



A DILEMMA OF MENTAL HEALTH IN PAKISTAN

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ABSTRACT

Continued efforts to create suitable mental health legislation in Pakistan resulted in the Mental Health Ordinance of 2001. However, following the 18th amendment to the constitution and the devolution of health responsibilities to provincial governments, it became the responsibility of each province to enact its own mental health laws through their respective assemblies. Currently, the mental health legislative landscape is fragmented and inadequate. Only the provinces of Sindh and Punjab have enacted mental health acts, highlighting an urgent need for similar legislative frameworks in other provinces to protect the rights of individuals with mental illness.

Keywords: mental health, legislative framework

I.BACKGROUND

When Pakistan was established following the partition of the Indian subcontinent in 1947, the newly formed state retained the Lunacy Act of 1912, which had been in effect in British India. This act focused more on detention than on treatment. With advancements in medical treatment, particularly the introduction of psychotropic medications, there was a clear need for updated legislation. Starting in the 1970s, advocates for legislative reform became increasingly active. The government of Pakistan proposed a new mental health act in 1992 and circulated a draft among psychiatrists for their feedback (Rehman, 1994). However, it was not until 2001 that the Lunacy Act of 1912 was replaced by the Mental Health Ordinance of 2001. A draft document was presented at the biennial conference of the Pakistan Psychiatric Society in Islamabad in 2001, attended by a number of UK psychiatrists, who, together with Pakistani psychiatrists, further shaped the draft. A large number of psychiatrists from Pakistan have been trained in the UK and the UK currently has a large number of British Pakistani psychiatrists who maintain strong links with psychiatry in Pakistan. Unsurprisingly, therefore, given these historical and ongoing links, the ordinance had significant similarities to the UK's Mental Health Act 1983. The Mental Health Ordinance 2001 was in the form of a presidential order and set out to 'amend the law relating to the treatment and care of mentally disordered persons, to make better provision for their care, treatment, management of properties and affairs and to encourage community care and further to provide for promotion of mental health and prevention of mental disorder.' (Government of Pakistan, 2001) The ordinance addressed access to mental healthcare and established protocols for both voluntary and involuntary treatment. The duration of involuntary admission varied based on specific conditions: up to 28 days for assessment, up to 6 months for treatment, up to 72 hours for urgent admission, and up to 24 hours for emergency holding of a patient already in the hospital. It also outlined the process for patients to appeal their involuntary admission, with such appeals being heard by the local magistrate. Appeals had to be filed within 14 days of the patient's detention.

Patients could also be discharged into the care of their relatives at any stage of their treatment once they had adequately recovered. The ordinance protected the rights of the patient's relatives to secure their discharge. It limited the period of forced detention by police and magistrates to a maximum of 72 hours, a significant reduction from the previous 10-day period, which could be extended to 30 days with a magistrate's order, a process prone to abuse.

Sections of the ordinance addressed competency, capacity, and guardianship issues for people with mental illness. Chapter 7 focused on the protection of human rights, including confidentiality and informed consent. Chapter 8 addressed offenses against persons with a mental disorder, such as making false statements to discredit someone as having a mental disorder, willful neglect by a manager of a patient's estate or refusal to deliver the patient's accounts or property, ill-treatment or neglect of a patient by psychiatric facility staff, and inhumane treatment or exploitation. This was an attempt to address common abuses. However, there was a gap in that the ordinance did not clarify how

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offenses committed by a person with a mental disorder were to be handled, leaving these matters to be addressed by other sections of criminal and civil law (Gilani et al, 2005).

Under this ordinance, the Federal Mental Health Authority was established with the aim of developing national standards for patient care and setting a code of practice for all those involved in patient care under this ordinance. A Board of Visitors was also constituted to conduct regular inspections and reviews of facilities to ensure they were in proper order. However, despite these legislative advancements, practice lagged behind. The Federal Mental Health Authority, formed in 2001, lapsed without achieving significant progress in implementing the ordinance. Similarly, by 2010, the provincial Boards of Visitors had not yet come into existence (Mufti, 2010). As the ordinance was not passed into law by an act of parliament, it eventually lapsed.

