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Human Rights Commission of Sri Lanka

Interim Report of the Fact Finding Mission on Right to Health and Liberty of Patients at National Institute of Mental Health

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Interim Report – Fact Finding Mission on Right to Health and Liberty of Patients at National Institute of Mental Health

By the powers vested with the Human Rights Commission under the Human Rights Commission of Sri Lanka Act No. 21 of 1996, the Commission initiated a fact-finding mission to the National Institute of Mental Health (NIMH) in order to address many allegations levelled against the institution with the objective of ascertaining and assessing the current human rights issues relating to NIMH, and to make recommendations to the relevant authorities. Amongst these allegations are the unsuitable ways the patients are being handled by the staff, the way restraints are used on the patients, and the methods that are used when obtaining the patients' consent for various matters. It should be noted that some of these actions amount to torture and degrading treatment. The most recent incident that alarmed the Commission was the death of a patient suspected to have been caused by some extreme measures used by the support staff. In addition to the court proceedings that are currently ongoing, the Human Rights Commission is also conducting a separate investigation into this incident.

The team appointed for the mission has adopted the fact-finding techniques of reviewing existing documentation and literature, conducting site visits and observation of the work environment, administering questionnaires, and conducting interviews for the purpose of collecting data. While prioritizing the right to health and personal liberty of patients, this study has also been framed in relation to the rights recognized by international legal instruments including the Universal Declaration of Human Rights, International Covenant on Economic, Social and Cultural Rights, Constitution of the World Health Organization, Convention on the Rights of Persons with Disabilities, and most importantly the Principles for the Protection of Persons with Mental Illness and the Improvement of Mental Health Care.

It has been widely acknowledged that the current Mental Health Act of Sri Lanka which was produced during the period of British colonization indicates a notable absence of responsiveness to contemporary mental health needs potentially compromising the protection of individuals' rights and fostering outdated treatment practices. This is evident from the court driven admission procedure, lack of guidance on seclusion, restraint, rehabilitation, community management, education, housing, employment, and integration. Even though there have been a few attempts in the past to make reforms, the prolonged draft status of the Act reflects a lack of prioritization of mental health issues, hindering progress and necessary updates. Thus, it should be noted that enacting a robust Mental Health Act that addresses the identified issues which benefits the mental health landscape in Sri Lanka is of paramount importance.

While modern mental health institutions are establishments which are put in place in order to treat various psychiatric conditions, historically such institutions originated as insane asylums.

Therefore, most of these health care facilities encompass a dark past where the patients were treated very poorly under unfavourable conditions. Even though with time the conditions have improved, it is common knowledge that the patients underwent atrocious treatments such as, trephination, starvation, beatings, and punishments at the hands of their caregivers. Unfortunately, some institutions have been unable to disengage completely from their histories with such practices.

The National Institute of Mental Health

The National Institute of Mental Health (NIMH) which was established in 1926 as the Angoda Mental Asylum was transformed into a modern mental health care facility in the 1980s. It was upgraded to the National Institute of Mental Health, Sri Lanka to be the nerve centre for clinical care and for specialized services and training & research in mental health by a Cabinet decision on 31st October 2008.[1]

At present, it is the largest tertiary care hospital in Sri Lanka caring for clients with mental illness and the only mental health care facility in Sri Lanka facilitating involuntary admissions. The facility provides long-term in-patient care for patients who are suffering from severe mental disorders, while also attending to outpatients with mild mental health conditions. NIMH has a capacity of 1409 beds and annually around 7000 clients are admitted seeking treatment for a wide range of mental diseases. In addition, the hospital has also launched a helpline with the short code of 1926 which is functioning throughout the day.

Patients at NIMH

The patients are housed in different units; the adolescent unit, learning disability unit, perinatal psychiatry unit, acute units, intermediate units, substance misuse unit, forensic psychiatry unit, geriatric unit, neurotic unit, long term rehabilitating male and female units in NIMH and Mulleriyawa, and the paying units (Villas), according to their different mental health conditions. The Commission was concerned about the forensic psychiatry unit's lack of prison guards and about housing both remand and convicted prisoners (patients in both acute and intermediate stages) in the same space. Furthermore, admitting patients with substance misuse problems to regular acute wards instead of a separate unit, was also identified to be a substantial issue. In addition, overcrowding and understaffing appeared a common problem faced by a majority of the aforementioned units. While the general structure of the daily routines of these patients was observed to be similar, some differences can be seen in relation to their special needs, and rehabilitating activities. Even though the visitation hours of NIMH are from 6.00 am to 6.00 pm unlike in other hospitals, it appeared that there is a limited number of visitors, and a lot of patients are waiting for their families to return to their homes.

