Need To Redefine Approach Towards Differently-Abled: A Socio-Legal Study

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Abstract

Mental Health is a state of wellbeing in which the individual realizes his or her own abilities. It includes emotional, psychological and social wellbeing. Mental illness also called as mental health disorders, refers to a wide range of mental health conditions including differently abled persons who face trauma not only medical but social as well as they experience of a sense of shame, disgrace and social isolation. Inspite of the fact that Mental Health Care Act, 2017 has been passed and implemented, it has not been effective in protecting the rights of differently abled persons. The need is to redefine the negative approach towards differently abled persons and show compassion, care and awareness regarding their rights.

Keywords: Mentally ill, Mentally Disabled, Mental Health, Mental Health Care, Rights of Mentally ill, Discrimination against Mentally ill

INTRODUCTION

The concept of mental health cannot be separated from that of overall health with the determinants of health closely aligned to the factors that create optimal or minimal mental health and wellbeing. These factors operate at many levels and include; personal (e.g Genetic factors, diet, exercise, relationships, how a person may perceive events). Social and community (e.g family structure, friends, isolation, area of deprivation) and larger societal and environmental conditions (e.g education, social connectedness, health care provision unemployment level, equality). Demographics such as age, gender, and ethnicity are also important determinants, influencing explore to the risk and protection factors across the life course. (Barry, 2010). The combined influence of these factors determines an individual’s health status. As individuals, we have more control over some of these factors than others. In addition, our life circumstances significantly impact our motivation and capacity to make a healthy choice and engage with health services and treatment. The paper makes a modest attempt at understanding these factors interact and impact upon the health of individuals and communities need to be understood in their socio-cultural and environmental settings.¹

STIGMA TOWARDS MENTALLY DISABLED PERSON: The stigmatization of mental illness is currently considered to be the most important issue facing the mental health field.
Stigma is a social devaluation of a person because of personal attributes leading to an experience of a sense of shame, disgrace, and social isolation. The nature of stigma in schizophrenia and its relationship to attribution was studied in one hundred and fifty-nine urban patients of Madras, India who fulfilled DSM-IV criteria for schizophrenia. The response of the primary caregivers to fourteen questions on stigma and 14 on what they thought attributed to the illness was elicited based on the mean stigma score, the entire sample was divided into two groups – those with high and low stigma. Marriage, fear of rejection by neighbors and the need to hide the fact from others were some of the more stigmatizing aspects. Many caregivers reported feelings of depression and sorrow. Discriminate function analysis showed that the female sex of the patient and younger age of both patient and caregivers were related to higher stigma. Among attribution items, having no explanation to offer, and attribution to faculty biological functioning, the character of lifestyle, substance abuse, and intimate interpersonal relationship discriminated between the two groups. The relevance of stigma in the cultural context is described.²

The behavioral discrimination that results from public stigma may take four forms: withholding help, avoidance, coercive treatment, and segregated institution³

**ATTITUDE TOWARDS MENTAL ILL PEOPLE:** Attitudes toward mental illness collected through the BRFSS identify areas for further study and population group for intervention to reduce negative attitudes toward mental illness and promote social inclusion of those with mental illness symptoms. The cumulative finding in this report offer federal and state decision-makers and other key stakeholders insights about the public’s attitudes toward persons living with mental illness as well as the relative impact of anti-stigma efforts on public attitudes towards mental illness. The current data indicate the following strategies be considered by mental illness stakeholders and the general public to improve attitudes and behavior toward persons with mental illness and promote social inclusion.⁴ While the strategies proposed by the study to promote social inclusion mention may be made of monitoring and evaluating innovative anti-sigma intervention and implementing actually competent stigma reduction initiative at all levels and enhancing accessibility to community resources. Support people with mental health problems by helping to develop community resources and by refusing them to available community resources. Don’t label people by their illness. Instead of saying “she’s bipolar” say, “she has bipolar disorder” “Learn how to offer reassurance, companionship, emotional strength, and acceptance to a friend, family member, neighbor, or other with mental health problems. The finding in this report is subject to serval limitations

