

“कदम मिलाकर चलना होगा”



A Project for
Mentally ill
& mentally disabled
Persons

by
Haryana State Legal Services Authority

Introduction

Mental illnesses are health conditions involving changes in thinking, emotion or behavior (or a combination of these). Mental illnesses are associated with distress and/or problems functioning in social, work or family activities.

It is a well known fact that mental health disorders are increasingly recognized as a major public health problem. According to National Institute of Mental Health & Neuro Sciences about 1 -2% of the population suffers from major mental problems and about 5% of the population from minor depressive disorders. About 25% of the population suffer from various psychological problems. Most of them do not require hospitalization but it is estimated that about 1% of them have severe mental disorders that may require hospitalization.

As per the Census 2011, in India out of the 121 Cr population, 2.68 Cr persons are 'disabled' which is 2.21% of the total population. Among the disabled population 56% (1.5 Cr) are males and 44% (1.18 Cr) are females. In Haryana, as per the Census 2011, the position is as under:

State	Total disabled population as per Census 2011	No. of Disabled Persons (Disability Wise)							
		Seeing	Hearing	Speech	Movement	Mental Retardation	Mental Illness	Any Other	Multiple Disability
Haryana	546374	82702	115527	21787	116026	30070	16191	116821	47250

It is well acknowledged that depression influences the occurrence and outcomes of several diseases and conditions. Depression and suicide are closely interlinked; at its worst, depression can lead to suicide. Globally, depression is the top cause of illness and disability among young and middle-aged populations, while suicide 2 ranks second among causes of death for the same age groups.

People with depression are 1.52 times more likely to die than the general population, 27 probably due to their untreated mental or physical health problems. Certain vulnerable situations and particular risk groups are also at an increased risk, as in the case of farmer suicides.

Even, there is one more vulnerable category in our society i.e. prisoners who are suffering from depression and mental illnesses in jails due to low infrastructure and lack of adequate awareness about the several aspects of mental health disorder. Every year, number of cases are reported where prisoners commit suicide due to non-treatment of mental illnesses in time. In Haryana Prisons, there are 44 mentally ill prisoners in three jails: Gurugram (42), Rewari (1), and Kaithal (1). Of these, 21 are undertrials (20 males, 1 female) and the remaining 23 are convicts (22 males, 1 female). Between January and December 2017, 23,482 prisoners were provided psychiatric treatment. No specialized care is available for such prisoners; medical officers, who may not be trained to deal with such cases, are de facto caregivers, which is inadequate.

Another well known fact is that most of the persons sitting outside the temples, gurudwaras, mosques etc. suffer from depression/ mentally illness. They are part of our society, however, they are unable to get medical aid and facilities meant for their rehabilitation and protection.

Main categories of mental illness

- ✦ **Anxiety Disorders:** Anxiety disorders are the most commonly diagnosed mental illness. They include panic disorder, Obsessive Compulsive Disorder (OCD), Post Traumatic

Stress Disorder (PTSD), Generalized Anxiety Disorder and phobias.

- ✦ Depression: Depression is an illness that affects one's thoughts, feelings, behavior, physical health, activity, and sleep patterns.
- ✦ Eating Disorders: The three main types of eating disorders are anorexia nervosa (severely restricting food), bulimia nervosa (binging and purging), and binge-eating disorder.
- ✦ Bipolar Disorder: Bipolar disorder, also known as manic-depression, includes episodes of a very high mood known as mania alternating with episodes of depression.
- ✦ ADHD: Attention Deficit Hyperactivity Disorder (ADHD) is one of the most common mental disorders in children and adolescents, but it also affects about 4 percent of adults. It is characterized by inattention, hyperactivity and impulsivity.
- ✦ Schizophrenia: Schizophrenia is a serious mental illness where a person experiences hallucinations and delusions, emotional flatness and trouble with thinking. It affects about one percent of the population.
- ✦ PTSD: Post-traumatic stress disorder (PTSD) is an anxiety disorder that can occur after someone experiences a traumatic event that caused intense fear, helplessness, or horror. PTSD can result from personally experienced traumas (e.g., rape, war, natural disasters, abuse, serious accidents, and captivity) or from the witnessing or learning of a violent or tragic event.

