

Letters to the Editor

PRIORITY ISSUES IN FORENSIC PSYCHIATRY

Sir,

Forensic psychiatry is an emerging area of psychiatric specialization in the world. The last few decades have seen many important advances in the field of forensic psychiatry. These include the formulation of newer laws regulating the functioning of mental health care delivery systems, laws relating to the possession and use of psychotropic drugs, as well as the conceptualization of mental illnesses and mentally ill persons in other legalities. The field is however, still in its relative infancy in India. Advances in forensic psychiatry in the Indian scene include the Mental Health Act of 1987, which concerns with the regulation of functioning of mental hospitals, the Narcotic Drugs and Psychotropic Substance Act of 1985 and the more recent Persons with Disability Act of 1995, which has included persons with mental disabilities within its fold (Shah, 1999). These advances notwithstanding, there still are problems in some aspects of the psychiatry-law interface. We would like to highlight two priority issues pertaining to day-to-day practice of Forensic Psychiatry :

1. The first is the conceptual gap between legal and psychiatric experts regarding the concept of mental illness and unsoundness of mind.

According to Indian Law : "Nothing is an offense... by reason of unsoundness of mind..." (Section 84 of IPC). The concept of "unsoundness of mind" is invoked when the questions regarding competency to stand trial (Sections 328-339 of Code of Criminal Procedure 1973), validity of consent (Section 90 IPC), competency to contract (Section 11 of Indian Contract Act) and granting divorce (Section 13 (iii) of Hindu Marriage Act) arise in court. However, no clear definition of "unsoundness" of mind has been quoted and wherever such a

definition is provided, (as in Section 12 of Indian Contract Act), it is vague and difficult to operationalize. It is unclear as to the time frame over which 'unsoundness' has to be established, as well as the agency that has the responsibility to prove the same.

Mental Health Act (MHA-1987) definition of a 'mentally ill person' i.e., one "in need of treatment by reason of any mental disorder other than mental retardation" is too broad to be of use in above circumstances. Moreover, the concept of mental illness as conceived by the legal experts is not in keeping with contemporary psychiatric classifications. This causes confusion when professionals from the two disciplines have an interface. Bridging this conceptual gap by evolving a definition of 'mental illness' and 'mental unsoundness' in different sections of law, which are acceptable and operational by experts from law and psychiatry is an urgent need.

2. The second issue is regarding the actual operationalization of the MHA. The MHA is a definite betterment over its predecessor the Indian Lunacy Act (ILA, 1912) particularly in issues pertaining to admissions/discharges. Several welcome changes in the MHA include definitions and regulations regarding mental hospital functioning with emphasis to human right issues. However, though MHA has been in force since April 1, 1993 in all states and union territories of India, reception orders based on the outdated ILA continue to be issued, causing confusion among treating psychiatrists in mental hospitals.

This absence of uniformity in the implementation of MHA needs to be addressed, to ensure that developments in law keep pace with that in psychiatry and vice-versa. Already, a relative reduction in the practical relevance of MHA is noted with the government's move towards restricting any more new mental hospitals. After the inception of the deinstitutionalization movement and the

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development of general hospital psychiatry units, newer laws to regulate the functioning of these latter settings need to be mooted.

REFERENCES

Shah,L.P. (1999) Forensic Psychiatry in India : current status and future developmenta. *Indian Journal of Psychiatry*, 41, 3, 179-185.

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