The factors other than the socio-demographic characteristics studied here (e.g, culture, social, environmental) also might account for a portion of differences in attitudes. This study examined attitudes as indicators of stigma but could not assess experienced stigma (e.g, exclusion) or its consequences (e.g, social isolation, lost employment) or differentiate between felt and experienced stigma in some groups (e.g, unemployed, people receiving treatment). However mental illness” is difficult to define. A mental disorder is a characterized as a behavioral or psychological syndrome or pattern that occurs in an individual [which is associated with present distress…. Or disability… or with a significantly increased risk of suffering “. However, no definition adequately specifies precise boundaries for the concept of
mental disorder … different situations call for different definitions. Attitude plays an important role in shaping the behavior of an individual. Every individual is unique and everyone has a different attitude towards different situations. There is some stigma works on people’s attitudes and these stigmas create on designs a mental framework to perceive a situation and behave according to it. People also have some stigma towards mental illness. For some it is favorable and for some it is unfavorable. Some individuals accept mentally ill people in their community and some reject them. Stigma and negative attitudes have harmful effects on mentally ill people. If people have stigma and negative attitudes towards mentally ill people, the mentally ill people cannot change their thoughts, irrational beliefs, etc. because they assumed that they are rejected and negated from the society. So, it aggravates their mental illness. So call and holt graves (1992) found that participant rejected a confederate depicted as mentally ill more than a physically ill confederate who behaved identically. Their finding showed that a mental illness label, regardless a person’s behavior, can result in public rejection. Therefore, research on the attitude toward mental illness, specifically of those in mental health-related fields, is necessary to ensure quality care to a person with mental illness.

SOCIAL EXCLUSION OF MEAN DIFFERENTLYABLED A SERIOUS CONCERN

People are excluded when they are not part of the mainstream of society in their daily life due to caste, creed, religion, and economic condition. This indicates that the socially excluded people are customarily shunned in the zone of employment, community, friends, and family. Nobody would deny that many old age people, homeless people, people with AIDS, people with a mental and physical disability, ex-prisoners are said to be at the risk of exclusion.

CONSEQUENCES OF NEGATIVE ATTITUDES TOWARDS MENTAL ILLNESS AND STIGMA: As per a survey, only about 20% of adults with diagnosable mental disorders or with a self-reported mental health condition saw a mental health provider in the previous year. Embarrassment associated with accessing mental health services is one of the many barriers that cause people to hide their symptoms and to prevent them from getting necessary treatment for their mental illness symptoms. Stigma poses a barrier for public health primary prevention efforts designed to minimize the onset of mental illness as well as secondary prevention efforts aimed at promoting early treatment to prevent worsening of symptoms prevention efforts aimed at promoting early treatment to prevent worsening of symptoms over time. Untreated symptoms can have grave consequences for people living with mental illness and negatively impact families affected by these disorders. For example, most people with serious and persistent mental illnesses (mental disorders that interfere with some area of social functioning ) are unemployed and live below the poverty line, and many face major barriers to obtaining decent, affordable housing. These individuals may need a number of additional social supports (e.g., job training, peer-support network) to live successfully in the community, but such support may not be available. Other individuals with depression and anxiety might avoid disclosing their symptoms and instead adopt unhealthy behavior to help them cope with their distress (e.g. smoking, excessive alcohol use, binge – eating. These behaviors can increase their risk for developing chronic diseases, worsening their overall health over time. Recent studies have found an increased risk of death at younger ages for people with mental illness. Attitudes towards mental illness can also influence how policymakers allocate public
resources to mental health services, pose challenges for staff retention in mental health settings, result in poorer quality of medical care administered to people with mental illness, and create fundraising challenges for organizations who serve people with mental illness and their families.\(^\text{11}\)

Stigma often leads to discrimination, or inequitable treatment of individuals and the denial of the “rights and responsibilities that accompany full citizenship”. Stigmatization can cause individual discrimination, which occurs when a stigmatized person is directly denied a resource (e.g. access to housing or a job), and structural discrimination, which describe disadvantages stigmatized people experience at the economic, social, legal, and institutional levels. In addition, stigma can prevent mentally ill individuals, from seeking treatment adhering to treatment regimens, finding employment, and living successfully in community settings. In 2001, the World Health Organization (WHO) identified stigma and discrimination towards mentally ill individuals as “the single most important barrier to overcome in the community”, and the WHO’s, Mental Health Global Action Programme (MHGAP) cited advocacy against stigma and discrimination as one of its four core strategies for improving the state of global mental health.\(^\text{12}\)

