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Title: Discussion on the motion for consideration of the Mental Health Care Bill, 2016 (Discussion not concluded).

HON. DEPUTY SPEAKER: The House shall now take up Item No. 13, the Mental Healthcare Bill, 2016.

THE MINISTER OF HEALTH AND FAMILY WELFARE (SHRI JAGAT PRAKASH NADDA): Sir, I rise to move:

"That the Bill to provide for mental healthcare and services for persons with mental illness and to protect, promote and fulfil the rights of such persons during delivery of mental healthcare and services and for matters connected therewith or incidental thereto, as passed by Rajya Sabha, be taken into consideration."

As we all know, we had come in 2014 with a Mental Health Policy. After the Mental Health Policy, there was an active consideration to change the laws related to mental health. Mental healthcare has gone a long way. If we talk about 1912, we had the Lunacy Act which was more giving seclusion and custodial treatment to the patient. It was more about coercive measures that were enunciated at that time. Later on, in 1987, we came up with the Mental Health Act of 1987. In that, it was based on the institutional-based mental health delivery. That was the basic framework on which it was working. But in the course of time, it was also found that the mental health services needed change. Broadly, because of that, we came out with the Mental Health Policy in 2014.

And now when we are coming with this Mental Health Bill which has been passed in the Rajya Sabha in August 2016, we have gone through a lot of consultations. First of all we had a consultation at the regional level. Practically in the South, in the West, in the East and in the Northern part of the country we arranged regional conferences where the stakeholders and the people working in the mental health sector were consulted. After that we had a national consultation and after national consultation a Bill was drafted and brought before the Committee of Secretaries, and after it went through the Cabinet, Group of Ministers in the Cabinet, last year it was brought into the Rajya Sabha and it was passed, and now it is here for consideration. So, this Bill has come after due consideration on various forums and with due consultations we are coming out with this Bill.

This Bill is progressive in nature and it is patient-centric. It empowers the patient for mental healthcare. The focus is to give treatment at the community level; not seclusion but inclusion. The society should give a congenial environment in which we should see that maximum mental healthcare is given in the community and that it is community based. So, the focus is on community, and all the stakeholders who participate in the community mental healthcare are taken into consideration and that is how the focus is there. And it gives the patient, empowers the patient for the rights so that he is not denied or discriminated against because of his illness. So, it is a right-based, patient-centric, progressive and community-focused Bill that we are doing.

There is an international obligation also. We are the signatory to the United Nations Convention of Rights of Persons with Disabilities on October 1, 2007. So, that is also one of the obligations which we have to fulfil and we are going in this direction.

The unique feature of this Bill is that it has got the provision of advance directive. That means, a person who is sane, who is absolutely alright but there are chances that at a given point of time in future he may suffer some mental illness, so he can give the direction today that if mental illness happens, which type of treatment be given to me, who should take care of me, what type of facilities I would like to take, whether I would like to go into the institution-based services or community-based services, etc. This advance directive we can give. This is the novel feature of this Act which I would like to point out.

It has got the provision of nominated representative. When a person is sane, he can nominate his representative who is going to take care of him and who is going to take care of all his personal rights and his treatment part, his financial aspects. All that has to be taken into consideration. So, he can nominate his representative.

The Bill also gives rights to the mentally ill persons. As I said, it is a rights-based Bill. So, it gives right to access for mental health, community living, equality and no discrimination and confidentiality. He is also entitled for legal aid to make complaints about the deficiencies. And it can be done by his representative also. And he has a right to all medical records. So, the confidentiality is there and he also has the right to have the medical records.

Here the role of caregivers has also been recognised. When we say caregivers, caregivers are those who are community-based and serving the people. The mental health authority or the State health authority, or the District Board recognises the role of the caregivers also. In this Bill we have taken care of that also.

Mental illness, mental healthcare and determination of mental illness are defined. Previously the definition was very vague. We have defined what we mean by mental illness and that provision has been made in this.

There were many cases where people were put into the institutions for other family reasons and they were left there only. To safeguard their position, we have defined the mental illness for which he has to be treated and in which conditions he can be admitted into the institutions.

Any involuntary admission will need the consent of the authority that is district level review board. If any surgeon or any mental healthcare giver or any doctor has given a certificate that he should be admitted, then it is the board to decide whether involuntary admission has to be given to him or not.

Initially, when a person used to be mentally ill, the decision of the sterilization of the person, whether man or woman, was considered by the care giver or by the doctor. Now this sterilization part is restricted. You cannot sterilize a patient just because he is mentally ill. Supposing the mother is insane or mentally ill, we used to see to it that the child is separated. Now, according to this Bill, we cannot separate the child for three years. If we do it, we need the support of the mental doctor or a certificate. That is how we will see to it that the child stays with the mother.

We have seen that mentally ill persons are chained. After passing of this Bill, you cannot chain a mentally ill person, whatever the reasons may be. The electro-convulsive therapy can be given only after giving anaesthesia and that too under medical supervision and consent. For mental illness, no psychosurgery can be done without informed consent.

