

Constitutional Guarantees And Mental Health Access In Rural India

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Mental health is a critical aspect of overall well-being and human dignity. In the Indian constitutional framework, Article 21, which guarantees the Right to Life and Personal Liberty, has been interpreted by the judiciary to include the right to health, and by extension, the right to mental health. This abstract explores how mental health rights have evolved as an essential component of Article 21, recognizing that life with dignity cannot be achieved without access to mental health care and protection of mental well-being.

However, challenges remain in the implementation of these rights due to societal stigma, inadequate infrastructure, and lack of awareness. This paper highlights the constitutional, legal, and ethical dimensions of mental health rights, emphasizing the need for a rights-based approach to mental health in India. Strengthening these rights under Article 21 not only safeguards individual dignity but also promotes a more inclusive and compassionate society.

Keywords: Right to health, Article 21 & rights-based approach.

Introduction

Concept of Mental Health.

Glenn Close quotes “Mental Health needs more sunlight, more candor and more unashamed conversation.”

Mental health refers to a person's emotional, psychological, and social well-being. It affects how we **think, feel, and act**, as well as how we handle stress, relate to others, and make choices. Mental health is important at every stage of life—from childhood through adulthood.

A mental ailment is just as significant as a physical health problem. Your behavior, emotions, and thoughts can all be impacted by mental illness. Mental illness can create distress, and it can affect how you see the world. If mental illness is not treated seriously, it may have long-term effects on the individual. It might have an impact on how you handle daily activities, how you behave in relationships, and how you handle work-related stress. The duration of mental diseases might range from a few years to your entire life. A few weeks are all that some mild

mental illnesses last. Severe illnesses can occasionally cause major impairment and last a lifetime.

The generally accepted definition of health as given by WHO in its preamble “Health is a state of complete physical, mental and social well- being and not merely the absence of disease”.

A range of illnesses that may have symptoms that impact a person's thoughts, perceptions, mood, or behavior are collectively referred to as mental illnesses. People with mental illnesses may find it challenging to manage their relationships, jobs, and other responsibilities. Although there is a complicated relationship between stress and mental disease, it is well recognized that stress can exacerbate a mental illness episode. The majority of people can use counseling, medication, or both to manage their mental condition.

In India we find lack of preventive approach adopted by our society with regards to mental health care. Mental health care is a neglected subject in living our day to day life. Whereas in western countries it is taken seriously as it is the main component of living a healthy and balanced life.

The primary reason for our nation to lack mental health is there is less awareness and sensitivity about the issue. There is a big social stigma around people suffering from any kind of mental health problems. they are often tagged as lunatic, crazy or possessed by some spirits.

The concept of mental health which developed through centuries is not complete when we compare the development made in the fields of medicine, sociology, psychology. More needs to done in our nation. Studies show mental health was over shadowed by more emphasis being put on diagnosing and treatment rather than treating it in a different perspective. Earlier days mental health was treated labelling the person as lunatic and sending him to asylum which was total injustice to the person. The whole paradigm of constitution stands on the principle of justice for all irrespective of gender, caste, age, rich, poor, sane or insane. But as we have developed in the last few decades the paradigm shift of positive, holistic and meaningful ways of treating mental health.

In India mental health has not been researched on large scale for the benefit of the society. 3 persons out of 10 in India today suffer for Mental Health issues. There is no single factor which determines this condition. Childhood memories play a vital role in analysing the cause of mental illness.

Introduction to Article 21 of the Constitution.

The Constitution of India was framed and adopted by the nation in 1950, here looking at the diversity of language, culture and geography the framers gave more emphasis on the unity, equality and right to life and liberty to strengthen the democratic process in the country. The framers of our Constitution studied other Constitutions and modified it. They did not aim at providing a complete set of Constitutional laws but rather they provided a viable solution as per the diversity of the nation. But over- all it has survived with a series of amendments made latter. Constitutional and Common laws are governed by the judiciary, Statutory laws are

enacted by the legislative body and administrative laws are provisions made by our government.