**SEXUAL ABUSE WITH MENTALLY ILL PERSON:** People with severe mental illness (SMI) engage in risky sexual behavior and have a high prevalence of HIV in high-income countries. Little is known about sexual behavior and the person with mental health is exposed vulnerable to a higher degree of vulnerable sexual exploitation. Reports of sexual abuse with mentally disabled send shivers down the spine of the civilized community. Report of the patient being raped in a mental hospital or rape victim being put on mental asylum are not unheard.\(^\text{13}\)

**DOMESTIC VIOLENCE AND MENTAL ILLNESS:** Domestic violence means violence that occurs within the family. Domestic violence is considered one of the burning social problem of the present day in India. The married women with major mental illness from the extremely vulnerable population are at high risk for various forms of abuse. The incidents of wife battering, harassment by husband and in-laws, dowry deaths, suicide, kitchen accidents occur on a large scale. Many cases go unreported. The victims are unable to raise their voice, nor protect against violence. Social practices, customs, beliefs, myths, and patriarchy are the important causative factor for domestic violence in India.\(^\text{14}\)

Harassment by in-laws on issues related to dowry is characteristic of the Indian setting. It has emerged as a risk factor for poor mental health. This age-old practice continues to survive and has been a significant factor that has driven many women to suicide.

It is very important to identify and treat domestic violence and treat domestic violence in those with mental illness. In half of all murders committed by domestic partners, serious mental illness contributes to the risk. The mental health problems related to domestic violence are varying in nature. Many women accept it as normal in India and suffer in silence. A few react with physical aggression. The psychological symptoms emerge as sub syndrome or diagnosable disorders. There are a number of international instruments to prevent violence against women including the Convention on The Elimination of All forms of Discrimination Against Women. Several legislation has been enacted with the same purpose: Dowry
MARRIAGE OF WOMEN WITH PSYCHOTIC ILLNESS AND HINDU MARRIAGE ACT 1955 (HMA): THE INDIAN PARADOX: There is a wealth of data showing the effect of Indian culture on the marriage of patients with mental illness. This has been described by Sharma and Tripathi as the “Indian paradox”. The Indian paradox can be described under four headings:

- Despite the presence of severe mental illness parents are determined to marry their mentally sick daughter.
- Parents often succeed in marrying daughters with mental illness/ active symptoms. This is possible because in India arranged marriages and giving/ offering dowry are the norms.
- Besides, most boys prefer arranged marriages because they fetch good dowry
- The woman mental illness, who is ill-treated and abandoned by her husband and in-laws, seeks restitution of conjugal rights rather than divorce

The paradoxical situations cited above can be understood in light of the prevailing deep-rooted social value systems relating to marriage in India. The Hindu Marriage Act 1955 (HMA) provides the condition for a valid Hindu marriage. It also provides for four matrimonial reliefs in case a person is married to mentally ill person: Nullity of marriage, judicial separation, divorce, and restitution of conjugal rights. The legal provisions are often violated in the marriage of patients with mental illness because of the strong impact of Indian culture.

CONSENT TO MARRIAGE IS OFTEN BY PROXY, FORCE, OR FRAUD: In the series from Varanasi, proper consent was present in only 14 marriages. In 110 marriages consent by fraud by concealment of a past history of psychiatric. (partially or full) of the women with mental illness was present in 87.7% of the case. Besides, five wives and two husbands with mental illness were coerced into marriage. Thus, valid consent to marriage was not given importance.

DOWRY PROHIBITION ACT IS OFTEN ABUSED IN THE SETTING OF MENTAL ILLNESS: Very often parents paid a substantial dowry at the time of marriage. Dowry is usually a non-issue in marriages of women with mental illness, the giver and the receiver are usually in agreement. However, when marital problems erupt after marriage because of mental illness, allegations of dowry demand/harassment are made and complaints are lodged at police stations. Sometimes these cases landed up in court, leading to animosity and worsening the mental disorder. In these petitions, the usual plea from the women side that she is normal and the husband has rejected the woman because he is greedy and wants more dowry. In certain cases no maintenance was given to the woman even when they had children. Concealment of history of mental illness during marriage is rather common in the Indian community. Often it is a no-win situation. When the truth is discovered, there is a lot of animosity, the marriage often breaks or there are petitions for nullity of marriage under Section 12 of Hindu Marriage
Act. The President of the Indian Psychiatric Society, Dr. S. Nambi, suggested that” an express legislative provision should be incorporated, which states that past history of mental illness will be no bar to marriage and failure to disclose such past history or the fact of treatment would not amount to the suppression of a material fact,” i.e., should not be a ground for nullity of marriage.¹⁹