One very important factor is that this Bill separates the attempt to suicide from the Indian Penal Code. So, it does not now invite the provisions of the Indian Penal Code, because it is said that a person goes for suicide under great mental stress. So, it is mental illness in which he is doing it. This is a very unique feature which has been brought in this Bill.

In the Bill, there is a provision of penalty from Rs. 5,000 to Rs. 50,000, penalty for imprisonment for those who do not obey these laws; punishment to individuals is also there; fine is there and imprisonment is also there. So, we have tried to see to it that the patient who is mentally ill is protected. It is right based, whatever best possible support can be given is given and no coercive method or methodology is adopted on the patient. He has got the right for the advanced directive to nominate his representative, to decide and choose which type of treatment he wants; his property and other things are protected. Accordingly, those who do not adhere to this are liable for penalty and penalty is in terms of financial penalty and also in terms of imprisonment.

I think this is a very progressive Bill. After due consideration for a long time, we have come with this Bill. Hon. Members will throw light on it and after the discussion, it may be passed.

HON. DEPUTY SPEAKER: Motion moved:

"That the Bill to provide for mental healthcare and services for persons with mental illness and to protect, promote and fulfill the rights of such persons during delivery of mental healthcare and services and for matters connected therewith or incidental thereto, as passed by Rajya Sabha, be taken into consideration."

DR. SHASHI THAROOR (THIRUVANANTHAPURAM): Hon. Deputy Speaker Sir, I thank you for allowing me to speak on the topic which, frankly, has not been easy for us as a society to deal with. I must say that mental illness has been an issue which by and large we in India have preferred to brush under the carpet in the hope that it will go away or it is really not something we have to deal with. But the fact is that we do need to acknowledge, to understand and to take measures to do something about it. The big elephant in the room is the fact that every one of us actually knows somebody who has a mental health problem. We do not realise it; we may not like it; we may not be aware of it; they may not be aware of it; or they may not be conscious of it but I can assure you that not one of us in this room has failed to come across it.

HON. DEPUTY SPEAKER: All those who are in public life have all problems!

DR. SHASHI THAROOR (THIRUVANANTHAPURAM): Hon. Deputy Speaker Sir, you are right that the problems are there but we have not been giving this issue the importance that it deserves. That is why I think this debate is an important one. As our hon. Minister said that we owe it to ourselves, to our loved ones, and to the future of our society to find solutions in grappling with it. We must stop looking the other way.

As a Congressman, hon. Deputy Speaker, I am proud that this Bill was first brought to this House in 2013 by my esteemed colleague now in the Rajya Sabha, then the Union Health Minister Shri Ghulam Nabi Azad. He recognised early the necessity for India to take pro-active steps to protect the well-being of our citizens. I am sorry that in some ways it has taken so long, three years for the present Government to bring it back but I want to congratulate Shri Nadda for his masterly exposition of the provisions of the Bill; and to congratulate the Government of today for having recognised the good work that was being done on a number of issues by its predecessors.

It is striking that we have now seen so many Bills brought to the House in the last two and a half years by this Government for which preparatory work and very often the drafting were done by the UPA Government and this is one such Bill. I think we all know there is Aadhar, there is FDI, and there is insurance reform; so many other things have come to this House thanks to the hard work done by the predecessors of this Government. I hope, they will also have the grace to acknowledge that this is the legacy of that hard work.

Let me come back to the substance of the Bill. Frankly hon. Deputy Speaker, the numbers in our country really plead for urgent measures. It is estimated that at least one in twenty people in India live with mental illness; that is about five per cent. So, fifty million of our citizens are dealing every day with a problem that we are only now starting really to even acknowledge in all its gravity. The fact is that experts think this may be an underestimate. By 2020 as much as 20 per cent of our population might be affected by mental health issues. Yet as I said, we have really ignored the problem; and very often when we have considered mental health, we have done so with ignorance and prejudice.

Let us just look for example at the past legislations on this subject. We have for instance the Lunatics Removal Act of 1851, the first legal provision on this subject; the Indian Lunatic Asylum Act of 1858; the Military Lunatics Act of 1877 – perhaps we may think that they have all gone to the other side of the border but still military lunatics had an Act here – and the Indian Lunacy Act of 1912. These were all bequeathed to us by the colonial authorities. I think many of you know what I think of many of the legal and penal provisions left behind by the colonial authorities but the fact is that their only answer to mental health problems was to brand individuals as lunatics, confine them in so-called mad houses, physically in certain spaces and pretend that that took care of the problem.

Even just before Independence in 1946 there was a Bhure Committee, a Government Committee of Inquiry which concluded and I quote:

"The majority of mental hospitals in India are designed for detention and safe custody without regard for curative treatment."