Laws/Legislations

- ✦ Constitutional Rights: Mentally and physically challenged people can avail all the fundamental rights guaranteed to an ordinary citizen by the Constitution of India. No statute bars them from enjoying these rights. However for mentally challenged the most important constitutional rights are:
- ✦ Right against discrimination: By Article 15(2) of Constitution of India any citizen, including mentally challenged people, can't be denied access to public goods. Also, they need to be provided equal opportunities to prosper in life.
- ✦ Right to Health: Article 21 gives the right to life and personal liberty. Right to health flows directly from right to life and the same has been laid down by the Supreme Court in many cases.
- ✦ **The Mental Health Care Act 2017**

In India, the Mental Health Care Act 2017 was passed on 7th April, 2017 and came into force from July 7, 2018. Under this Act, a mentally disabled person has the right to treatment and care in a psychiatric hospital. There are established special asylums for mentally challenged people under the age of 16 by this act. The cost of the treatment in asylums needs to be undertaken by respective state governments unless the relatives of the patient bear it. This Act also provides certain legal safeguards to the mentally challenged. A mentally challenged person has the right to avail legal aid on the order of the court if the court finds that he/she has no means to get aid.

- ✦ **The Persons with Disabilities (Equal opportunities, protection of rights and full participation) Act 1995.**

The need to provide equal opportunities and enhance participation of mentally challenged in the society was the first time realized through this act. Few landmark steps were taken in this regard were:

- o Establishment of special schools for the education of mentally disabled children.
- o Mentally disabled children were given the right to free education till the age of 18 under this Act.
- o 3% employment reservation for disabled (Including mentally disabled) in government jobs was approved.

Judicial Pronouncements

The Indian judiciary has adopted a sympathetic approach towards mentally disabled people. Time and again judiciary has taken cognizance of infringement of rights of these people and provided them an adequate legal remedy.

In the case of ***Chandan Kumar Vs. State of West Bengal, Writ Petition (Crl.) No. 365 of 1988 decided on 25.04.1990***, the judiciary condemned the mismanagement of mental asylums by State Governments. In the mental hospital of Mankaundi in Hoogly District West Bengal, the patients were kept chained with iron ropes and were physically tortured and denied food and water. This was all done in the name of treatment. The Supreme Court ordered the cessation of this inhuman practice, held the state liable and recommended reforms of mental health asylums all over the country. Now no patient in these asylums can be held chained; it is a punishable offense. In ***Legal Aid Committee Vs. State of MP, 1994 SCC (5)27 on 10.05.1994***, the Supreme Court highlighted the need to have stricter enforcement of laws made for the betterment of mentally ill. If any government servant now complies with the behavior necessary for the betterment of mentally ill, he will be to be held liable.

Problems, Gaps and Constraints

✦ ***Lack of Asylums***

India, though being a signatory to various conventions and treaties, still requires an adequate number of mental health care asylums in the country. Ideally, there should be one asylum in every district.

✦ ***Poor infrastructure***

Most of the functioning asylums in the country are below standard. Lack of facilities in addition to staff and doctors exacerbates the situation of mentally challenged.

✦ ***Lack of awareness***

For any right to deliver on substantive goals there needs to be awareness of it. A majority of the country is today unaware of the rights of mentally challenged.

✦ ***Current laws***

Most of the current laws in the country induce incompetency in the mentally challenged people. They can't enter into a contract, nor can validly marry. These things need to be reformed.

Further, to ensure effective access to justice for persons with disabilities on an equal basis with others, NALSA has launched the NALSA (Legal Services to the Mentally Ill and Mentally Disabled Persons) Scheme, 2015.

