

Right of Access to Mental Health care

Background – The burden of mental disorders is huge world over and access to mental health care is a major problem in fulfilling right to health for person's with psychosocial disability. There are many barriers for access to care which prevent person from good quality mental health care. As result of this people with mental illness remain disable for long period of their life. In this regard , United Nations have developed many human rights based treaties and these treaties are legally binding on countries once they sign and ratify them. But still there is huge disparity between high and low income countries and progress has been particularly slow in low income or developing countries. Particularly, treatment gap is wide in developing countries. So fulfilling right of access to care is major step ahead in fulfilling right to health. This paper will first comment about position about right of access to mental health care in different international human rights legislation. Then in second part it will examine Chilean patient Juan's testimony in regard to right of access to care being infringed or adequately fulfilled. Lastly , it will reassess Juan's case in context of mental health scenario in India.

Part 1 – International Human rights legislation s –

One of the key rights of persons with mental disabilities is right of access to care. The right of access to care finds its basis in many international legislation s which are listed below -

Section 1 of General comment 14 in International Covenant on Economic, Social, and Cultural Rights (ICESCR) : **“Health is a fundamental human right indispensable for the exercise of other human rights. Every human being is entitled to the enjoyment of the highest attainable standard of health conducive to living a life in dignity”**.The Convention on rights of persons with disabilities (CRPD) expands this view in Article 25 that **“persons with disabilities have the right to the enjoyment of the highest attainable standard of health without discrimination on the basis of disability”**. The CRPD also requires that State Parties provide persons with disabilities with the same range, quality and standard of free or affordable health care and programmes as provided to other persons (Article 25(a)). U.N. Declaration of human rights and as stated in General comment 14 of ICESCR right to health including mental health is realized if services provided by government are **available, accessible, affordable and of good quality**. In addition, the right to health does not simply mean delivery of health services but also includes many other factors that are related to health outcomes: socioeconomic factors such as clean living conditions; nondiscrimination and equal access to care; freedom from interference; access to medications; equitable distribution of care; and adequate and uptodate training of professionals. Most importantly, the right to health does not distinguish between physical and mental health. “Integrating Mental Health into Primary Care: A Global Perspective” speaks about different reasons and approaches to achieve right to access for people with mental illness.

Part 2 – Assessment of Juan's case – in regard to right of access to care

His rights are infringed when -

1. The buildings were bitterly cold where he was admitted for his mental illness. He was constantly hungry. He didn't have lockers for clothes and belongings.

Comment - **Lack of good quality of services and unacceptable and discriminatory** standard of care and negative attitude of health professionals will result in bad outcome of illness.

2. He was put into a straitjacket and thrown to the floor by two orderlies. He saw other patient

getting bitten up.

Comment – Any form of abuse is **not acceptable** and will differ person's from accessing mental health care and further this shows **poor training and attitude of health professionals.**

3. He could not afford bus fare to go to clinic.

Comment – **Unavailability and Inaccessibility of mental health care are major barriers for access to care.** Availability of care has to be geographically accessible then only it will promote access.

4. People were afraid for recommending him for good jobs.

Comment – **Discrimination and stigma.** This is one of the major barrier for access of mental health services and for better quality of life for person's with mental illness. Integrating mental health care into primary care will reduce stigma and discrimination at society level.

Juan's rights are adequately fulfilled when -

5. He was getting disability pension.

Comment - This will improve **quality of life** for Juan and he can live an independent life.

6. He was seeing same psychiatrist for time being till he started seeing primary care doctor. He could see a doctor and psychologist whenever he needs .

Comment – There is **availability and accessibility** of skilled professionals. There is continuity of care.

7. He has been provided with free medicines and injections.

Comment – **Affordability and availability** improves access and mental health care outcomes.

8. He can approach a health center which is very near to his house.

Comment – **Availability and Accessibility**

9. Health workers and psychiatrists are treating him well so he likes them.

Comment – **Respectful and dignified treatment reduces inequality , improves compliance** and so accessibility to care.

Overall , there seems to be progressive realization of mental health care in Juan's case which shows that the mental health care is improved in all aspects of accessibility,availability,affordability and quality of care over 20 years. So Juan is now living normal life with his family. Thus change in access of care can change entire life for person's with mental illness.

If Juan was living in India -

Juan would have faced similar or worst infringements of his rights of access to care. There is great divide of mental health care in urban and rural India. In rural area there almost no mental health services. In India we have mental health act of 1987 and Persons with disabilities act of 1995 and few self employment schemes for mentally disabled. If I see Juan's case from Indian perspective then I find -

Point 1 - The situation of public mental health hospitals which are located mostly in urban area is very bad and they are in very poor conditions, with bad infrastructure and poor living conditions for patients and overburdened which increase stigma and discrimination and in turn reduces access to care for mentally ill patients.

Point 2 and 9 - There is scarcity of all mental health professionals even in urban areas. They are overburdened and also have negative attitude towards patients infringing their basic rights. This is a major barrier for access to care . This requires proper training of health professionals.

Point 3 - If Juan is living in city / urban area then he can access mental health services easily but if he is staying in rural area then there is major barrier for access in view of transport and affordability. So integrating mental health care into primary care is the solution for this problem.

Point 4 - At society level there is huge stigma and discrimination about people with mental illness. and Juan would have faced similar problem at job level in India. This requires lot of advocacy work at community level.

Point 5- In India also Juan get disability pension in some states under disability act and he may get self employment in certain states under Mahatma Gandhi National Rural Employment Guarantee Act (MGNREGA).

Point 6 - This is very difficult in public mental health sector because scarcity of professionals and poor mental health care at primary level. He need to spend a day to see mental health professional in urban settings too.

Point 7 -In India he will get access to very few and limited medications and so he need to buy newer medication on his own. This will reduce affordability and increase burden and reduces access. This is a state responsibility and government should provide essential drug list as per WHO.

Point 8 - Juan can approach health center near to his house for physical problems but not for his mental problems due to lack of integration of mental health care into primary care.

Because of this present scenario,I don't think what Juan has achieved in Chile, would have been possible in India. But as India has ratified CRPD and done its law reform, along with this , new policy and programme will make progressive realization possible. So people like Juan will have better access to care and will lead better quality life in India.

Conclusion -

This document has shown the importance of access to care to achieve right to health for people with mental illness. It has shown from live example that countries can achieve this with progressive realization and by comparing this to another country it has shown how to derive principles from international human rights law and infusing them at ground level to improve mental health care outcomes.