But I am sorry to say that this has continued largely to be the pattern even after Independence. It was easy for a foreign power dominating a subject people to incarcerate individuals and continue with the business of ruling as they saw fit but in independent India our Government is there to

serve Indians. We must look after the health and well being of our own people. We owe it to our people to find answers, not to just brand them as lunatics and look the other way instead of giving assistance.

It has to be admitted that we are already late in rising to the occasion. The 1987 Act which we are now here to amend was first drafted actually in 1950. It took decades of protracted debate even to get adopted 37 years later. By the time that Act was passed, it was already out of date. It is no wonder that Human Rights Watch, for example, has reported that inmates, particularly women and children in our mental health facilities, are treated worse than animals; not only have our laws been stuck in this colonial era mindset but our own mindsets with regard to mental health have also been frozen in time and frozen in history.

As India looks to a new future in the 21st century, it must acknowledge the errors that we have made in the past. We must right long standing wrongs even if we have to accept hard truths and reorient our thinking.

It was only in 2007 that India ratified the United Nations Convention on the Rights of Persons with Disabilities, following which the UPA Government commenced the process of overhauling the antiquated Mental Health Act of 1987. Even the basics have had to be re-visited for the better. I note from Shri Nadda's Bill that the term 'mentally ill' has been replaced with 'person with mental illness' which preserves the dignity of the individual seeking treatment. I am really grateful that Shri Nadda has continued this kind of line of logic and approach and continued the good work. On this, I want to assure you and the Government that my Party and I are with him. We agree that there is no justification for India to continue to rely on outdated and patently unjust notions of so-called treatment which really is locking people up.

The world has moved ahead. Other countries have discovered better answers. The truth is that if we can focus on helping those affected directly, helping their families, helping them within their communities, then people afflicted with mental illness can re-build their lives and move forward. It is for us as a society, if we want to be a modern, progressive society, we must do this, Mr. Chairman.

Mental health remains an issue that is not only difficult for many to comprehend but it comes as a colossal baggage of stigma. People think यह तो पागल है। This whole attitude that comes in, the way in which people are disregarded, despised, one is shunned as a mad person, a lunatic and worse if it is known that one has even been to a psychiatrist one is looked upon by many people with fear or with confusion. 'What is the matter with this person? He goes and sees a psychiatrist.' That is the attitude in our culture. The patient is painted with a brush of ignorance and very often kept at a distance. This person is not well mentally, let us keep distance from him. The real truth is this person needs medical assistance, needs help and understanding. It is an illness. It is not just a behaviour pattern.

The truth is, of course, that mental illness is a very complicated disability to gauge. When you have another kind of disability, somebody is sitting with a broken leg you can see he has a broken leg. But when somebody has a broken mind, it is extremely difficult to diagnose it. Sometimes, people as far as their appearances go seem perfectly healthy. They are happy. They come across as social beings while confronting painful inner battles. I can tell you, Mr. Chairman, from personal experience that there is nothing sadder than witnessing a close one, a loved one, with mental illness at close quarters. I have lived with a victim of mental illness. Like many in that condition, very often such people are in a state of denial. They do not accept that they have a mental problem. They do not even go to see a doctor. Nadda Sahib is talking about how they can easily authorise somebody to help them but they do not accept that they are mentally ill. One of the first symptoms of mental illness is an inability to recognise it and to be in denial about it. They are, therefore, unwilling to seek help even after their behaviour may raise questions about their mental condition. Very often you can see in public behaviour that somebody is really not normal or right and when you say 'will you go and see a doctor as this is not a right behaviour', they will say, 'nothing wrong with me'. The truth is, it gets ten times worse with their private behaviour. Even diagnosis is a challenge. There are many-many people, perhaps even in our own profession, suffering from un-diagnosed mental illness.

I must say that we need more people to set an example of a prominent film actress. I cannot take her name in the House but she has courageously spoken out about her battle with depression and how difficult it was for her to receive understanding, let alone help for her condition. And by doing so she has brought some people out to seek help. But this is again a part of the challenge. I would urge the Minister to think in terms of how to use role models to go and say, 'I have had this problem, it can be treated. There is nothing wrong'. She is a big star in Bollywood. Therefore, her message gets across to the general public.

There are patterns, of course, that experts can notice but where even seeking an expert's assistance is sometimes treated with stigma, many are reluctant to seek help. The stigma and the lack of a support system mean that most of them must fight these battles on their own. A frustrating and isolating experience sometimes lead to such eventualities, that is, suicide, which the hon. Minister has mentioned.

Sir, the National Crime Records Bureau has calculated in 2014 that at least 15 suicides take place in India every hour. That is too many and the fact is these 15 instances in every 60 minutes is a reflection of our collective failure to recognise and solve the problem. This is what confronts us. This Bill brings to the Table an opportunity for us as a society to do better about it.