[1] N.I.M.H. Guidelines, Version 2, Released on 07.04.22, Ministry of Health Sri Lanka.

Admission and Discharge Procedure

The outpatient department (OPD), which is managed by the nursing staff handles the admission procedure of the hospital. While patients are allocated to different units based on their residential addresses, the assessment of the patient at the OPD is conducted by the medical officer who is assigned to that particular area of residence as well. Apart from that, a separate Psychiatry Intensive Care Unit (PICU) will handle the patients who appear to be aggressive and are showing signs of high risk. Despite the requirement of a safe space for a patient to disclose his/her psychiatric problems, it was revealed that the OPD only comprises of 4 examination rooms to assess the patients thereby some of them having to share a space during their initial assessment. It was further observed that the OPD does not possess a doctor specifically assigned to it. Hence, according to the existing process, the medical officers of the wards who are assigned to each residential area manage the patients at the OPD and the patients in the wards at the same time, which in turn significantly extends the waiting period. The outsiders' unawareness about the complicated admission procedure of the hospital is also noticed to be an issue which often leads to patients' and their family's dissatisfaction. Additionally, not having security personnels stationed in front of the OPD 24/7, and PICU not being spacious enough to handle the patients, were also identified to be some of the substantial issues.

The discharge of the patients is carried out in the wards, and if a guardian does not visit, the social workers will take him/her home. In the instances where the families refuse to take them back, measures will be taken to bring the patient back to the hospital. A multi-disciplinary team comprised of community psychiatric nurses, psychiatric social workers, and a medical officer will arrange the follow-up of the patients. Out of the concerns raised, it was revealed that with the stigma surrounding the mentally ill, visiting the homes using ambulances makes the family members as well as patients hostile towards the follow-up procedure.

Conditions of the Wards

While the conditions of most of the wards were satisfactory, some issues were observed with regards to lighting, temperature, ventilation, bedding, storage, seclusion facility, and pest control. The seclusion rooms were not up to standard and consist of many ligature points which the patients could use to harm themselves. While the lighting, temperature, and ventilation was acceptable in some wards, problems were identified in relation to provision of light bulbs, availability of natural light, and functioning of the fans. The Commission also observed that the number of beds for the number of patients in some units was inadequate, thereby necessitating patients to share beds or sleep on the floor. There was no proper storage space to store patients' personal property in the wards. While most locker systems appeared to be broken, some patients have resorted to storing their belongings inside their pillowcases. Furthermore, it was observed that mosquitoes were a serious issue since mosquito nets cannot be put in place due to suicidal risks of patients. Even though measures such as fogging were carried out in the past, no such actions are being taken

currently. Moreover, the existence of bed bugs in the forensic ward is also identified to be an ongoing issue.

Food

Hospital meals are considered an integral component in the management of inpatients, which facilitate recovery and improve patient satisfaction regarding the overall treatment experience. While the nutritional aspects of the patients (e.g., assessing patients) are being managed by the Nutrition Unit, the hospital kitchen takes care of preparing the food. The patients are provided with three meals a day at NIMH and are served tea thrice a day. Special diets are provided to patients with diabetes, those suffering from malnutrition, and for those who are on feeding tubes. While there were complaints about food being too salty and tasteless, the Commission also observed that the food appeared to be watery. It was mentioned by the hospital kitchen that due to issues regarding the Circular under which the spices should be ordered, the kitchen suffers a lack of spices to properly season the food. Furthermore, it was relayed by, the kitchen staff, staff members of different wards, patients, as well as the hospital administration, that the current portion size assigned for the patients was woefully inadequate thereby leaving them hungry. More importantly, the Commission observed that most of the time the food was not provided to the wards at the correct time, which in turn could make the patients restless and agitated. In addition, it was reported that the provisions brought in for patient meals as well as the cooked food are often smuggled outside to be sold by some staff members. It was also revealed that tea specially made for patients is being sold to the staff instead, thereby, compromising the quality and quantity of the food provided to patients.

