

**MINUTES OF THE MEETING OF CORE GROUP ON HEALTH AND MENTAL HEALTH
HELD ON 26 November 2019**

The first meeting of the Core Group on Health and Mental Health was held on 26th November 2019 in the Commission under the chairmanship of **Justice Shri P. C. Pant, Hon'ble Member, NHRC**. The meeting was attended by Shri Surajit Dey, Registrar (Law), Smt. Manzil Saini, Senior Superintendent of Police, NHRC, Dr. Sanjay Dubey, Director, Shri Sudesh Kumar, Senior Research Officer, Shri Arun Kumar Tewari, Section Officer (Research), NHRC and Core Group Members, Representatives of the Union Ministries and Government Institutions, and Special Invitees from civil society organizations, academia, international organizations. A complete list of participants is annexed.

2. At the outset, the Hon'ble Member **Justice Shri P. C. Pant** welcomed all the members of the newly constituted Core Group on Health and Mental Health to its first meeting and briefly spoke on the three agenda items of the meeting. Emphasizing on the need for concerted efforts of both Centre and the State to deal with the issue of substance use and abuse in India, prevention of HIV/AIDS through awareness generation and planning a way forward for the Charter of Patients' Rights, the Hon'ble Member expressed his ardent hope that the issues are extensively deliberated upon by the august gathering.

Agenda I: Substance Abuse

3. **Dr. Pratima Murthy, Professor and Head, Department of Psychiatry, National Institute of Mental Health and Neurosciences (NIMHANS)**, who has been working in the area of substance use treatment, mentioned that according to the study, "Magnitude of Substance Use in India" (2019), there are serious gaps in the healthcare service delivery system for substance abuse treatment. With only 15-20% of people with substance abuse receiving treatment in the country, she pointed out that there is an urgent need to address the outreach issues of substance abuse treatment. Subsequently, elucidating on the legislative/policy frameworks for various types of substance abuse in the country, she drew attention to the fact that there is no policy on alcohol use in India. The lack of policy on alcohol use is mainly due to the extreme variance in the legality of alcohol use. For instance, while some states totally prohibit alcohol use, there are

states which economically depend on the excise revenue from alcohol. Thus this duality has prevented the adoption of a national policy on alcohol use in India. As opposed to alcohol use, Dr. Murthy pointed out that there is some regulation of tobacco use with the adoption of National Tobacco Control Programme which aims to reduce demand, bringing down offences related to tobacco, monitoring its use in public places and spreading awareness.

4. Given the multi-sectoral nature of substance abuse and its relation with development, poverty, illiteracy, accessibility and legality, **Dr. Pratima Murthy** opined that there is a need for a comprehensive treatment approach for substance abuse in the country. Furthermore, the approach also needs to take into account the changing profile of substance abusers, such as increasing proportion of children, women and elderly and the emerging co-morbid conditions such as hepatitis, HIV, tuberculosis etc. The treatment should also consider differentiated interventions such as gender, workplace and prison based interventions. Given that the Mental Healthcare Act, 2017 provides for right to treatment, it is an obligation of the State to address comprehensively and affectively the gaps in substance abuse treatment.

5. Speaking of the trends in the prevalence of substance abuse in India, **Dr. T Sundararaman, Former Executive Director, National Health Systems Resource Centre**, highlighted that there is a higher prevalence of substance abuse in vulnerable geographies, affected by fragmentation, conflicts etc., and vulnerable social categories such as homeless, street children etc. Thus, in order address the issues of substance abuse effectively, considerable attention should be paid to the underlying social determinants. In addition to it, he also pointed out that the de-addiction centers still have not made the desired impact. Increasing the number of these centers and extending its outreach to each and every person, including the vulnerable sections, may be a step towards addressing substance abuse and filling the gaps in the treatment for it.

6. Furthering on the issue of treatment of people with substance abuse, **Dr. Nimesh G. Desai, Director, Institute of Human Behavior and Allied Sciences (IHBAS)** opined that while substance abuse is dealt by the Ministry of Social Justice and Empowerment (M/o SJE), the place where people with substance abuse get treated fall under the Ministry of Health and Family

Welfare (M/o H&FW). Synergy between the two Ministries may be required to make treatment service delivery better.