Sir, I am very glad that the hon. Minister has flagged the issue of suicide because our treatment of suicide or attempted suicide has been appalling. The fact is, suicide is now a leading cause of deaths amongst young and adults in India. On the one hand, we sing songs about the demographic dividend and the potential of our youth, but, on the other hand, do we realise how many of our young people are depressed. The world around us is changing constantly. The pressures are mounting. There are economic necessity and academic pressures. There are jobs to be found as there are no jobs in our economy today despite the assurances made by the hon. Prime Minister. We have only created a lakh and a half jobs last year when we need to create a crore. These are genuine problems. There are uprooted lives from villages to cities and from joint families to individual units. There is the weight of expectations and there is a fast pace at which familiar culture networks are being replaced by new and unfamiliar systems. It is because the people are lacking an anchor and a steady base and the nation is also in a state of transformation, as a result, our young population is lapsing into depression and disorientation and they are getting stigmatised.

In 2013, around 62,960 adolescents' suicides were reported. Most worrying, 3,594 suicides were committed by children aged between 10 and 14 years. So, these numbers obviously show that they had no one to turn to or no one to rely on and no help available. Our education system is one where we do not have counsellors. We do not have counsellors who can serve the mental health needs of our youth. We expect them to deal with

the weight of expectations and performance pressures. परीक्षा पास करो। This is the whole pressure coming from home and from their peers and we expect them to do it single-handedly while we pursue them relentlessly to do this. I hope the hon. Minister will not only take note of this alarming phenomenon, but, I hope that you can persuade your colleague Shri Javadekar to make it mandatory for educational institutions to hire professionals who can attend to the mental health needs of our students and the young. It is literally the need of the hour.

In order to try and persuade us to take cognisance of the issue, some studies have even tried to estimate the effect it has on GDP annually. I am not going to equate invaluable human life to any monetary equivalent. The children, who are our future, are falling prey to mental illness. But, let me say, to brush this issue under the carpet means to handicap the future of this nation just to satisfy our prejudices. I know that there are many Members on the other side who represent the State of Rajasthan. We have Kota where so many students go there every year to study and to pass the IIT examinations and so on. Every month there is a suicide of a student there. Can we realise what kind of an intolerable pressure we are putting our children under.

So, I do welcome the decriminalisation of suicide and your intention to look at the matter in a more comprehensive manner. But, I would like to call upon you to have a wider look on the points that I have raised and to ensure that the law enforcement agencies and those who are the first responders in incidents of suicides or attempted suicides are sensitized to the issue. In fact, we should also sensitize our media to the issue. Sometimes, our media reports suicides in such a way that encourages other depressed people to take copy cat actions and commit suicides. We have to change not only our law today but also our mindsets. That is a bigger and steeper challenge than just changing the law. That is why, this Bill must be accompanied by effective mechanisms for implementation. If we do not implement it, this law will remain on paper. You have good intentions. I really hope that you will be able to give implementation priority. We need the Government to ensure that your officers are sensitive to the needs of those who are in distress and depressed.

15.00 hours

The police should be trained to understand that an attempted suicide is a cry for help and it is not a crime. Who is going to tell this to the police, Mr. Minister? I hope you will raise this in the Cabinet. It is not only just here today in this law, it is other Ministries also that have to be conscious. In fact, if we treat attempted suicides as a crime to be punished, the police way is going to prevail over the humane way that your Bill is actually talking about. What we need to ensure is that people get help. They get guidance and assurance that they would get the helping hand that they are seeking from all of us. Then, they would find their way back to a happy and productive life. We owe it to them to extend that hand to bring them back to a meaningful life and a life full of meaning quite literally.

I am sorry to say that our educational system is so much at fault in this particular problem. I am afraid the very institutions that we have created to give our children a future are also putting them under so much of pressure that their future is disappearing.

Sir, there was a recent study which I have here, to ascertain the presence of psychological problems amongst medical under-graduates in India. Just people who are going to be doctors and who are studying medicine, half of our medical students suffer from depression, anxiety and stress as per a global study. This is 50 per cent. This is not a small matter. We have both Dr. Harsh Vardhan and Dr. Nadda sitting there. They are eminent doctors. This is the process which is producing our doctors. They need trained professionals to help them and I hope that the Bill will deliver trained professionals.

I am concerned very seriously by the gap in our professional capacities at the moment. The psychiatrists are telling us that ours is a society where psychiatrists amount to 0.2 for every one lakh people, there is one psychiatrist in our country for five lakh people. Not to speak of the shortage of nurses, psychologists, psychotherapists and even NGOs working in the mental health space which are few and far between. How can we rise to this challenge? We have to put this issue higher on the agenda. We are discussing it on a Friday afternoon in a half empty House. The truth is that this is an issue that is a national challenge. I certainly hope that you will also contribute, Mr. Minister, to building networks to seriously rehabilitate mentally ill patients and persons who require constant assistance even after their treatment.

