report 2001: Mental health: new understanding, new hope.
- Rands, L. (2020). *Understanding Human Rights in Forensic Psychiatric Services: Staff Perceptions of Human Rights Issues in an Inpatient Forensic Psychiatric Service*. University of East London.
- Stone, A. A., & Stromberg, C. D. (1975). *Mental health and law: A system in transition*, National Institute of Mental Health, Center for Studies of Crime and Delinquency.
- Sugiura, K., Mahomed, F., Saxena, S., & Patel, V. (2020). An end to coercion: rights and decision-making in mental health care. *Bulletin of the World Health Organization*, 98, 52.
- Tareen, A., & Tareen, K. I. (2016). Mental health law in Pakistan. *BJPsych International*, 13, 67-69.