



HUMAN RIGHTS OF PERSONS WITH MENTAL DISABILITIES

VIDHI MANGLA*

ABSTRACT

The human rights of people with mental disorders are critically examined in this article, along with the difficulties they encounter and effective protection strategies. In order to fully exercise one's basic rights, one must be free from situations that impair one's cognitive, emotional, or psychological functioning. An overview of the intrinsic dignity and equal value of every person, as stated in international human rights documents, is given at the beginning of the article. The particular difficulties that people with mental impairments confront are then explored, including prejudice, social marginalisation, and a lack of access to resources for healthcare, education, and work. Additionally, it looks at how often their rights are violated in institutional settings, including forced detention, coercion, and assault.

In order to successfully address these issues, the paper emphasises the necessity for a thorough rights-based strategy that takes into account societal attitudes, legal frameworks, and policies. It showcases numerous promising methods that support the inclusion and rights of people with mental disorders from all around the globe. These procedures include programmes that promote awareness and education, assisted decision-making models, and community-based support services. The protection of human rights, as this article has shown, is indivisible and ought to be extended to all people, including those who have mental disorders. Societies may establish inclusive settings where the rights and dignity of people with mental impairments are recognised, protected, and promoted by adopting a rights-based approach and putting forth promising practises.

Keywords: human rights, mental disabilities, discrimination, inclusion, promising practices.

* LLM Student at Amity Institute of Advanced Legal Studies, Noida.

INTRODUCTION

The human species is widely recognized as possessing the highest level of intelligence among all creatures that have inhabited the Earth.¹ Despite the advancement in medical science, the human brain remains a mystery and the complete understanding of its functionalities still eludes us. One example is the manner in which memories are stored.² This exceptional brain has allowed us to make remarkable discoveries and lead a fulfilling life, yet there are times when a malfunction occurs, commonly known as madness or insanity.³

The preservation of human rights is an essential premise of democratic societies, which includes the rights of people who are mentally ill. Throughout history, people having mental dysfunctions have been subjugated to exclusion, violence, and discrimination. A global human rights framework overseen by the United Nations with widespread application has been created.⁴ Regional human rights systems have given their particular geographical areas more human rights safeguards. With the help of concordats, statements, and parochial propositions, both worldwide as well as regional institutions have acknowledged the human rights of people experiencing psychological issues. In addition, local organisations have gradually developed an anatomy of legislation which defends the rights of individuals who have mental disorders.

The Convention on the Rights of Persons with Disabilities (CRPD) of the United Nations acknowledges that people having dysfunctions, including mental disabilities, are granted the same rights as other people.⁵

Mentally ill individuals are an integral part of society just like everyone else. However, despite the international commitments to conserve the basic liberties of people having mental incapacities, they continue to encounter numerous obstacles when trying to exercise their rights. This includes barriers to education, employment, healthcare, and social inclusion.⁶ There is a perceived necessity for reform in this area, despite the fact that there are laws and precedents that guarantee them certain rights. Since this topic lacks political overtones, it hasn't gotten the attention it merits. Furthermore, blaming the dictatorship alone won't solve the problem; we must step up and assist these people in obtaining their rights. Therefore, there is a need to investigate and address the

¹ Jose Ayala Lasso and Peter Piot, *Human Rights and Public Health in the AIDS PANDEMIC*, 7 (1997)

² Peter Reddaway And Sidney Bloch , *Psychiatric Terror: How Soviet Psychiatry Is Used To Suppress Dissent* 280-330 (1977).

³ *Ibid.*

⁴ Harvard Medical School, *Benefiting from mental health parity*, Harvard Mental Health Letter (January, 2009), <http://www.health.harvard.edu>.

⁵ ZZ. Ahmad and MM Firdosi, *Mental health law in India: Origins and proposed reforms*, 13 BJPpsych Int. 65 (2016).

⁶ A Kala, *Involuntary admission and treatment*, 31 Indian J Soc Psychiatry, 130 (2015).

various legal and policy frameworks to make sure that people who have mental disabilities', their human rights are secured.

THE FUNDAMENTAL CONNECTION THAT EXISTS BETWEEN MENTAL HEALTH AND HUMAN RIGHTS

With some noteworthy instances, the fields of human rights as well as mental health are seldom linked in considered, systemic ways. It's possible that the scarcity of cross-disciplinary work can be credited to the way that various fields have various philosophies, languages, and societal positions. On the contrary, both mental health as well as human rights are cutting-edge methods to boost people's lives, and when looked at together rather than separately, they become mutually supportive. Mental health and human rights are related in three ways: One's mental health is impacted by government policy, human rights abuses can adversely affect one's psychological wellness, and efforts to advance both are mutually supportive.