Water and Sanitary Facilities

Access to safe drinking water and sanitation, which is considered as an internationally recognized human right is crucial for maintaining proper health of individuals. The drinking water within the hospital is considered clean as it came directly from the tap lines and was treated by the municipal council. However, it was pointed out that NIMH lacked a water storage facility which causes inconveniences, especially during water cuts. Since the hospital provides care for patients with mental illnesses who could easily spoil their clothes and bed sheets, a constant water supply without any disruption is essential. In addition, the Commission noticed that some washrooms lacked buckets, had malfunctioning water outlets, and damaged toilets. The forensic psychiatry unit only had 2 taps for all 89 patients to shower. It was also relayed that most washrooms lacked commodes and only have squatting pans which is a huge inconvenience for patients. Even the commodes that they currently possess appeared to be not functioning. Furthermore, it was relayed that there's a shortage of diapers for elderly and sanitary napkins for women. The Commission also observed that some drains were clogged thereby facilitating breeding grounds for mosquitoes.

Medical Treatment

In addition to pharmacological treatment, electro convulsive therapy, cognitive behavioral therapy, occupational therapy, exposure, and horticulture therapy are being used at NIMH for the treatment of patients. In addition to shortage of medication being an ongoing problem, the hospital also has had several quality failures of the drugs as well. When the medicines are out of stock, alternatives are being used for the treatments. However, it was relayed that most of these alternatives have more side effects than the high-quality medicines that are out of stock. Furthermore, there are also instances where the families of the patients were asked to bring some medication from outside. Due to the high cost, the discharged patients also struggle to afford their medication. According to the details gathered these issues have led to an increase in relapses and recurrent admissions. It should be noted that when patients undergo constant relapses their cognitive impairment significantly worsens.

In the instances where the patients become aggressive, if the verbal de-escalation is not fruitful, oral medication is provided to make the patient calm. If it fails, measures are taken to sedate the patient and restrain him/her. In more extreme situations where the patient cannot be sedated, and the patient acts violently, measures are taken to move the patient to a seclusion room. However, since most male wards are staffed by female nurses, patient management in such situations is carried out by the support staff who do not train for the task. Therefore, the effectiveness of such patient management is questionable. It was reported that most of the time support staff refused to adhere to the existing protocols when handling patients. As per the advice given by medical experts, only chemical restraint should be used on the patients and not mechanical restraint. This brings out the importance of having high dependency units in the wards where the patients with violent tendencies could be managed separately without risking the wellbeing of other patients.

During emergencies, in addition to reporting the matter to the on-call doctor, the nursing staff and the support staff of the wards take steps to manage the situation. If the support staff of the ward could not handle the situation, assistance is sought out from the nearby wards and the overseer's office. In the event of an absconding, the security personnels of the hospital as well as the police will be informed. However, it was observed that the NIMH lacked a proper system for managing such situations. Having a specially trained team to respond to such situations immediately, and having a panic alarm system were suggested as solutions. In addition, during medical emergencies, if the medical ward of the hospital could not manage the situation it was mentioned that the patient will be transferred to the National Hospital or to the Mulleriyawa East Base Hospital.

Rehabilitation

For the purpose of rehabilitation, the patients are divided into 4 categories or levels(level 1 - improving the basic activities of daily living, level 2 - improving extended activities of daily living, level 3 - providing vocational training, and level 4 - preparing for re-employment and social re-integration) based on the patients' condition. Only somewhat stable patients are brought to

rehabilitation and occupational therapy units, and more disturbed patients are managed inside the wards. A recovery model is used at NIMH for rehabilitation while providing life skills training to the patients at the same time. Occupational therapists are in charge of rehabilitation and their primary task includes improving the quality of life while making the patients independent. The treatments range from activity-based treatments, cognitive stimulation, anger management, social skills, life skills, drama therapy, music-based therapy, art-based therapy, horticulture to vocational training. For this purpose, they engage the patients in a wide variety of activities such as gardening, rug weaving, sewing, making soft toys, cooking, painting etc. Social reintegration is also considered to be of utmost importance and measures are being taken by the social workers and the hospital staff to support the patients' social and legal service needs such as getting an identity card, and to find the rehabilitated patients suitable employment opportunities.

