Does the law encourage human rights violations against mental health patients?

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Across the world, attitudes towards the mentally ill are changing. There is a growing understanding that mental health problems are no different from other illnesses, and can be cured if approached with care, empathy, and dignity. Unfortunately, Sierra Leone seems oblivious to these changes and remains one of the worst countries for people with a mental disorder. Unfounded cultural beliefs, lack of resources and archaic laws continue to fuel stigma against the mentally ill, resulting in gross human rights violations.

According to a JSI research, over 700,000 people in Sierra Leone are suffering from severe mental health problems, the majority of them stemming from the civil war. The Ebola epidemic in 2014 further exacerbated the mental health crisis with almost all the 14,124 persons affected by the virus suffering from some form of trauma. Despite these worrying statistics, there is a serious gap in resources to address the challenges. With only 2 psychiatrists, 2 psychologists and 19 mental health nurses in the country, it is claimed that less than 1% of people in need of mental health services have access to it. In nearby Ghana, which has an estimated 650,000 people with mental health problems, there were 18 psychiatrists, 19 psychologists, and 1068 registered mental health nurses as of 2011.

The Lunacy Act of 1902 which is the main legislation applicable to mental health patients (or lunatics as the act referred to them) contravenes prevailing human rights norms. The act reflects a 19th-century attitude towards mental health problems and considers the mentally ill as a danger to society. In section 19 for example, the act permits a mental hospital to detain a mental health patient “…so long as he continues to be insane.” Of course, there are certain exceptional circumstances where it would be justifiable to detain people with a mental disorder, such as where they pose risk to themselves or society. But studies have shown that the majority of mental health patients pose no risk to society and are likely to fully recover if given appropriate care. Sadly, section 17 (i) of the 1991 Constitution reaffirms the misleading view and permits the detention of anyone “…reasonably suspected to be of unsound mind.” This clearly contravenes sections 12 of the International Covenant on Economic, Social and Cultural Rights and section 16 of the African Charter on Human and Peoples Rights, both of which Sierra Leone has ratified. In the landmark case of Mental Health of Gambia, the Commission held that the Lunatic Detention Act which allowed the Gambian Government to detain persons with mental disorder violated Article 16 of the ACHPR. The Commission further reiterated that the Right to Health takes precedence over other rights and implored member states to respect it.
There is, therefore, an urgent need to repeal the Lunacy Act of 1902 and amend section 17 (1) of the Constitution of Sierra Leone to reflect current international human rights best practices. We must call on the government to adopt measures that would view mental health problems as a treatable illness rather than as a mark of shame. Like the Ghana Mental Health Act of 2012, parliament must enact new legislation that prioritizes the dignity and human rights of the mentally ill.

Until that is done, we can only continue to hope that none of us succumbs to mental illness. If we do, the existing Lunacy Act of 1902 would treat us as criminals rather than patients who deserve sympathy.

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