**SOME ISSUES AND CONCERNS ABOUT HUMAN RIGHTS OF DIFFERENTLY ABLE:** Some of the judiciary and Law- enforcing agencies have limited knowledge of the existence and provisions of the Mental Healthcare Act, 2017 to its poor implementation and utilization. In the absence of comprehensive awareness-raising activities, there is little scope for the scenario to change in the near future. Mental Healthcare Act, 2017 implementation and human rights for the mentally ill will remain a distant dream if the judiciary and executive are not adequately sensitized. Media including television, cinema and newspapers use mental illness as a means of publicity, sensationalism or misplaced humor. This includes caricaturing mentally ill persons by portraying them as dangerous, violent, serial killers, criminals or object of ridicule. Such depictions continue to contribute to stigma and negative attitudes among the public. This negative depiction of mentally ill persons should be actively discouraged. There is no provision to take action against such human rights violations of the mentally ill. A person of unsound mind may not be capable of managing his affairs and property. The Mental Health Act 2017 has provision for appointing a guardian for care and manager for management of property of mentally ill persons. However, this provision is rigid and cumbersome. This aspect requires simplification at least for the natural guardian on the lines of the procedure outlined in the National Trust Act 1999.

**NEED FOR COMMUNITY-BASED APPROACH AS AN INNOVATION IN MENTAL HEALTH CARE:** It is legitimate to ask questions about the perception of mental health issues. Do we view mental illness in the same way as we view physical illness? While the perceptions of physical illness or somatic symptoms are almost same across the globe, the perception of mental illness is different. In India, particularly in the Indian subcontinent, people with serious mental illness often turn down to temples and shrines, rather than going to doctors.

The definition given by WHO for health and its extension made in the domain of mental illness was a starting point. The mental health care services which are likely to be in the domain of Psychiatrists moved to health care professionals and institutional care systems. During the second half of the 20th century certain changes occurred in the health care policy and practice materializing the organization and delivery of medical (and psychiatric) care.²⁰ The Mental Health Program (NMHP), with the objectives to ensure that people have access to minimum standard of mental healthcare was launched. Also the integrated of mental health services with the then existing primary health services was the underlying thought. The aim of this newly developed approach was to make community healthy, including mental health services accessible to all, economical, culturally sensitive and should involve communities in order to be acceptable and effective. The concept of innovative approach to community mental health is in line with the policy framework of the NMHP. In Line with these changes, there was also a need to reconsider the traditional roles once played by the doctor and the patient in a medical encounter, since prevention and management of chronic illness required a more active
collaboration between the two. Within the bio psycho-social perspective, patient came to be regarded as a unique personality whose health problems required holistic, individualized approach and he/she was thought of as an active participant of the medical encounter whose subjective experience and meaning of illness were important in both establishing the diagnosis and designing the treatment.

Psychiatric illness are considered as curse from god or a Punishment for the the sin of the past life or manifestation of evil spirit in someone. This notion is quite dominate even today not only in India but universally also. When a person with mental illness seeks help or treatment every precaution is taken to ensure the anonymity for the person, in order to protect his/her family from unwanted attention and stigma. Study of psychiatric patients in India show the tendency to perceive and report distress in psychological and somatic terms is influenced by various social and cultural factors.

The social environment affects people’s ability to survive with mental illness and recover from it. In 2008, during the fire in mental health asylum in Tamil Nadu (Southern India),28 people were burnt to death just because of the way they were locked with chains (report in Hindu newspaper). The way we understand mental illness and the way the mental health care system works largely necessitates the study and practice of innovation approach in the domain.21

**AVAILABILITY AND ACCESSIBILITY OF PSYCHIATRISTS IN INDIA:** In a country like India there are only 3500 psychiatrists available, that too for a billion-plus population (IMC, 2010). This is worse as compared to a country like the UK where the ratio is 10:100,000 that cannot be labeled as satisfaction in any way. Even if these medical professionals are available, they are not accessible because of various barriers including poverty. The need is to redefine the societal outlook towards the mentally ill. But it also carries the idea that a person suffering from mental illness could also be support to others. The couple lives with a dark shadow of constant fear and skepticism about their child’s mental health. Lack of awareness is the major cause for it.22

