

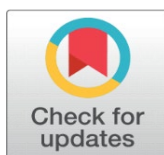
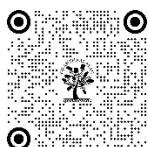
THE INTERSECTION OF DISABILITY AND MENTAL HEALTH: UNDERSTANDING THE COMPLEXITIES

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ABSTRACT

The rights of person with mental disabilities are a significant issue which is being faced today, and there is an evident connection between mental health and human rights. However, it is concerning that the topic of mental disability has received little attention in literature on public health and human rights. There are many people with mental disabilities, which account for a large percentage of disability. There is a huge social and financial burden associated with mental disability that is carried by people, families, communities, and countries. Kenneth Bums has demonstrated the well-established link between mental disorders and homelessness, social exclusion and alienation, poverty, and financial disparity. Mental illness has an effect on social behaviour, education, economic output, and cultural standards. The social, environmental, and economic context in which a person is born, grows, works, and ages shapes that person's mental health.

1. INTRODUCTION

It is critical to acknowledge the intersecting issues experienced by those who have both physical and sensation limitations & mental health conditions in the current conversation on disability rights & mental health. This essay examines the particular challenges faced by these people, the significance of include mental health issues in frameworks for disability rights, and the social reforms required to create an inclusive society that protects everyone's rights and dignity. Individuals with disabilities possess a diverse range of experiences and demands, making them non-uniform in nature. People who also struggle with mental health issues face different problems within this diverse group. These two problems frequently make each other worse, which results in worsening disadvantages. There is a lot of social stigma associated with mental health issues and disabilities. When these factors are present, people frequently experience twice as much discrimination. This can take many different forms, such as social marginalisation, unfavourable preconceptions, and unfair treatment in the workplace, in healthcare, and in school.

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2. WORLD HEALTH ORGANISATION DEFINES MENTAL HEALTH AS:

*"A state of well-being in which every individual realises his or her own abilities, is capable of dealing with the everyday challenges of life, can work productively and fruitfully, and is able to make a contribution to her or his community"*¹

So many people with disabilities deal with everyday life-threatening depression in addition to social limitations. A study found that substantial obstacles to regular social functioning that are unrelated to the illness or injury itself beset people with impairments. When people with disabilities speak in public, they update that they often face various forms of discrimination. This type of barrier involves both structural and ideological barriers, such as restricted accessibility to public transportation or kerbside cuts for people who use wheelchairs, in addition to the lack of flexible job possibilities for those that may need them. Numerous individuals with disabilities encounter physical obstacles like immobility, unemployment, and severe pain, in addition to social challenges like social exclusion or rejection from invitations with regard to social events and recreational activities that are offered to individuals without disabilities. Managing these kinds of difficulties may have an impact on one's mental well-being.

3. ISSUES FACED BY THE DISABLED PERSON

The following are the issues faced by the persons with disability:

1. BARRIERS TO RECEIVING MENTAL HEALTH TREATMENT

It is uncommon to find accessible and efficient mental health care for someone with a disability. People with impairments face numerous barriers that prevent them from promptly consulting a mental health professional. People with disabilities sometimes cannot get the help they need because of stigmatisation, unsupportive carers, and inaccessible infrastructure. As not all mental health professionals are aware of the sensitivity of disability, receiving professional services connected to mental health can occasionally be stressful for people with disabilities.

2. INSUFFICIENT AND DEVOID OF COORDINATED MEDICAL CARE

A lot of people with disabilities need continuous medical attention from professionals. Serious medical procedures and extended hospital stays can cause great stress in many people, as well as destroy social connections and leave them feeling alone. People frequently put their bodily comfort and pain management before their mental wellness. People with disabilities typically do not receive the comprehensive care necessary for their overall well-being since this integration is not present in the medical field.

3. HIGH RATE OF POVERTY AND UNEMPLOYMENT

The average cost of living is greater for people with disabilities than for those without, and as a result, the unemployment rate is higher for people with disabilities in most countries. The rate of being poor is doubled for people with disabilities because poverty constitutes one of the most important social determinants of their physical and mental health, connecting with all other determinants.²

4. COMMUNICATION BARRIER

As everyone knows, communication is the key to finding solutions to any issue. Mental health professionals can only function at their best when they interact with people who require their assistance. People with a variety of disabilities find it difficult to communicate, lowering their chances of receiving appropriate assistance. It's hard for people who don't have communication issues to express why they need help. They wish to avoid any additional stigmatisation. It is risky to combine a mental health issue with a disability as this might isolate and stigmatise the individual. The

¹ World Health Organisation, What is Mental Health. Centre for Mental Health, 2020, available at: <https://www.ncbi.nlm.gov/pmc/articles/pmc7525587> (last visited on 22nd June, 2024).