Now there are a number of good things in this Bill but they leave also a number of significant issues out. Even when you talk about mental health professionals, clinical psychologists and even those trained in homoeopathy, naturopathy, ayurveda and Unani who have been recognised in your Bill, but psychoanalysts, psychotherapists counselling psychologists and others have not been included in the Bill amongst the professionals who can help us and our people on mental health issues. I would request the Minister - when the Bill is adopted - to bring in a small amendment and just add these categories. When you have mentioned so many, you have failed to mention psychoanalyst, psychotherapist and counselling psychologist, it is a genuine omission and rather a serious omission. As you know, Mr. Minister, there would be no technical difficulty in just amending the Bill at the moment of adoption with one small change, especially since we are going to continue this process on Monday, I understand.

All around the world, these are the people who are assisting mental health victims and in various contexts, in the family, in the schools and hospitals and so on. The whole principle is that we should not only address mental health problems after they have emerged and have been diagnosed but we should prevent individuals from going into depression in the first place. If you have counsellors in the school system and if you have them in the medical colleges, you may be saving suicides, you may be benefiting India with future geniuses, future good doctors and so on because you have prevented them from committing suicide.

We have to help our children. We have to help our adolescents and we have to help all our citizens who are at risk. Therefore, we need a wide range of professionals with a wide range of skills. Mr. Minister, I think we need to ensure that we create an infrastructure where mental health issues, even as they arise at the earliest of stages, can be addressed and resolved without having to wait for treatment at a later more complicated stage.

I will give you one example from my home State of Kerala. I have been informed there by the Indian Association of Clinical Psychologists that every individual who seeks mental health services whether it is a child who is learning disabilities or somebody with serious psychiatric complications, is expected to meet with a psychiatrist.

As I said there are very few psychiatrists available, but you have to meet a psychiatrist; that too, only medical science professionals, those qualified with a medical degree are deemed suitable. Those who studied behavioural sciences are treated as subordinate or inferior, whereas what

we clearly need is a multi-disciplinary, multi-pronged approach that takes advantage of all that is offered in different streams, levels, layers and branches of mental health discourse and practice so that more holistic answers and solutions can be found. We want to address the issue and not to create another hierarchy of professionals when we are dealing with this issue. We are already having a very hierarchical society. Let us not reduce mental health again to being stuck in a hierarchy of professional treatment.

Sir, the Bill is very broad in its defining terms and definitions. Even individuals with, what could be deemed to be relatively minor ailments such as memory orientation, or mood disorders are brought within its purview. Now, I think, that is good. But if we are doing that then we must also be able to provide wide range of assistance at all levels; bring on board professionals with different kinds of skills and focus areas. In our society it is not just a question of people in the drawing rooms or offices that we all frequent, there are displaced persons whose lives have been devastated by natural calamities, by riots, the people who have lost their homes, the Kashmiri Pandits who have fled. What we need is psychological first aid provided by relevant professionals. They cannot be herded into clinics of psychiatrists. They would be overwhelmed by the sheer scale of the problem. What we need, it seems to me, is different degrees of support for different kinds of professionals.

The Military has been neglected. I tried to raise a question in Parliament. It did not get asked, but I think a written answer is coming. The Military has a crying need for treating post-traumatic stress disorder, and it is not just after military engagement, obviously they have some real issues there, but even during prolonged periods of service in high tension environments, such as the LoC in Kashmir, sometimes in the North-East and so on, they need psychological counselling. Tomorrow we cannot afford a situation where one of our soldiers armed with a gun becomes mentally disturbed. The consequences could be very serious for the morale of our Armed Forces. It is cheaper and wiser and more far-seeing to just have mental health professionals available in the Army to counsel people in high stress environments.

Sir, the Bill is finally with us after nearly five years of consultation and it clearly has promise and potential. It is farsighted in looking upon mental health as a right and the delivery of mental health facilities as a responsibility of the Government. I hope the Government now will allocate significant resources to this end. I do want to say now that we have seen now three Budgets from this Government. Many essential things, particularly in the health care area as a responsibility of the Government. I hope the Government now will allocate significant resources to this end. As far the first three Budgets from this Government, many essential things, particularly in the health care area, were cut in the first two years. This year you have succeeded in getting some health care money restored, but now that you are passing a Mental Health Bill, please speak to your Finance Minister colleague to ensure that you will get the money you need to make this Bill real and operational because we have seen such schemes being really let down by the present Government. That debate is for another day. The Government is setting up a Mental Health Review Commission to regulate patient admission and so on. That is fine. I do not talk only about resources for salaries for these people. I am talking about resources for actually getting help to the victims.

Now, on the question of violation of rights, my colleagues were mentioning and reacting when you were speaking Mr. Minister, you must appreciate that in our country very often mental health hospitals, especially women's hospitals are often packed with people who should not be there. They have been actually forced unknowingly, sometimes by their husbands, sometimes by their family members to be admitted under some pretext or the other and we really must protect people against this. The first resort is they live in their community; they live in their home and they get help and only in extreme cases of danger to themselves or others. if they are harming themselves, or harming others, then they should be put in a mental asylum. This is, at the moment, is a very worrying and disgraceful practice. We should ensure that long-term hospitalisation is only in extreme cases.