According to Article 21, personal liberty and life protection are guaranteed. No one's life or personal freedom may be taken away from them unless a legally mandated process is followed. This right is referred to by the Supreme Court as the core of fundamental rights.

The fundamental right is enshrined in Article 21, which states that discrimination on the basis of any of the following is forbidden: sex, race, colour, ethnic or social origin, genetic features, language, religion or belief, political opinion, or any other opinion; membership in a national minority; property; birth; disability; age; or sexual orientation.

Expansion of right to life to include right to health and mental health

The most fundamental right protected by our Constitution is the right to life, which is explicitly stated in Article 21 and aims to prevent the State from depriving people of their lives. It states that no one may be deprived of their life unless specifically permitted by law. According to Article 21 of the Constitution, "life" is more than only breathing. It doesn't mean living like an animal or carrying on with life's monotony. Its definition is far more expansive and encompasses the rights to a dignified existence, health, livelihood, and air free from pollution.

The Supreme Court ruled in favor of Maneka Gandhi, stating that:

- Article 21 is not limited to mere animal existence, but includes the right to live with dignity and personal freedom.
- The Court expanded the meaning of "personal liberty" to include a wide range of rights, including the right to travel abroad.
- It held that any law affecting personal liberty must be "just, fair, and reasonable," not arbitrary or oppressive.

The makers of the constitution did not make a provision for fundamental duties but they added duties to the state i.e. directive principles of state policy. Fundamental duties were later added by the 42nd Amendment Act of 1976. The prime intentions of the framers of Constitution were to dispense justice to all class of society, however in actual practice it was not so. It has been observed that there were gross violations of fundamental rights of the citizens done by the administrative, legislative and executive. Now here there is gap whether it the State duties and the Constitution does not provide for the right to health as a Fundamental Right, but it directs the States to improve the physical and mental care system. We can also say that Directive Principles of State Policy is an amplification of the Preamble of our Constitution. Various Articles 38, 39(e), 42 and 47 of the Constitution imposes liability on the State with respect to health care.

The word law means a set of rules for conduct, which needs to be put in action which are made the State for the betterment of the society. The whole aim of making law is to achieve justice for all persons. In our country we have Constitutional laws, administrative laws, Statute laws and Common laws.

Constitutional and Common laws are governed by the judiciary, Statutory laws are enacted by the legislative body and administrative laws are provisions made by our government

Apart from the above there are local laws enforced by the Panchayat and Municipal bodies.

It is through the prescribed mechanism of law resource we can disperse public health i.e physical and mental health for all human beings. Here the judiciary has the authority through the Constitutional make up guide the executive and legislative branches to provide good public health services.

Post 1950, we have noticed and acknowledged various program and acts being commissioned related to health in India. Part IV of the Indian Constitution deals with provisions related to fundamental rights.

In India where there exists a written constitution, there is a set of belief of judicial review. Here the law is considered as supreme and one needs to obey it, and any disobedient therewith is considered as void. The three branches of constitution are supposed to exercise powers with proper checks and balance formula, nevertheless in water tight situation.

The DPSP are instructions given by the judiciary to the executive and legislative branches to dispense fundamental rights to its citizens.

As the scope of Article 21 of our Constitution is very wide which gives room to the Hon'ble Supreme Court (SC) for judicial activism by bringing the right to health under the preview of Article 21, hence we can conclude that the right to health, along with other rights has been afforded protection under the Constitution.

The concept of Mental Health Care was never heard of in past decades, its only after the United Nations Conventions and obligation the government introduced the Mental Health care Act, 1987 which was introduced to tackle the complex issue of mental health nation wide. But it was not enough to protect the rights of persons suffering with Mental illness. Hence after suggestions by the United Nations and ratifications the Government of India enacted to protect, promote and full the rights of persons suffering with Mental illness which was called as The Mental HealthCare Act, 2017.

Cruel treatment and right to autonomy.