² Kevin M. Simon, Michaela Beder et.al. "Poverty and Mental Illness" *Psychiatric times* 35:6 available at: <https://www.psychiatristimes.com/view/addressing-poverty-and-mental-illness> (last visited on 22nd June, 2024).

bulk of disabled individuals in India reside in rural areas, where problems about accessibility to services, availability of policies, and rehabilitation services are prevalent.

There are several ways in which stigma and discrimination can obstruct access to care, including institutional (legislation, funding, and service availability), community, and individual levels. Epidemiological surveys and descriptive research point to several significant variables that raise the risk of treatment evasion, delays in receiving care, and service cessation.

- a. Ignorance of the characteristics and potential for recovery of mental disease.
- b. Discrimination against those who suffer from mental illness lack of knowledge about how to obtain assessment and treatment
- c. Anticipation of prejudice against those suffering from mental illnesses
- d. anticipation of non-discrimination towards anyone with a diagnosis of mental illness.
- e. By addressing public stigma, service users may suffer less actual and predicted stigma and be more likely to seek out mental health care when they need it.

4. INDIAN LEGAL FRAMEWORK FOR THE MENTAL HEALTH AND THE DISABILITY

The following are the Indian Legal Framework for the Mental Health and the Disability:

1. MENTAL HEALTH ACT, 2017

The removal of the criminal penalty of suicide is the most admirable provision in the aforementioned laws. The act assumes that the person who made the suicide attempt was experiencing mental distress. Following an amendment, the relevant governments are now required to make sure that the person who tried suicide receives the care and protection they need in order to lower the number of suicide attempts in the future. Apart from this Protect the right to mental health services and healthcare. Uphold, advance, and fulfil the rights of those suffering from mental illness while providing mental health services and healthcare and address the discrimination and stigma associated with mental illness.

FEW PROVISIONS ENSHRINED UNDER THE ACT ARE:

- **RIGHT TO ACCESS MENTAL HEALTH CARE:** Everyone has the right to receive mental health treatment and care from government-run facilities or from programmes that are authorised by the relevant government.³
- **RIGHT TO COMMUNITY LIVING:** Every individual suffering from a mental disease shall be entitled to live in, participate in, and not be excluded from society.⁴
- **RESTRICTION ON THE RELEASE OF INFORMATION IN RESPECT OF MENTAL ILLNESS:** No picture or other details about an individual seeking treatment in a centre for mental health will be shared with the media without the consent of the person experiencing mental illness. People with mental diseases have the right to the privacy of all information stored in real or virtual spaces, whether it is in physical or digital form.⁵
- **RIGHT TO ACCESS MEDICAL RECORDS:** All individuals with mental illness are entitled to access their fundamental medical records to be may be prescribed. The health care provider who is in charge of these records can withhold specific information if disclosing it would put the individual with mental illness in danger of serious harm to their mental health or others, and in such case, the person in charge of mental health will advise the individual with mental illness of their ability to request an order from the relevant Board to have the information released.⁶
- **RIGHT TO INTERPERSONAL RELATIONSHIPS AND COMMUNICATION:** When admitted in a mental health facility, an individual with a mental illness has the freedom to refuse or accept visitors, as well as to refuse or accept and make phone calls on their cell phone or landline at reasonable times, in accordance with the policies of the mental health facility. Additionally, upon admission, they are permitted to send and get mail through electronic means, such as e-mail.⁷

³ Mental Health Act, 2017, s. 18(1).

⁴ *Ibid* s.19.

⁵ *Ibid*, s. 24.

⁶ *Ibid*. at s. 25.

⁷ *Ibid*. at s. 26.