Now, Mr. Minister, you have struck a good balance in the Bill between involuntary treatment and the rights of the patient. But the fact is that when you are talking, as you just did in your introductory remarks, about them nominating a person to decide on their behalf, that is a bit worrying. Because the fact is, who decides whether one is at risk of harming oneself or an other? Who decides that you are well enough to nominate somebody else or when you are not well enough that you need to nominate some one else? In practice, we are talking about a condition that many people are in denial about. If the people are in denial and are then expected to nominate somebody else, they would not do it because they think they are not ill in the first place. Then if the nomination is coaxed under duress or if a signature is false or anything else, you are suddenly subjecting a person to involuntary treatment. I think, this is not going to be easy. I hope that you will be careful in drafting the regulations of the Bill to ensure that it is not misused because if we decide to disallow involuntary treatment, then we will be leaving out mental patients who have lost their capacity to judge their own mental state. But if we give people unsolicited powers to impose involuntary treatment to lock up people, incarcerate people without adequate medical evidence, then we are actually opening the door to abuse and misuse. So, by instituting review procedures for hospitalisation and leaving room for medical institutions and family members to take action on behalf of a patient, I think, we should really strike a balance, Mr. Minister, not just in the Bill but in the regulations under which you will implement the Bill. You should strike the right balance, the balance that we have lacked so far and I do want to applaud you for the steps you have taken in this Bill in that direction.

I am glad that the drafting of this Bill was inclusive as Minister has mentioned. A wide range of people have offered comments, suggestions, and expertise which include the civil society and medical professionals. Indeed, we should today appreciate the efforts of the previous Government and Shri Ghulam Nabi Azad who offered a well rounded Bill and of course, Shri J.P. Nadda for keeping up the momentum and bringing it to us today.

The Bill will inevitably require refinement from time to time because the world is moving on. The treatment of mental health illnesses is getting more sophisticated each year. We have to be prepared to keep amending our provisions. But I do want to say that the issue of mental health, in our legislative process, needs to find an important place and we need to accept the progress being made in today's Bill but also that newer methods and solutions may be found.

Some may raise questions like whether we are over-reaching and whether our society is really prepared for a Bill of this nature. It might well add to the stigma with which victims are seen. Legislation, laws, sometimes have to take a leap and we have to move not only with the times but we have to move ahead of the times also.

Just earlier today, somebody was pointing out that the judiciary keeps moving ahead of us. Let us for once not give our friendly judges the opportunity to say that we are behind the times or something like this and some PIL may come up with new farther reaching things. Let us pass this Bill soon and let us make sure that this landmark legislation you have officered us today, Mr. Minister, is implemented quickly with good regulations

and is kept open for amendment as we need in the future.

I believe, future generations will be grateful to us for having laid down a much improved marker for treating mental health.

I have a couple of final points. I do want to make one more request to the hon. Minister, not to amend the Bill but just requiring your action. You need to review the existing case load of mental patients admitted in our institutions because all those who are admitted now are being admitted under the old law and that includes people who are involuntarily locked up and so on. You should give us a date by when you can review these cases.

As an MP, a case has been brought to my attention of a 46 year old woman who was forcibly institutionalised. She was drugged unconscious by health workers, brought by her doctor who said that they were giving her a vaccination. Then she was taken; she was given forced medication and electric shock therapy. Somehow her friends and relatives went to the courts and the courts ruled that she was not mentally ill and should be released. Thank God, your Bill does allow for the consent of the patient as well as the approval from the concerned Board before administering any electric shock therapy but this is what had happened to this lady.

So, if our existing laws and our existing societal biases against certain segments of people make it extremely easy to falsely institutionalise a person, then those who suffer under the previous law must not be left behind and forgotten when we pass today's law. That is why, I request you to order an inspection and review of the existing case load of those locked-up.

I do want to say something else that is of concern to my party, which is that in our country, sadly, whenever we do anything that is good for society we are forced to bear in mind that the problems are particularly severe for the poor, for the lower castes, for the marginalised sections of the society, women, and homeless, and such people are the first victims of abuse. I want to request you that we must take monumental steps to reduce our social biases, restore the right of life with dignity that is fundamental to each person.

Just today we are talking about an MP misbehaving in an airline and certainly action must be taken. But I can tell you about an airline misbehaving with the mentally handicapped person. A person suffering from cerebral palsy was forced to leave a flight. People with physical and mental deformities are facing humiliations. ...(*Interruptions*)

We must change our attitudes. We must change the attitudes of society. All public servants must also have a constructive attitude.

Let me conclude by welcoming this legislation. I congratulate the Minister for rising to the occasion. Let us all, as a society, rise to ensure that our citizens do not fight these battles of the mind alone. Let us tell them that we as a people are here to support, to help, to hold their hand until once again they are able to stand strong and lead a healthy, happy and self-determined life. Thank you.

