



#WhatWENeed

What We Need: Comprehensive Legal Reform Aligned with Human Rights Standards—In Bangladesh and Beyond

Despite ratifying the CRPD in 2007, the current legal framework regarding mental health in Bangladesh is severely inadequate compared to international human rights standards. Not only that, many existing laws directly contravene human rights norms. Like many other countries of the world, Bangladesh needs a comprehensive reform of the legal framework regarding mental health, and it's high time to do that.

Marginalization of people with psychosocial disabilities

Throughout the world, individuals with psychosocial disabilities tend to have a much lower social value than persons without disabilities. They tend to face a wide range of abuses, ranging from subtle disrespect and avoidance to employment and housing discrimination to verbal abuse and even physical attacks. Many are forcefully hospitalized and treated against their will. Many are held in detention or otherwise treated like criminals without the due process that is afforded to everyone else—sometimes despite never committing a crime.

In Bangladesh, individuals with psychosocial disabilities are one of the most severely marginalized, disadvantaged, and voiceless demographics. Their human rights situation is alarmingly dismal, often characterized by ostracism, outright dehumanization, and systemic prejudice. This stigma is so deeply ingrained that even those with psychosocial disabilities may express prejudice and antagonism against other individuals with psychosocial disabilities.

As a result, these individuals are often denied the opportunity to live a life of dignity and participate in society on an equal basis with others. They are often restricted from living an ordinary life just like everyone else.

In light of this worldwide problem, in October 2023, the World Health Organization (WHO) and the Office of the High Commissioner of Human Rights (OHCHR) jointly published *"Mental Health, Human Rights, and Legislation: Guidance and Practice."* This publication provides a comprehensive framework for evaluating national mental health laws against international human rights standards, particularly the *Convention on the Rights of Persons with Disabilities (CRPD)*. It also offers policymakers guidance on reforming laws to protect the human rights of individuals with psychosocial disabilities and improve their inclusion in society.

Bangladesh's mental health laws violate human rights

In July 2024, I published a report under the banner of my human rights project, *MindfulRights*, titled “*State of Mental Health Rights in Bangladesh 2024*.” The report scrutinizes four key pieces of Bangladeshi legislation related to mental health, using the WHO-OHCHR guidance. The findings revealed that the existing laws on mental health in Bangladesh are severely inadequate and, in many cases, contradict international human rights standards.

One example is Section 309 of the Penal Code, which criminalizes suicide attempts. Under this law, individuals can be sentenced to up to a year in prison or fined, or both. Although enforcement of this law is not much reported in the media, the presence of this provision is in itself problematic. The Mental Health Act also allows for the involuntary hospitalization and treatment of individuals for whom treatment is deemed necessary by the authorities but who refuse treatment. Minors can be admitted and treated based solely on the consent of their guardians, while individuals without family or a permanent address may be institutionalized. These provisions violate CRPD's requirement that individuals must give consent to treatment or any procedures.

The WHO-OHCHR guidance advocates for a community-based model of mental healthcare, centered on individual autonomy and human rights. Yet Bangladesh continues to rely on an outdated, hospital-based system that frequently involves coercion. Further, the *Code of Criminal Procedure* still uses demeaning language like “lunatics” and “insane,” which perpetuates the severe stigma and prejudice already prevalent in society.

The CRPD emphasizes autonomy, equality, and dignity for all individuals, including those with psychosocial disabilities. Bangladesh's legal framework, however, remains far from these ideals.

Urgent need for comprehensive legal reforms

Comprehensive legal reform is needed in order to bring the laws regarding mental health in line with international human rights standards. A full list of reforms is beyond the scope of this article, but here are a few highlights.

To start with, a fully independent body needs to be created to address human rights abuses suffered by individuals with psychosocial disabilities, and perpetrators must be brought to justice. In addition, reparations and remedies must be given to the victims and survivors. In addition, the body must be tasked with monitoring the human rights of individuals with psychosocial disabilities. The body should also start the process of full-scale legal reform related to human rights of persons with psychosocial disabilities.

The mental health care system needs to transition from a hospital-based treatment to a community-based model, one that respects human rights, does not involve coercion, and offers crisis support services along with rights based supports in the community.

Section 309 of the Penal Code, which criminalizes suicide, needs to be repealed. Suicide attempts should be treated as crises or emergencies rather than crimes. Outdated and disrespectful terms in existing laws should be replaced with person-first, respectful language.

Forced hospitalization and treatment should be abolished. The right to informed consent for treatment must be respected for all individuals. For minors, consent should be based on their age and maturity, with supported decision-making available for both adults and minors.

All laws must guarantee the privacy of individuals in all domains of life, including but not limited to their home, communications, family and private life, digital life and in healthcare settings. Additionally, a code

of conduct needs to be created to hold mental health professionals and hospital staff accountable for any rights violations.

Discrimination must be prohibited in areas like insurance. Inhumane practices, such as shackling individuals with psychosocial disabilities, should be explicitly banned and made criminal offenses.

Judges, law enforcement officers, prosecutors, defense lawyers, and prison staff should be trained on human rights-based approaches to supporting individuals with psychosocial disabilities. In legal proceedings, procedural adjustments must be made available so that such individuals can fully access justice.

Reforming the legal framework is not just a matter of legal obligation but a moral imperative. It is the first step toward improving the lives of people with psychosocial disabilities in Bangladesh.

What do We Need and What can You Do?

#WhatWENeed is a comprehensive legal reform of laws affecting persons with psychosocial disabilities. Not just in Bangladesh, but throughout the world.

In your country, advocate with policymakers to implement comprehensive reforms based upon the guidance. Ensure that individuals with psychosocial disabilities have a voice in shaping these reforms and their perspectives are given due weight. Press for justice to hold perpetrators of human rights abuses accountable.

On a global level, advocate for the establishment of a UN Special Rapporteur on the rights of individuals with psychosocial disabilities. The mandate should enable the rapporteur to accept a broad range of reports and submissions beyond just thematic reports. A rapporteur would be able to monitor global human rights trends for psychosocial disabilities, encourage states to make systemic reforms, and address individual cases.

Finally, we need solidarity. Solidarity for the global psychosocial disability movement as well as solidarity for victims of human rights abuses all around the world, including in Bangladesh. To show solidarity, you can write open letters, make posts on social media, demonstrate peacefully, etc. Acts like these give weight to the disability rights movement and showcase that human rights abuses will not be condoned.

Individuals with psychosocial disabilities are humans, and they deserve a life of dignity, equality, and opportunity—just like everyone else. It's time we take action to make this a reality.

Monirul is a human rights defender and founder of MindfulRights, a project dedicated to promoting human rights, including mental health rights, in Bangladesh. To read the full report on which this article was based, visit www.mindfulrights.rf.gd.
