Mental health bill set to revolutionise care in India

India’s “groundbreaking” Mental Healthcare Bill 2012, has been approved by the country’s cabinet, and is just a parliamentary nod away from being enacted. Dinsa Sachan reports.

After ratifying the UN Convention on the Rights of Persons with Disabilities (CRPD) in 2008, India was under obligation to amend its disability laws to meet CRPD norms. Moreover, a 2005 report by the National Commission on Macroeconomics and Health recognised the huge burden of mental illness in the country and the inadequacy of the existing system to address the problem. According to the report, nearly 65-70 million people in India have some kind of mental illness, and this excludes common mental disorders. The commission also estimated that there was a 70-80% treatment gap for mental disorders.

A new law is the need of the hour, thinks Michelle Funk, coordinator of Mental Health Policy and Service Development at WHO’s Department of Mental Health and Substance Abuse. “Too few people with mental disorders and psychosocial disabilities in India have access to good quality mental health care, and too many within the system have experienced extensive human rights violations, including inhumane and degrading treatment, restraint, seclusion, physical, sexual, or emotional abuse, and neglect”, she says.

Keshav Desiraju, Secretary of Health and Family Welfare to the Government of India, concurs. “Mental health institutions in the government sector are depressing places which are starved of resources—both human and financial”, he says. “The bill will provide an enabling structure for the government to provide more resources.”

But can the bill really deliver? Jayna Kothari, lawyer and founder of Centre for Law and Policy Research, Bangalore, thinks the new bill is groundbreaking because people with mental disorders have been granted legal capacity to take decisions about their health care and treatment. “No other law in the country dealing with disability—mental or other—grants such a right”, she says.

Soumitra Pathare, a Pune-based psychiatrist and coordinator of the Centre for Mental Health Law and Policy at the Indian Law Society, says the most important aspect of the bill is the right to mental health care. “Now it is the government’s responsibility to see to it that everyone gets treatment for mental illness, whether they’re rich or poor”, he says. Pathare wrote the original draft of the bill.

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There are provisions in the new bill for a range of treatment options, including outpatient and community services and half-way homes. According to the new bill, every person (with or without a mental disorder) has the right to make an “advance directive”, which is essentially a written statement stating how they want to be treated when they’re not in a state to make appropriate decisions. For example, instructions in an advance directive would come into play when a person with schizophrenia is undergoing an acute phase of the illness and is unable to make decisions. An individual can also choose a “nominated representative” to assist them with the treatment and look after their interests when they cannot themselves do so. The advance directive is being seen as a major shift in India’s mental health-care system. Pathare says, “The provision of an advance directive will give people more control over their treatment and give them an opportunity to exercise choices even when they are incapacitated by mental health problems.”

Under the current law—The Mental Health Act, 1987—"a patient cannot challenge a doctor’s decision to admit them to hospital. Under the new bill, a patient can do so at any time by contacting a mental health tribunal. Some psychiatrists feel this will lead to more litigation. Sameer Malhotra, head of the Department of Mental Health and Behavioural Sciences at Max Hospital, New Delhi, says, “It only makes the psychiatrist’s job difficult. By challenging a doctor’s decision in court, you’re projecting them as an opponent of the patient. Doctor and patient should not be seen as opponents when the aim is to help the patient overcome their problems as much as possible.”

Malhotra adds that doctors in the field do not wish to take away the right to choose from patients but at the same time do not want vulnerable patients to cause any harm to themselves.

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Desiraju says the bill will be moved for discussion in the upcoming monsoon session of parliament, which is slated to begin in August. Kothari says if the bill is tabled, then there’s a great likelihood of it passing.