

## SUBSISTING LEGISLATION FOR MENTAL ILLNESS: MENTAL HEALTH ACT, 2018

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### INTRODUCTION

Mental health is a great concern for the World Health Organization. Singularly, during pandemic situations, it has been raised in a speedy way. In many cases, it has been turned into the cause of crime and in many of the cases, criminals commit a crime using the mental condition of others. Criminals manipulate the minds of people who are depressed and obsessed with their surroundings. To protect people from these types of agonizing situations and to provide safeguards to all citizens, the Government of Bangladesh has enacted a new law which is known as Mental Health Act, 2018. This new law has replaced the previous one named The Lunacy Act, 1912. Many new aspects have been brought into light through the newly replaced law.

### SCENARIO OF MENTAL HEALTH

The rate of mental illness is rising gradually. According to a report, the manifestation of mental disorders is to alter from 6.5 to 31.9% among adults and 3.4 to 22.1% among children in the country. Almost 17% of adults in Bangladesh are suffering from mental health issues, which includes 16.9% of men and 17% of women, and among them, 92.3% may not be interested in taking medical treatment. For mental illness, many people are deprived of their rights. In many of the cases, they were found on the roads after losing all their hopes. According to a survey of the National Institute of Mental Health, it has been observed that reports of the National Mental Health Survey were being presented. However, the first survey conducted in 2005 announced the appearance of 16.1% of mental disorders in the adult population in Bangladesh with 15.3% of household members having mental issues. It has been shown that 6.7% have a depressive disorder, 4.5% anxiety, 2.1% somatic symptoms, and similar kind of disorders, while 0.9% might have sleep-wake disorder, 0.7% suffer from obsessive-compulsive and related disorders, 0.3% has neurodevelopmental disorder, 0.3% neurocognitive disorders, 0.2% substance related and addictive disorders, 0.1% personality disorder, 0.1% sexual dysfunction and 0.01% have

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disruptive, impulse control and conduct disorders. Gradually the rate is increasing in a pandemic way. In a pandemic situation, we have heard about a large number of suicide cases and the main reason behind such incidents was mental depression. Though we are having legislation to give protection to those who are mentally depressed and supposed to be a part of crime from mental illness. Parliament of Bangladesh has passed the Mental Health Act in 2018.

### **ANALYZING THE PROVISIONS**

A portion of the mass population is taking the chance to manipulate those mentally ill persons into committing the crime because it is easy to execute a crime by a mentally disordered person. The reason behind this, they don't think about what is actually happening and what the consequences are. The law has been enacted with 31 sections where sub-sections are peeping out.<sup>1</sup> People who do not have mental stability, also have some rights which have been mentioned under section 6 of the said Act. The establishment of a mental hospital has been ensured under section 7.<sup>2</sup> Under section 10, the matter of clarification is if anyone established a mental hospital without getting the license, they will be punished with a maximum of five lacs compensation and if they repeat the same offence again, shall be punished with twenty lacs.<sup>3</sup> A patient who thinks he/she needs to admit to the hospital willingly or against his/her will must be taken into consideration under sections 12 and 14 of the same Act. Getting treatment of mental illness is a right of the civilians and it has been ensured under section 17. According to sections 21 and 22, Guardianship of a mentally disabled person and looking after their assets has been ensured.<sup>4</sup> Punishments under mental health related offences have been clarified by section 23 and proceedings of execution of punishment are mentioned under section 24 of the Mental Health Act, 2018.

### **RECOMMENDATIONS**

In our country, mental health issues are the most unseen matter. According to the National Mental Health Survey, in our country, 3.4-22.9% of children and 6.5-31% of adults suffer from mental health issues. However, 92.3% of them do not seek medical attention. Bangladesh passed the Mental Health Act in 2018, which replaced the outdated 105 year old Lunacy Act,

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<sup>1</sup> Mental Health Act, 2018

<sup>2</sup> *ibid*, section 7

<sup>3</sup> *ibid*, section 10

<sup>4</sup> *ibid*, section 21&22

of 1912. It aims at taking necessary steps for the overall welfare of the mental patients around the country, protecting their rights to property, ensuring caring services and rehabilitation. But, the true reality is this Act failed to ensure the welfare of the mental patients of Bangladesh.

The government should take the following steps so that ultimately the aims of this Act can be ensured:

- The Mental Health Act in 2018 is a step towards improving access to mental health services but it should be in line with international mental health legislation and human rights standards.
- In Bangladesh, the mental health sector has small human resources. Besides, the service quality is very low. The government should enact provisions regarding the guidelines of maintaining the health sector.
- The patient's right to health, dignity, etc. should be ensured and this shall be done under the provisions of this existing Act.
- There are many people in our society when they see a person with mental illness, they think that person is possessed with an evil spirit. As a result, the witch doctors 'treat' the patients inhumanly. Which is a violation of human rights as well. The Mental Health Act, 2018 does not provide any provision to punish these offenders. The Act should be amended against the practices of witch doctors.
- This Act provides for the separation of children and adolescents from adults in mental hospitals. But, this provision is still unimplemented. Law enforcement agencies should focus on this issue.
- The main concern and national slogan regarding mental illness should be that 'Mental Illness is just a temporary part. Be brave and it will pass by.'

## CONCLUSION REMARK

Afterward, it is to be noted that the government needs to take more proper steps regarding this concern. Alongside legal steps, we also need to be more aware and also need to make people aware of such problems. Health policies are needed to cover up the loopholes of the said Act. Punishments should be stricter to make the criminals aware of who are violating the rights of the victims. To protect the rights of the mentally ill people, the implantation of laws properly is the best way.