DR. HEENA VIJAYKUMAR GAVIT (NANDURBAR): Mr. Deputy-Speaker, Sir, thank you. I rise to support the most remarkable and important Bill in the true sense which is going to do justice to the people who have mental illness. Broadly we can say that time has come in India where dignity and other human rights for persons with mental illness now shall be ensured by allowing the passage of this Bill.

Mental and behavioural issues are increasing part of health problems across the globe. Psychiatric disorders account for five to ten leading disabilities in the world. Currently mental and behavioural disorders account for around 12 per cent of global burden of diseases. The WHO has estimated that globally over 450 million people are suffering from mental disorder and this is likely to increase more by 15 per cent by 2020.

With the changing health patterns among Indians, mental, behavioural and substance-used disorders are coming to fore in the healthcare delivery system. In India nearly 150 million people are in active need of intervention for their mental illness. In India around one per cent of the population is reported with high suicidal risks. While common mental disorders like depression, anxiety, substance-used disorders are affecting nearly ten per cent of our population, very severe mental illnesses like psychosis, bio-polar disorders are affecting nearly one per cent of our population.

This Bill is very important in the sense that first of all it defines what is mental illness. For categorising somebody as suffering from mental illness or not, it is very important to define what is mental illness. The Mental Health Act, 1987 has grossly said, "any mental disorder other than mental retardation will be a mental illness." But this Bill defines mental illness as, "a substantial disorder of thinking, mood perception, orientation or memory that grossly impairs judgement, behaviour, and capacity to recognise reality or ability to meet the ordinary demands of life, mental conditions associated with the abuse of alcohol and drugs, but does not include mental retardation which is a condition of arrested or incomplete development of the mind of a person, especially characterised by sub-normality of intelligence".

This Bill seeks to fulfil India's international obligation pursuant to the Convention of Rights of Persons with Disabilities and its optional protocol. India signed and ratified the United Nations Convention of Rights of Persons with Disabilities in October, 2007. The Convention requires the laws of the country to align with the Convention.

The Bill adopts a more understanding of mental illness than the Act of 1987. This Bill also seeks to empower persons suffering from mental illness marking a departure from the Act of 1987. But the Act of 1987 did not recognise the agency and capacity of a person suffering from mental illness, the Bill adopts a radically different approach empowering the individuals to make decisions concerning their mental healthcare or treatment. This is in line with the objective of the Convention to uphold the inherent dignity of a person with disabilities. The capacity to take decision is recognised. If an individual is able to understand his situation, if he is able to understand the foreseeable consequences of his decision and if he can communicate it, then that person can take his own decision. As the hon. Minister has rightly mentioned about advanced directive, this is a very important provision made in this Bill. Earlier, when a person was suffering from mental illness, he was not given an option whether he would like to choose the kind of treatment he wants to undergo. People were just treated like that these persons are mentally ill and they will be put in some

mental asylum. But today, this provision in this Bill gives the rights to these people who are suffering from mental illness to choose the kind of treatment they want to undergo and to choose the kind of care they wish to take. So, I think, it is a very good and welcome provision that has been brought in this Bill because this will really make it mandatory for every medical officer and psychiatric doctor to provide treatment to an individual as per Advance Directive. If a person is not in a condition to decide as to what kind of treatment he should take, then the doctors or medical officers can refer this case to the Mental Health Review Board and they can take a decision whether Advance Directive should be taken in consideration or should not be taken in consideration. This is a very good provision that the hon. Minister has brought in through this Bill.

The Bill also adopts a right based approach which has been done for the first time in mental health law in India. This is a remarkable difference that has been made from the Act of 1987. The Act of 1987 provided only general protection against cruel treatment. But Chapter V of the Bill operates as a Charter of Rights for person with mental illness, consolidating and safeguarding the basic human rights of these individuals. The Bill guarantees every person the right to access mental healthcare and treatment from mental health services. This right is meant to ensure mental health services of affordable cost, of good quality, of sufficient quantity are geographically accessible and are provided without discrimination.

The Bill also recognises the right to community living, right to live with dignity, protection from cruel, inhuman or degrading treatment, treatment equal to person with physical illness, right to relevant information concerning treatment, other rights and recourses, right to confidentiality, right to access their basic medical record, right to personal contacts and communication, right to legal aid, and recourse against deficiencies in provision of care, treatment and services. A very good provision that has been brought in through this Bill and a very good decision taken by the hon. Minister is that insurance will be provided to the patients who are having mental illness. Till date, insurance was given only to people who have physical illnesses. But now even with mental illness will get insurance.

Sir, the people, who are having mental illness, they do not have short term treatment, they have long term treatment and because the treatment is expensive, sometimes even the family is not ready to support such patients and the treatment is left incomplete. So, this is a very welcome and a very good provision that has been provided through this Bill.

