LETTER TO THE EDITOR

Shortcomings of the Mental Health Care Act 2017 in Indian Context

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Dear Editor,

The Mental Health Care Act (MHCA) 2017, was implemented in the country for ensuring the rights of persons with mental illness (PWMI) and was based on the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD).[1] It superseded the previously existing Mental Health Act 1987 (MHA).[2] Though MHCA is a powerful act with lots of positivity, there are a few areas of concern regarding its implementation in clinical settings.

This is our generous attempt to emphasize a few of those concerns that we as psychiatrists have experienced in the past few years. They are:

- The confusion starts at the very beginning itself. Section II of the MHCA Act determines mental illness as per the International Classification of Diseases (ICD) or Diagnostic Statistical Manual (DSM) but the Definition of Mental Illness according to Section I of this act excludes the likes of conversion disorder, panic disorders, and personality disorders which are mental illnesses as per ICD.
- Many psychiatric illnesses are not possible to diagnose within one setting. It requires detailed observation and a series of mental status evaluations by admitting the patient to a mental health establishment, but such provision is not available in the current act.
- Regarding the use of electroconvulsive therapy (ECT), the opinion of the treating psychiatrist's clinical knowledge must take the upper hand, which is not accepted by this new act. For example, if a severely depressed patient with suicidal ideation is admitted under section 89 of the act, and requires urgent ECT but if according to the advanced directive (AD) of the patient it is stated that there will be no use of ECT, the psychiatrist must write to the Mental health Revie Board (MHRB) and wait for it to get overridden, in the meantime we will waste the precious treating time which will ultimately affect the patient.
- According to the act, Admission and Mode of Treatment are in the hands of the patient, however, the planning of discharge must have relied on the psychiatrists because many times there is premature discharge of the patients.[3]
- In the context of AD, though it is a very good approach regarding the righteousness of the patient. In a developing country like India, taking the educational, socioeconomic, and cultural background very few patients will be capable of taking correct healthcare decisions by themselves.
- Regarding NR, one cannot be fully sure that the nominated person is working in the patient's best interest. Also, it will be an abundant burden for the NR who will be responsible to take care of the patient instead of the entire family.[4] But if we look at our culture, Indian family members must be the primary support, not any single individual. This explains us following the West while ignoring our cultural values.
- This act gives more emphasis on the legal aspects like maintaining paperwork, uploading documents, and multisectoral communications compromising important clinical time. Also, to maintain these hospitals must appoint trained and dedicated staffs which is impractical to implement with the little allotted resources for health sectors.

These are among few of the lacunae in this act which is faced by the psychiatrists in their clinical settings which we highlighted.

An overview of the MHCA Act 2017, which emphasized mainly human rights at the expense of proper medical interest was more inclined towards the interest of influential bureaucrats and NGOs neglecting the patient, the caregiver, the psychiatrist, and the Indian sociocultural background also as in our Indian culture doctor is considered as Vaidyo Narayana Hari, however as per the law he seems to be a service provider only.

We can say that every powerful law has loopholes, but here the main problem lies in the beginning while constructing the law. It is very uncanny that during the construction of a law regarding the rights and management of PWMI, no psychiatrist has been involved nor the Indian Psychiatric Society (IPS). And the way in which the law has been prepared it is very difficult to implement the law. At the grassroots level considering a developing country like India where there is a huge gap in requirements and allotted resources in health sectors. So, to conclude, the Government is planning to INDIANIZE the medical system and WESTERNIZE the laws which are very conflicting.

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