There is no doubt that mentally disabled people are as much the part of the society as anyone else. Despite the existence of laws and precedents granting certain rights to them, there is felt a need for reform in this regard.

In this backdrop, it is required to formulate a project "कदम मिलाकर चलना होगा" for

mentally ill persons keeping in view all the aspects related to their lives and the hardships are being faced due to lack of proper awareness in our society and low infrastructure with regard to their care and protection. This project will certainly provide a platform to identify the issues of mentally disabled and redress the same to reintegrate them in our society as well.

Objectives

- ✦ To identify possible strategies and mechanisms for program implementation and monitoring.
- ✦ To evaluate the Standard of Service Delivery and Care provided within the Institutions to the mentally disabled persons.
- ✦ To provide specialized, intensive and reaching-out social work.
- ✦ To assist persons in the community with suspected mental health problems and/or their family to deal with problems arising from their poor mental health conditions.
- ✦ To improve access to psychiatric service for suspected mental health persons living in the community and refusing mental health intervention.
- ✦ To examine the socio-demographic and clinical characteristics of the target population.
- ✦ To evaluate satisfaction of collaborative organizations and caregivers.
- ✦ Prevention, promotion and long term continuing care at different levels.
- ✦ Augmentation of infrastructure, equipment and human resource.
- ✦ Promoting community awareness and participation.
- ✦ To identify the persons with mental illnesses/depression or suicidal tendency in jails of Haryana.

Action Plan

- ✦ Each DLSA in coordination with District Welfare Department and Health Department, Haryana shall conduct training programmes/ workshops for Panel Lawyers and PLVs to sensitize them about the schemes and policies running for the protection and rehabilitation of mentally ill persons.
- ✦ Comprehensive awareness programs/campaigns shall be organized by District Legal Services Authorities of Haryana to create awareness at large amongst the public with regard to various aspects related to mentally ill persons and several issues associated with them.
- ✦ The District Legal Services Authority (DLSA) shall explore each and every possibility to join hands with the renowned NGOs working for the rehabilitation and reformation of mentally disabled.
- ✦ A team of Panel Lawyers and Para Legal Volunteers shall be formed at district level for door-to-door campaigning to identify the mentally ill and to aware their family members about the various welfare schemes of Centre/State Governments meant for their care and protection.
- ✦ Each DLSA shall start a campaign especially for mentally ill persons who are sitting outside the temples, gurudwaras, mosques etc. to extend all kind of assistance for their medical treatment, protection and rehabilitation.
- ✦ Each DLSA shall identify new strategies and mechanisms for effective and meaningful implementation of the NALSA (Legal Services to the Mentally Ill and Mentally Disabled

Persons) Scheme, 2015 as per local requirements.

- ✦ Each DLSA in association with District Social Welfare Department, Haryana shall prepare an Action Plan to connect the mentally ill persons with the Schemes meant for their welfare.
- ✦ Each DLSA shall take up the matter with the Chief Medical Officer at district level to get assistance of psychiatrists and for treatment of mentally ill persons.
- ✦ Some children and adolescents are at risk of developing depression. For this, each DLSA shall take necessary steps to create awareness amongst the teachers and students on the various characteristics of Mental illness to care and prevent depression amongst the students.
- ✦ Extensive programmes in jails to find out the inmates with depression/mental illnesses or suicidal tendency and to extend medical treatment to them.

Follow up Action:

- ✦ Each DLSA shall depute Panel Lawyers and PLVs to extend all possible assistance to the identified mentally ill persons for accessing them all the benefits under the welfare schemes meant for them. After the submission of applications to concerned department DLSA shall also ensure that the action be taken well in time.
- ✦ Each DLSA shall ensure that Retainers and PLVs manning Front Office should have good knowledge of all the welfare Schemes/policies related to mentally ill persons so that eligible persons may get all the benefits under schemes meant for them.
- ✦ Each DLSA shall maintain proper record of the persons identified with mental illnesses and the benefits extended to them.



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