II. CURRENT STATUS

Provincial Reform After the implementation of the 18th amendment to the constitution of Pakistan, health matters transitioned from federal to provincial jurisdiction. On 8th April 2010, the Federal Mental Health Authority was dissolved, and responsibilities were decentralized to the provinces. Henceforth, it became the duty of each province to enact suitable mental health legislation through their respective assemblies.

As of now, only the province of Sindh has made notable progress in this regard. Advocates within Sindh advocated for amendments to the Mental Health Ordinance of 2001 (Pakistan Association for Mental Health, 2002). They emphasized that respect for human rights should permeate the entire legal framework concerning mental health, rather than being confined to a single chapter. Consequently, the Mental Health Authority and the Board of Visitors in Sindh now include a retired judge from the High Court of Sindh.

Article 54 of the ordinance specifically mentions the evaluation of a person detained in jail under the category of 'mentally disordered' by the Inspector General of Prisons to determine their mental state. It's recommended to divert individuals with mental disorders from the criminal justice system to the mental health system, establishing forensic psychiatric services for their treatment. Section 53(3) requires an assessment by the Board or its members to determine the mental state of those detained for offenses affecting public health, safety, convenience, decency, or morals. However, this legislative framework lacks safeguards for mentally ill defendants, particularly those detained under blasphemy laws. Concerns have been raised by human rights organizations and in the media regarding the prosecution of individuals with mental illness under blasphemy laws.

The Sindh Mental Health Ordinance 2013 has been approved by the Sindh Assembly, but the necessary rules, regulations, and forms for its implementation have not been processed yet. The Punjab government passed the Punjab Mental Health Act in 2014, amending the 2001 ordinance, though without significant consultation with mental health professionals or advocacy groups. Balochistan and Khyber Pakhtunkhwa provinces face legal ambiguity as the Mental Health Ordinance Pakistan 2001 has lapsed, and no new act has been enacted by the provincial parliament to address this issue.

Implementation remains the primary challenge for psychiatrists in Pakistan, despite efforts to establish laws and regulations. There is no designated authority for psychiatrists to approach in emergencies, nor are there identified agencies to assist relatives of disturbed or aggressive patients. Families typically provide the main support for individuals with mental disorders, but access to services and the effectiveness of treatment vary widely and are often perceived as inadequate by families. This situation leads to families resorting to physical containment as a method of treatment, making individuals with mental disorders vulnerable to human rights abuses due to the lack of appropriate safeguards.

III. CONCLUSIONS

In addition to government hospitals, numerous private in-patient facilities operate without registration or monitoring by social welfare agencies or health directorates, resulting in instances of patient abuse. The World Health Organization's AIMS report for Pakistan indicates limited mental health activities in the criminal justice system, with few prisons and police officers receiving mental health training in the past five years. A comprehensive legislative framework developed in consultation with stakeholders is necessary to improve the human rights situation of individuals with mental disorders and ensure effective implementation of mental health policies and services.

In recent times, there have been endeavors by psychiatrists, along with other mental health professionals and voluntary organizations, to raise awareness among the general public regarding the necessity for proper treatment of individuals with mental illness. These efforts also aim to educate the public about patient rights, family responsibilities, and the broader societal and governmental obligations. Initiatives to combat the stigma associated with mental illness include newspaper articles, seminars, discussion groups, and the distribution of informational leaflets, all aimed at disseminating knowledge and fostering understanding within families and communities.

Malik & Bokhary (2001) illustrate how collective institutional efforts can lead to improvements in both clinical treatment and the protection of human rights for those with mental disorders. However, the legislative framework

serves as the cornerstone supporting these initiatives. It is hoped that the progress made in Sindh will encourage other provinces to advance mental health legislation and strive for effective implementation in their respective regions. Collaboration among stakeholders such as patient advocacy groups, families, and mental health professionals is essential to exert political pressure and ensure the establishment of an appropriate mental health legislative framework for the Pakistani population. Nonetheless, past experiences indicate that the process of drafting, approving, and implementing legislation often faces significant delays.

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