**ROLE OF NGOs IN DELIVERING MENTAL HEALTH SERVICES:** Ashagram is an NGO in barwani District Madhya Pradesh. It delivers mental health services at the community level. It focuses on community participation in mental health. Initially, it started working among the tribal population and was started as a resettlement colony cum rehabilitation center for people rendered destitute because of disabilities caused by untreated leprosy. In 1996, Ashagram became a tertiary center funded by the government – a center for people with any type of disabilities. This is when a mental health unit of Asagram was initiated. The impact of the initiative was quite evident in the following initiatives

- Increased referrals
- Detection of illness and treatment at an early stage, preventing it from being chronic
- Services increasingly used by women and other economically disadvantaged sections
- Reducing the stigma
- Lowering the barriers to social reintegration within local communities23
The limitations of the approach adopted by Ashagram, (Biomedical, psychiatric services) were obvious where varied Socio-Culture influence critically shaped issues of illness, recovery, and stigma to address these concerns the community participation program (CPP) was devised. The main focus of the program was community participation in sustainability while at the same time being sensitive to local needs. While working on these objectives, a three-tier service delivery system evolved. The models evolve with time can also be used as tools to meet the present need of the rural areas. Challenging the odd of cultural practices which mystify the illness can also be addressed

**Ashagram (Trust)**

- Training
- Professional series
- Monitoring
- Evaluation
- Co-ordination

**Mental Health Workers**

- Management/ home-based care
- Planning of treatment regimen
- Psycho-education
- Community mobilization
- Recording and monitoring
- Social and vocational rehabilitation
- Networking with other care agencies

**Samitis (health Committees)**

- Social/ Vocational rehabilitation
- Changing community attitudes
- Fostering reintegration
- Planning of services
- Monitoring and evaluation

**Sunder** is another initiative in rural areas of Goa. Lay counselors from the community were trained to deliver psychosocial intervention in the field of depression and anxiety. The objectives of this initiative are clear simplify the message, unpack the treatment, deliver it where people are affordable and available human resource reallocation of a specialist to train the people both sunder and ashagram are models which effective community-based approaches for care in mental health. The tools and the caregivers are the people from the community itself who are trained for the job of primary care givers.

To conclude it is submitted that there is a need for creating awareness regarding biomedical concepts, availability of effective treatment for mental illness for identification, and better care for these disorders in a community as part of a National Mental Health Programme. Health
education and an increase in public awareness regarding factual information about mental illness can decrease the stigma attached to mental illness and improve help-seeking behavior of the community. This will help in reducing the burden of psychiatric morbidity in the community. Researchers are beginning to apply what social psychologists have learned about prejudice and stereotypes in general to the stigma related to mental illness. We have made progress in understanding the dimensions of mental illness stigma, and the processes by which public stereotypes are translated into discriminatory behavior. At the same time, we are beginning to develop models of self-stigma which is more complex phenomenon than originally assumed. The models developed thus far need to be tested on various sub-populations, including different ethnic groups and power-holdrs (legislators, judges, police officers, health care providers, employers, landlords) we are also learning about the stigma change strategies. Contact, in particular, seems to be effective for changing individual attitudes. Researchers need to examine whether changes resulting from anti-stigma interventions are maintained over time. An attempt has been made to examine stigma at the individual psychological level and how stigma is inherent in the social structures that make up society. Stigma is evident in the way laws, social services, and the justice system is structured as well as ways in which the resources are allocated. Research that focuses on the social structures that maintain stigma and strategies for changing them is sorely needed. When afflicted with a mental illness married women’s are discriminated against married men in Patriarchal society. In the setting of mental illness many social values take their ugly forms in the form of domestic violence, dowry harassment abuses of dowry law dowry death separation, and divorce. Societal norms are powerful and often override the legislative provision in real-life situations. A third world country like India where availability of resources in a mental health is a concern, the cost of service available is rapidly spiraling out of control in most developed nation. Health care in general is so professionalized that it has moved away from local communities. The innovative approach not only makes it more accessible and affordable but also very empowering in nature by empowering ordinary people to be more effective in care giving for others in the community. This also promotes the democratization of medical health care. It is advocated that mental health concerns should assume their rightful place in health promotion. The significant number of evidence-based mental health programs concerned with well-being from early childhood to old age, aimed at individuals, groups, or at community structural issues demonstrated that well-designed interventions contribute significantly to the well-being of the population. Efforts need to be made to strengthen this evidence particularly in developing counties. The innovative approach to mental health is utilitarian, which is equitable and has a long term perspective, “Involve all for the Health of All” as pointed out by Vikram Sethi.

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