Hospital Staff

Having the approved number of officials for each designation within any organization is of paramount importance. It was observed that NIMH lacks the Department of Management Services approved cadre positions for many roles including medical consultants, medical officers, psychologists, special grade occupational therapists, nursing master/sisters, psychiatric social workers, support staff, and an accountant. The Commission also noticed that the unavailability of male nurses was a significant problem. As a result, most of the time female nursing staff are assigned to male wards where they have to constantly seek the assistance of support staff to carry out their tasks. It was further conveyed that consultants, medical officers, and the nursing staff are leaving the NIMH in large numbers for migration to other countries. It was evident from the facts gathered that the staff shortages may cause the care given to the patients to deteriorate. Furthermore, through a sample document provided by NIMH, the Commission noted that out of 589 staff members, there are 134 persons whose tenure at NIMH exceeded 20 years. Out of them, 15 have been working at the premises for over 30 years. It was revealed that some of these people who have been working at the NIMH for a prolonged period are reluctant to change their methods of handling patients. Apart from their refusal to adhere to the acceptable norms, it was revealed that they sometimes refuse to listen to their superior's advice as well.

Furthermore, it was conveyed by some senior staff members that, giving first appointment for nurses and supportive staff at NIMH might not be appropriate since they lack practical knowledge as to how to deal with persons with mental illnesses. In addition, a majority of the staff members encounter challenges in communicating with Tamil speaking patients. Even though it was stated that they seek assistance from other patients, members of the support staff, or use google translate, it is unclear if they can accurately ascertain the patients' requirements. Moreover, it was revealed that while the training sessions given to staff focus on the technical aspects of patient handling, no training was provided regarding the mental health conditions of the patients, their behavior, or their rights. Even though attendants receive at least some training prior to their appointment, the Commission discovered that, the other support staff members who are known as "Saukya Karya

Sahayaka", are not provided with even basic training before their employment. Such personnel are thereby compelled to face the challenges of their work situations head on before understanding the nature and the type of patients that they will be dealing with. Their lack of preparation, exposure and awareness often results in unfortunate incidents that may be avoided.

Relationship between the Parties

The long-term residing patients exhibit good co-existence owing to the fact of their long stay at the facility, and the number of incidences reported are also low. However, a significant difference in the bahaviour can be seen in acute wards where the acutely disturbed patients and the new admissions are housed. There have been several reports of violence where the patients assault other patients within these wards. At such an instance if the situation is not de-escalated, the other patients could get aggressive as well, thereby further complicating the management of the situation. Even though the majority of the staff members' treatment towards patients appeared friendly, it was stated that the attitude of some support staff members towards patients was flawed. They lack the patience to deal with mentally disabled persons and often lose sight of the fact that the patients are acting up due to their illnesses. There is currently no mechanism to identify and deal with such perception and behavior of the support staff. This is an additional indication of the need for training. It was also revealed that the division of different staff categoriesalso causes the relationship of the staff members to be distant thereby hindering the staff coordination.

Grievance Mechanisms

The notion of patient rights encompasses the obligations of the State and healthcare providers to respect the dignity, autonomy, and equality of care-seeking individuals in healthcare processes. In addition to the aforementioned concerns, ongoing rights violations of the patients were a significant concern. The disturbing incident of the death of a patient which is suspected to have been caused by support staff, and the use of poles in the particular incident raises the question as to how the patients are actually treated at the institution. It was revealed by some staff members that there are instances where the patients are subjected to scoldings and beatings at the hands of support staff. Furthermore, there have been complaints from medical students about the staff beating patients in CCTV blind spots. However, it was also observed by the Commission that there is a huge gap between the number of incidents that come to light and the incidents that go unnoticed. This is apparent upon reviewing the statistics put forth by the hospital. There is a reluctance of the staff members including the nursing staff and the doctors to report incidents and to reveal the actual perpetrators due to them relying fully on support staff to ensure their safety inside the wards. The patients and their families have the following options for the conveying of their grievances—they may complain to the Consultant during ward rounds, use the complaint boxes which are placed in front of the wards, complain directly to the Director, the Director General of Health Services, the police, and to the Human Rights Commission. Even though these options are available, many patients and their families seem unaware of these processes.