2. RIGHTS OF PERSON WITH DISABILITIES ACT, 2016.

The groundbreaking *"Rights of Persons with Disabilities Act"* (hereinafter referred as RPWD) was enacted by the legislature in 2016 and resulted in the removal of the previously stated 1995 statute. The scope of disabilities was expanded to include both mental and physical disabilities with the passage of the RPWD Act. The need under the act⁸, which expressly requires the creation of norms for setting guidelines regarding accessibility of information and communications, including technology and systems accessible to the public, is a significant advancement. Furthermore, the appropriate government is required to guarantee that the information in print, audio, or electronic media is accessible.⁹ The Ministry of Social Justice and Empowerment released the *"National Policy for Persons with Disabilities"* in 2006, which served as a model for the RPWD Act. Although creating a barrier-free environment was one of the main objectives of the Policy.¹⁰

Regrettably, access to or accessibility to technology is not mentioned; the restrictions are acknowledged solely in relation to structures, locations, and public transit networks. As a result, the state's policies and vision have significantly advanced the acknowledgement of accessibility. The *"Disability Inclusive Disaster Risk Reduction"* recommendations were announced in September 2019 by the National Disaster Management Authority. These guidelines served to set standards for the particular difficulties faced by the disabled during disasters, as well as the procedures that officials must adhere to when supporting and aiding disabled individuals during risky situations, armed conflicts, and humanitarian emergencies. The rules provide detailed requirements for responding in a way that is inclusive of people with disabilities by utilising more accessible technologies.¹¹ The provisions are a positive development in the universal accessibility movement because they propose the distribution of warnings via accessible communications such as SMS, email, alerts, etc.

3. REHABILITATION COUNCIL OF INDIA ACT, 1986

In order to control and standardise training policies and programmes in the area of rehabilitation of people with disabilities, the Government of India first established the *"Rehabilitation Council of India"* in 1986. However, the majority of specialists were not professionally certified and instead worked in the fields of education and counselling people with impairments.

Its' one of the objective is:

*"the constitution for the Rehabilitation Council of India to regulate the training of rehabilitation professionals and the maintenance of the Central Rehabilitation Register."*¹²

Its main goals are to uphold certifications and standardise training programmes for professionals who work with individuals with disabilities, to establish minimal requirements for the training and education of different professional categories who work with individuals with disabilities, and to standardised these requirements across all training facilities in the nation.¹³ In 2000, the *"Rehabilitation Council of India Act"* was amended to include more authority for advancing rehabilitation and special education research. The Act sets standards for training, exams, and education.¹⁴ In addition, the Act provides that the institution may lose its recognition if any of the following requirements are not met. Furthermore, such an individual may have their name removed from the registry if they engage in any unacceptable behaviour or engage in any unlawful activity.¹⁵

5. CONCLUSION

⁸ Rights of Person with Disabilities Act, 2016, s.40.

⁹ *Ibid.* at s.42.

¹⁰ National Policy for Persons with Disabilities; 10th February, 2006. Accessed at: National Policy.pdf (disabilityaffairs.gov.in)

¹¹ "Disability-Inclusive Disaster Risk Reduction: Transformative journey towards a disability-inclusive society", National Disaster Management Authority, Ministry of Home Affairs, Government of India.

¹² Rehabilitation Council of India Act, 1992, Preamble.

¹³ *Ibid.* at Chapter II.

¹⁴ *Ibid.* at s. 14 & 15.

¹⁵ *Ibid.* at s. 21.

Disability has a great impact upon the mental health of the individual. Due to the social exclusion they face in their day to day life. A person's impairment cannot stand in the way of their success in any endeavour. It is our duty to break down obstacles in order to increase their social involvement, provide them with sufficient assistance, and help them realise the enormous potential they already possess. Governments everywhere must now acknowledge the millions of disabled people who never get an opportunity to shine and who lack opportunities for jobs, education, psychotherapy, health care, and support networks. Because of the unfavourable attitudes that society has towards them, people who are disabled are socially isolated and divided. By making exceptions, a healthy society promotes positive attitudes towards those with impairments and their social inclusion. Since, the right to respect for their dignity is fundamental to the right to life, we believe that people should be shielded from the grip of oppressive fear and bad luck. To increase the wellbeing of the disabled, four main areas need to be prioritised. First and foremost, those who feel wronged ought to respect who they are by upholding social norms. Second, the families of the disabled should be the ones to offer all initial support. Conversion factors, or the capacity to transform resources into skills and functioning, are extremely important and shouldn't be disregarded. As a result, in order to treat those who suffer from anathema, every step can be taken to ensure that needs are met, and laws protecting the disabled should be properly implemented.

CONFLICT OF INTERESTS

None.

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