This Bill also seeks to decriminalise the attempt to commit suicide. As I just mentioned, in India one per cent of the population is at high risk of suicidal attempts. Till date, in India when a person commits suicide, that was punishable under Indian Penal Code and so, sometimes people who attempt to commit suicide never go to the doctor because of the fear that they will be tried under Indian Penal Code and they will be given punishment. So, many people who require treatment never turn up to the doctor. But due to decriminalisation of the attempt to suicide, because of this clause, even people who are attempting suicide will come to a doctor and will get treatment because this Bill says that the most important feature of the Bill is that a person attempting suicide shall be presumed, through rebuttable, to be suffering from severe stress and hence exempt from trial and punishment. Therefore, this is a very good decision that has been taken through this Bill.

As my colleague, hon. MP, Dr. Shashi Tharoor-ji mentioned that medical doctors have more stress; and, me myself being a medical doctor, I have seen, yes there is so much of stress. But I think, this step of exempting people, who are committing suicide, is a very good decision that the hon. Minister has taken. I think that this Bill will actually bring more stressful people to the doctors and they will get adequate treatment. So, I think, this is again a very good step that has been taken.

Electroconvulsive therapy (ECT), Sir, is a therapeutic treatment given to patients, who are suffering from mental disorders. I would like to highlight what is electroconvulsive therapy, which we know as 'shock treatment'. In this ECT, what happens is that the brain is stimulated and the patient gets artificial seizures/convulsions, which has to last for, at least, 20 seconds. In this case, when the patient is non-manageable or when the patient is very violent, in such conditions, ECT is given. But the contraindication to ECT is there when the patient has any other disorders, say, the patient has brain tumour or the patient has 'raised intracranial tension'. There have been incidences where the patients have been given ECT in emergency and they have died. When the patient is brought to the hospital, he is behaving like a mentally ill person and his condition underlying is not some mental illness but some other pathological abnormality in the brain, and if he is given ECT, he may die.

So, this decision that our hon. Minister has taken through this Bill is very good that ECT will not be given in emergency. It is because in emergency, nobody does brain scans; nobody checks for 'raised intracranial tension'; and nobody checks for bipolar oedema. So, other conditions causing that kind of behaviour is not ruled out, and the patient is very blindly given ECT. So, it is a very good step that ECT will not be given in emergency.

Sir, another important provision in this Bill is that ECT will be given only with anaesthesia and muscle relaxant. Some hospitals in our country, who are treating mentally ill patients, are giving ECT without giving anaesthesia to the patient. Let me tell you that when the patient is conscious, he can see that his body is contracting, he can see that his body is getting seizures. That entire incident is so traumatic to him that he never wants to take ECT again in his life. So, this is very important that when the patient is given ECT treatment, he should be under anaesthesia and he should get muscle relaxant because his body muscles contract and he might get injuries. So, this is again a very good step.

Sir, that minors will not be given ECT, again is a very welcome step. In this Bill, a very good provision that has been made is that minors will be given ECT only after they get consent from their guardians, and the Review Board decides the case that this minor patient should get ECT treatment. So, it is again a very good decision taken as far as ECT treatment is concerned. If the patient normally on pharmacological treatment, will require a course of treatment for, say two to three months, in the ECT treatment he will recover in one to two weeks. So, in shorter duration, the patient recovers. Plus, it has got very good benefits. So, again, it is a welcome step.

Sir, the Bill has also provisions for registration of institution and regulation sector. This also provides for creation of Central and State Mental Health Authorities. This is very important because when the institution is registered and through this Authority, there will be registration and supervision mental health establishment. To develop the quality and service norms of these establishments, to ensure registration of psychologists, mental health nurses, psychiatric social workers, to train law enforcement officials and mental health professionals about implementation of the Bill, and to advise the Government on mental health related issues, the registration of mental health establishment is made mandatory by providing for stringent penalty for violation. The registration is contingent on the establishment complying with regulation issued by relevant Authority.

Sir, again, another important decision in this Bill is the creation of Mental Health Review Board. That has adjudicatory powers over the various rights

and protections guaranteed by the Bill. Further, an appeal is allowed to the High Court against any Order that is being given by the Authority or the Board, and there is a bar on jurisdiction of Civil Court to entertain any suit or proceeding in respect of any matter, which the Authority or the Board is empowered to decide. Sir, this will not replicate cases. This will help us to come to a conclusion or come to a decision faster because there is a bar on jurisdiction on civil courts. Now, the cases which are decided or reviewed by the Board will directly go to the High Court. So, again this is a very welcome step.

The Bill also makes provision for responsibility of certain other agencies. In our country, many a times we see patients with mental illness roaming here and there on the streets. Nobody is there to take care of such people. So, it is very important that such people should be taken care of. That has been taken care of by provisions made in the Bill like the Bill imposes a duty on the police officer in the charge of a police station to take under protection any person found wandering at large within the limits of the police station; such person will be subject to examination by a medical officer and based on such examination will be either admitted to a mental health establishment or be taken to her residence or to an establishment for homeless persons.

HON. DEPUTY SPEAKER: Hon. Member, you can continue later on when this Bill will again be taken up for discussion.