We shall study the issue of cruel and harsh treatment given to patients suffering with mental health disorders, OCD, Psychosis, anxiety, paranoia, schizophrenia, ADHD, BPD and Mental depression.

In early times throughout the world mental illness was not so welcoming compared to other physical ailments rather there were treated in harsh, cruel and brutal manner.

Listed below are few forms of treatment carried out in dealing with persons with mental health issue;

- Asylum – The persons were sent to mental asylum and segregated from the large part of the society. They were deemed to be morally misfit and hence they need to live separately.
- Religious form of treatment - Here they were seen as possessed by evil entities and some sort of divine curse, they were beaten and physically tortured.
- Water therapy - Patients were made to lie down in tub of cold or warm water for longer hours, inhuman treatment by doctors in restraining in keeping patients safe.
- Psychiatric - by declaring imbalance in body fluids making the patients vomit, where the mortality rate was high.
- Electro mechanical shock therapy – The most common where the persons were chained by hands and feet and given electric shocks to their brain.
- Lobotomies – performing surgery in brain for neural connections without requirement, thereby damaging the normal function of brain.
- Drug therapy – Persons were injected with morphine and opium which resulted in addiction in patients.

The guardians of mental health treatment along with judiciary play an important role in truly resolving the harsh, and cruel form of treatment given to them by way of chaining them and manhandling. The side effect being trauma and violent behaviour.

Article 21 of our Constitution prohibits cruel and inhumane treatment or any form of degrading treatment and torture in health care. It is being enshrined in our Constitution to give protection under civil rights.

1.3 - Mental Health in Rural India.

As we broadly understand the fact, the rural areas in India are not so developed compared to urban cities and towns. There are various reasons for this fact of matter, lack of government administrative and executive attentions, allocation of required funds for development, improper infra structure facilities, un-controlled corruption in various departments of government machinery, poor health care system and so on.

Mental health in rural areas often gets overlooked, even though these communities face challenges pertaining to mental health, here we study the issue along with potential global solutions.

Mental health issue in rural parts of India is a growing concern, deeply intertwined with social, economical and cultural factors. As of today, there has been lot of awareness and policy framing, but still there is gap between the access to mental health care for rural peoples.

As the Indian economy is based on agriculture and monsoon, large part of the population live in the rural parts of the country, thereby making necessary to have more number of mental health professional which are negligible in numbers.

So, to say that economy is the core of human survival, hence it becomes mandatory for an individual to earn his livelihood, which forces him to relocate himself in urban and metropolitan cities, which triggers his emotional unbalance resulting in mental health issues. Taking an example of Mental health, one third of rural population are facing the problem of behaviour disorder which mounts to mental health issues, one of the reason being the male counterpart has to leave his village in search of livelihood and locate himself in search of work, leaving his wife and children in the village lack of primary school education for his children, improper medical treatment available for mothers delivering children, access to broadband, less number of doctors, nurses and medical staff working in rural and remote areas. These above-mentioned factors contribute to the overall mental health index of the population, illiteracy, poverty, wrong social and religious belief are also contributing to the mental health issue of the rural areas. Again, the amount of money send by the men in his village for their families is quite often not sufficient working in cities. In todays world vices have become a part of life not sparing the rural people, alcohol consumption, substance abuse, tobacco consumption, declination in moral values. Mental health in rural areas often gets overlooked, even though these communities face challenges pertaining to mental health, here we study the issue along with potential global solutions.

The general public in rural area try to imitate the celebrity's lifestyle which leads to imbalance in their normal lifestyle. Depression caused due to unfulfilled desires causing stress leads to suicidal tendency are among rise in rural parts of the country. Young students aspiring for higher studies and making it big fall in this trap of suicide. Moreover, there are negligible numbers of psychiatric available for regular counselling which denies them proper mental health care, available to the other citizens in metropolitan cities. No community mental health care centers existing in rural areas, lack of government fund allocations, no tele mental health service to solve the issue of mental health at primary stage of anxiety, and stress.