Among the reported grievances of staff the workload and burnout, sexual harassment, and safety concerns inside the wards could be highlighted. Upon examination, the lack of staff was identified to be the root cause of such grievances. It was mentioned that the staff can relay the grievances to the hospital administration through the staff correspondence book, the nursing officer in charge of their ward, by documenting details in the incident detail report or by speaking to the Director.

For effectively addressing the grievances the hospital has established a clinical governance unit. While the staff had mixed views about the said unit, it was stated that instead of the nursing officer in-charge of the ward relaying the details of the incidents during clinical governance meetings, the clinical governance committee should visit the place where the incident took place in order to get a better understanding of the root cause of such events to make an objective decision.

Key Recommendations

In the above context, the following key recommendations are made by the Commission. Detailed recommendations will be made to the relevant authorities along with the publication of the detailed report on the Fact Finding Mission on the Right to Health and Liberty of patients at NIMH.

To the Ministry of Health

1. Immediate measures should be taken to enact a Mental Health Act, which is in line with the international medical standards and human rights obligations of the State. Given the urgency, measures should be taken to finalise the draft Act within the 1st Quarter of 2024. The Act must *inter alia* mandatorily provide for the establishment of a Mental Health Monitoring Board, with powers vested on the Board to ensure proper implementation of the duties, responsibilities and powers enumerated in the Act.

2. The administrative structure of the NIMH must be reformulated to facilitate the appointment of Psychiatrists as Administrators. In the absence, measures should be taken to at least appoint a Clinical Director with powers to oversee matters pertaining to clinical management.

3. Forensic Psychiatric Unit must be restructured, and infrastructure provided, to allow for the segregation of remand prisoners in the acute stage, remand prisoners in the intermediate stage, convicted prisoners in the acute stage and convicted prisoners in the intermediate stage.

4. Adequate funds should be allocated to upgrade the necessary infrastructure at the NIMH, especially the sanitary facilities, disability-friendly facilities, and ward facilities including bed monitors.

5. Resources should be allocated forthwith to address the staff shortage at the NIMH, in particular prioritising the recruitment of psychologists, an accountant, additional support staff and psychiatric social workers. Personnel recruited as support staff must be closely

scrutinized prior to recruitment, to ensure they encompass the required empathy, sensitivity, knowledge and skills to serve in an environment such as the NIMH.

6. The language policy at NIMH should be strengthened by assigning staff, including Doctors, Nurses and Support staff proficient in Tamil. In the absence, steps should be taken to assign an official Tamil translator(s) with the required knowledge and understanding on medical terminology and the language required for patient care.

7. A mechanism should be established to ensure all required medications are continuously supplied to the NIMH with no space for shortage of necessary medication at any given time. A quality control system must also be established to ensure such medications are of the required quality.

To the NIMH

8. Routine trainings should be conducted to staff at all levels to;
    a. enhance their knowledge and capacity required to execute the daily duties and responsibilities entrusted to them.
    b. equip them with required knowledge and understanding on human rights, in particular on rights of patients and staff
    c. enhance language proficiency, specifically by way of Tamil Language Training thereby ensuring proper communication with Tamil speaking patients.

9. The impact and the effectiveness of all trainings mentioned above must also be evaluated. If such trainings proved to be ineffective, the administration must take all possible efforts to change the training in a meaningful way to enhance the quality and effectiveness.

10. An internal mechanism should be established to monitor the meals provided to the patients. This includes, monitoring and ensuring adequate quantity of food inclusive of required nutrition is provided to the patients on time.

11. The Director of the NIMH, should take swift measures to establish an internal reporting mechanism to ensure all incidents of violence at the NIMH, is reported to the hospital management immediately.

12. Steps should be taken to publicly display at the premises of the NIMH, the rights of the patients and their families and the grievance mechanisms available to them. Such information should be displayed in all three official languages of the State.

To the Sri Lanka Police

13. Immediate steps should be taken to establish a police post within the premises of NIMH to enhance security of patients and staff at NIMH and also accelerate emergency response coordination.

To the Department of Prisons

14. Ensure continuous presence of prison guards at the entrance of the Forensic Psychiatric Ward to main security.

15. Female prison guards should be assigned, in particular to the Female Forensic Psychiatric Unit to closely supervise the patients thereby ensuring their safety and security.