The first connection is the potential for human rights violations in policies, initiatives, and behaviours related to mental health. Notwithstanding its language of personal autonomy & non-coercion, mental health policy basically entails the use of political authority, including the capacity to limit, treat, and deny persons of their fundamental rights as citizens, such as the option to cast a ballot, admittance to the courts, and command over one's very own and monetary issues. Good mental health practises can benefit not only the person but also their loved ones and the community at large.

However, the very essence of governmental power is to infringe upon a wide range of individual concerns, counting yet not restricted to: sovereignty, physical dignity, private, property, and liberty. When authorities pertaining to mental health act randomly, discriminatorily, or without an equitable procedure, it can and does give stand up to claims regarding human rights that affect these interests.

Denials of basic freedoms adversely affect emotional wellness, which is the second connection between the two philosophies. Torture, rape, murder, and cruel or humiliating treatment all have clear and intrinsic impacts on mental health. Yet, the severity and persistence of mental health issues are still underappreciated. Extreme human rights violations affect not only the immediate

victims but also their loved ones, neighbours, and even future generations to endure unimaginable mental anguish.⁷

The motive of most heinous human rights abuses is not so much to cause bodily harm as it is to destroy people's will to live. Torture can have a strategic purpose, like reducing opposition to the government, while rape and extermination are used to wipe out an entire people group and their culture. Minor breaches of human rights, like prejudice and infringement of privacy, can damage mental health by eroding a person's estimation of herself.

The third link between the two positions is the interconnectedness of mental health as well as human rights. The upholding of human rights and advances in mental health go throughout. Inasmuch as only those with a minimum degree of competence can participate in civic and social activity, mental health is a crucial component of human rights. Likewise, the security from injury and the freedom to communicate one's views are fundamental to one's mental health, making human rights necessary for mental health.

Take into account the significance of issues related to women's mental health and civil rights. Women cannot contribute to society in the home, at their job, or in politics if they are not mentally healthy. Furthermore, if women experience prejudice, imposed conditions, aggression in sexual relationships or marriage, restrictions on property ownership or utilisation, and limitations on social standing or income sources, this could lead to a negative impact on their mental health. Human rights protections, such as changes to divorce, property division, labour, and rape legislation, can benefit women's mental health in positive ways. If the government ensures women can utilise additional resources, and services for mental health, women may be better able to fight for their rights.⁸

CONCLUSION

Human rights legislation on a global scale can do a lot for individuals with mental illnesses and the mental health of the broader public. This article sheds light on the formation of a remarkable, albeit imperfect, human rights framework that serves as an effective tool for realising these aims. Internationally and regionally, a complex and ever-evolving human rights structure has been created. This framework's elements, including papers outlining human rights and organisations responsible for upholding and understanding them, have resulted in constantly changing human

⁷ "International Covenant on Civil and Political Rights, art. 7, 999 U.N.T.S. 171 (1966)."

⁸ "International Covenant on Economic, Social and Cultural Rights, art. 12, 993 U.N.T.S. 3 (1966)."

rights frameworks that defend and ensure everyone's fundamental rights. There has been a growing understanding among these global and regional methods that protecting people's human rights is essential to halting the mistreatment of those with mental disorders and promoting the mental well-being of all people.

People with mental impairments, both as individuals and as a group, can benefit from the security offered by the different human rights institutions. Mental health violations of human rights can be identified and avoided with the help of reporting, investigating, and adjudicating processes. In certain cases, such as those governed by regional organisations, victims of human rights abuses can go straight to those bodies in order to seek redress for their suffering. Therefore, reports or judgements by human rights organisations may have a significant effect on the lives of those who suffer from mental illness. These rulings also provide general guidelines that can be applied to subsequent government actions and implementation to the degree that they explain and define the breadth and applicability of civil rights to people with mental disorders. Individuals and communities alike can benefit from these overarching guidelines for improving mental wellness. Generally speaking, people with mental impairments who are in a comparable situation will be afforded the safety of the law pertaining to human rights. When it comes to the public's mental health, administrations must take proactive measures to ensure the wellbeing of all citizens.

Increased human rights protections on a global and regional scale will be of great assistance to people who experience mental health issues. Each system contributes something unique to the overall goal of securing and advancing the rights of individuals with cognitive impairments, but they do so in ways that support one another. The UN's human rights framework is getting better all the time by passing new measures, both mandatory and nonbinding, to ensure the laws that protect mental health under the human rights umbrella. Mentally ill people's rights impairments are being strengthened through initiatives like the planned international treaty on disability and the continuing mission of the Special Rapporteurs on Health and Disability Rights.