In India, close to 50 percent of the population consists of female gender, and mostly in rural and remote areas, taking into consideration the number of 140 billion. It becomes important to address the issue of rural mental health care. In comparison to the size of population the numbers of trained professional are negligible. Mental health issue in rural parts of India is a growing concern, deeply intertwined with social, economical and cultural factors. As of today, there has been lot of awareness and policy framing, but still there is gap between the access to mental health care for rural peoples.

1.4 - Right to Autonomy for Mental Health persons.

We deal with an important topic of right to autonomy for persons suffering with mental illness, The Metal Health Care Act, 2017, Chapter III specifies the right to autonomy under Advance directive, which states that "Every person, who is not minor, shall have a right to make an advance directive in writing, specifying the form of treatment."

It makes mandatory on behalf of medical health professional to have a valid advance directive in writing for unforeseen consequences. Exemption is only given in case of emergency where the Advance directive shall not apply. This right means they have right to make their own decision and refuse any form of cruel treatment given to them, it covers the right for dignity and respect also which is recognized by the International human rights protocol. But we see around in actual medical practice this is not followed.

We can summarize the advance directive into the following aspects:

- Informed consent.
- Right to refuse treatment.
- Support for making the decision.
- Protection from Coercion.
- Ensuring accesses to quality care service.
- Access to information.

1.5 - Challenges faced in Rural India on Mental Health.

As we all know that India being the largest democracy in the world, with a huge land mass majority of our population live in the rural areas which are yet to develop at par with the modern world. Moreover, India has diversified religious and cultural background which no other country has, which remains a challenge as far as development and policy implementation.

Addressing the issue of mental health, we can list down few points:

- Primary reason is over population, absence of family planning.
- Illiteracy rate is high.
- Lack of proper infrastructure facilities.
- Social isolation.
- Deep rooted blind faith system.
- Division of religion and caste.
- Gender inequality.
- Lack of basic facilities.
- Migration of the male gender to the urban areas for livelihood.
- Access is not easily available for remedial measures.

- Poor financial condition which prevents the form of treatment.
- Limited Doctors and professional practicing in rural areas as compared to cities.
- Limited funding by the Government authorities in the area of mental health care.
- People becoming career oriented and neglecting conventional form of earning like agriculture.

To sum up we can say that, the issue of mental health care in today's India is worse which needs immediate attention from the government as well as all other communities of the society we live. Stress, depression, disparity in income, wrong life style, a greater number of uneducated youths.

Take an example of a rural part known as Kota in State of Rajasthan, which is deemed as a hub for pre- entrance examinations. Annually students are committing suicide due to study pressure and depression in not achieving their goals.

Second case is of Warli painting is a tribal art which has been innovated by the tribes of Maharashtra, it has gained momentum and acceptance in home décor on world wide basis, but the irony is in actual the tribe is facing lot of financial, social and mental health issues. In today's modern homes we find Warli paintings and murals adapted by interior designers. The originator is not earning enough compared to interior designers, and shops dealing with tribal arts who have helped to show case this art form to the world.

1.5 - Global Solutions for Rural Mental Health Issues.

The mental health issue is complex which needs proper understanding, planning, financial, and administrative support from the government of the state. We can list down few points that will help in resolving the problem of mental health in rural India:

- Infrastructure development.
- Making every individual literate.
- Improving transport facility in remote areas.
- Allocation of funds for mental health care by the government.
- Removing social stigma through community workshops.
- Stage wise prevention, care and treatment facilities made available at ground level.
- Integration of mental health of citizens into primary health care system through proper attention and funding.
- More numbers of mental health professional needed in rural areas for counselling purpose.

Inclusion of social welfare projects like Shifa which is run by Padhar hospital, located in Betul district of central India called Madhya Pradesh is much needed.

Corporates having ample amount of wealth need to come forward and contribute and participate in resolving the complex issue of mental health.

1.6 - Case studies.

1. In case of Anil Bansal vs State of Himachal, Shimla CWP no 2864 of 2107.

The petitioner Mr Bansal highlighted incidents where persons were wandering on streets after being abandoned by the families, were admitted in government run hospital and were treated in cruel manner, where the concerned authorities showed different attitudes while discharging their moral duties.

The respondent argued the persons found with disabilities referred in the petition was given proper treatment.

The Court observed under Section 23 of the Act the police officer on duty in the jurisdiction is required to take care of such type of persons found with mental illness. The Mental Healthcare Act, 1987 had its own limitations, which failed to protect the rights of persons with mental illness, it did not promote access to mental health care facilities in the country. To bring public awareness and sensitize them about the provisions of the Act.

2. In the case Bhavya Nain vs Delhi High Court. The petitioner who had cleared the District Judicial exams under the category of Persons with Disabilities (PwD) and was denied employment on the grounds that the disabilities were of permanent nature. The Certificate on mental illness was issued by the All India Institute of Medical Science (AIIMS), Delhi. For the said post 6 seats were reserved for (PwD). The Hon'ble court had shown judicial activism by considering in this case of person suffering from Bipolar Affective Disorders (BPAD). The Supreme Court relied on the Medical board opinion and considering the reports which mentioned that this disorder was temporary in nature, and hereby delivering the judgement saying that the petitioner is an eligible candidate under the mental illness category and there is nothing to indicate the deserving candidate cannot discharge his duties as Judicial officer and should be reinstated. The respondent reading is misread on the Petitioner's Disability Certificate and the provisions of Rights of Persons with Disabilities (RPwD) Act and the rules framed there under by the Constitution. Hereby the Hon'ble Court upheld the petitioner order by appointing the Bhavya Nain in the respected position of Judicial Officer.

3. In the case of Chandan Kumar Bhaumik vs State of Bengal, 1988. This been a case of Public Interest Litigation (PIL) where a letter was sent to the court along with pictures of a mentally ill person being chained in- human manner for his mental illness treatment. The Supreme Court gave the opinion that management of mental hospital requires flow of human love, affection, understanding and consideration which are required in treating patients with mental health issues. The use of medication should be carried out instead of having stereotype

treatment. It says in India there has been violation of human rights in case of mentally ill individuals due to lack of understanding and affection. It stated that the mental hospital lacked infrastructure required and it failed to provide basic amenities and service for persons with mental health issues. The Supreme Court had played an important role of safe guarding the rights of persons with mental health issues. The Hon'ble Court instructed the executive and policy makers to make public health system available to every citizen as it is directly linked to Article 21, (Protection of Life and Personal Liberty) right to live life with dignity and not mere survival.

In the case of Ravindra Dhariwal vs Union of India¹ case, the Supreme Court gave a fine-balanced judgment by giving to the employee under Section 47 of the PwD, where it found out that the mental disorder was acquired during the course of his employment tenure, and the employer needs to show positive obligation by reasonably accommodating the said employee in the service.

Conclusion

Here the researcher like to conclude that the concept of mental health was a neglected subject by the Executive and legislative branches of the Government. It is only few decades back there has been awareness in regards to mental health illness. In India there are a smaller number of professional to counsel and treat patients with mental health issues. The Government needs to allocate more fund in their annual budget at district level through various programs. Judiciary needs to show locus standi and expand their territory in dispensing justice to persons with mental disabilities and illness, but albeit not crossing the boundaries of judicial horizon.

After study the researcher comes to the conclusion that:

1. Mental Health in rural parts is a global issue not confined to third world or under developed nations.
2. In todays world youth plays an important role, hence participation by the youth is necessary factor.
3. Mental health care staff and professional numbers to be increased, specifically in rural and remote areas.
4. Nations to educate at school level the importance of mental health care.
5. Funds allocation by the governments for mental health care.
6. Eradication of wrong beliefs in promoting decent and peaceful living for human beings.
7. Taking care of eco system, thereby contributing to promote agriculture and agro-industries which will give livelihood for many in rural areas.

8. Integration of mental health of citizens into primary health care system through proper attention and funding.

References