7. Speaking of the issue of increasing number of children affected by substance abuse and lack of adequate provisions for treatment, **Dr. Nimesh G. Desai** pointed out that the Juvenile Justice Committee (JJC) of the Delhi High Court, which supervises the Juvenile Justice Boards (JJB) in Delhi, has been very proactive in developing and monitoring treatment services for substance abuse among children and adolescents residing in juvenile homes. He suggested that this model may be replicated in other states to address the issue of substance abuse among children.

8. **Dr. Santhosh Kumar Kraleti, National General Secretary, Saksham**, highlighted how the well drafted Rashtriya Kishor Swasthya Karyakram (RKSK) which aimed to prevent substance misuse, through counseling centers, adolescent friendly health clinics, awareness generation through peer education, has failed to create the desired impact due to lack of proper implementation. His experiences of working in the tribal areas of Andhra Pradesh, Telangana, Karnataka and Tamil Nadu further shows that there are many children suffering from substance abuse in the ashramshala (residential schools for tribal populations). Thus his submission to the Commission was that a concerted effort on implementing the RKSK is the need of the hour to address the issue of substance abuse among children. Further, there needs to be a convergence between M/o HFW, Ministry of Tribal Affairs, Ministry of Human Resource Development (M/o MHRD) and civil society organizations working at grassroots to successfully implement RKSK.

9. **Dr. Indu Arneja, Director, Indian Institute of Healthcare Communication**, having assessed Integrated Rehabilitation Centre for Addicts (IRCAs) as a National Accreditation Board for Hospitals & Healthcare Providers (NABH) assessor, shared that most IRCAs do not meet NABH standards. She opined that there is a need for monitoring and capacity building of the people in the IRCAs to make service delivery impactful.

10. Responding to the concerns related to service delivery by the de-addiction centers, **Dr. Anil Kumar, Additional Deputy Director General, Ministry of Health and Family Welfare**, mentioned that Clinical Establishment Act, 2010 addresses this issue by providing for certain

standards to be maintained by institutions covered under the Act. He further stated that under the aegis of the Ministry, one of the centres of All India Institute of Medical Sciences (AIIMS) in Ghaziabad is also under the process of formulating standard treatment guidelines for de-addiction centres.

11. **Dr. Harshad P. Thakur, Director, National Institute of Health and Family Welfare (NIHFW)**, mentioned that prevention is the most important aspect of tackling the issue of substance abuse and peer based training programmes at schools and the community is the key to it. He further submitted that the NIHFW is willing to implement any such successful training programme model.

12. To this, **Shri Sijo George, Project Manager, National Institute of Social Defence (NISD)**, informed that their institution has started community peer led intervention and Out Reach Drop in Centre in 127 districts of India and are hoping to expand it further.

13. **Dr. Abhijit Das, Director, Centre for Health and Social Justice**, pointed out that the perspective of looking at substance abuse needs to change. A wellness framework to tackle substance abuse is the way forward. Through this framework, examination of necessary regulatory amendments such as decriminalization, earmarking of funds, making the subject visible rather than stigmatized, social mapping of vulnerable geographies and establishing wellness centres catering to preventive, curative and rehabilitative aspects is important.

Agenda II: Human Immunodeficiency Virus/ Acquired Immunodeficiency Syndrome (HIV/AIDS)

14. **Dr. Naresh Goel, Deputy Director General, National AIDS Control Organization (NACO)** stated that the proportion of adolescents living with HIV/AIDS has increased due to prevalence of STDs and substance use disorders among adolescents. According to him, a different strategy needs to be adopted to reach out to adolescents just like the social contract system used to reach out to sex workers and transgenders. Referring to the National AIDS Control Programme (NACP) which has witnessed an 80% reduction in HIV infections, Dr. Goel

mentioned that the results have been achieved only due to its collaboration with the Civil Society Organizations (CSO) who work on the ground level. Engaging CSOs and people affected with HIV/AIDS in order to maintain community care centers has enabled the government to retain people living with HIV/AIDS in the treatment system and not leave it halfway. Further, adapting to the changing social context, NACO has shifted to social media awareness campaigns to reach out to larger populations.

15. Responding to Shri Surajit Dey's query of how to mitigate the stigma and discrimination against people living with HIV/AIDS and seeking treatment, **Dr. Siddharth Sarkar, Associate Professor, All India Institute of Medical Sciences (AIIMS)** opined that Information Education Communication (IEC) programmes have been very successful in disseminating the message to the general population as well as to the health professionals.

16. Furthering Dr. Siddharth Sarkar's point, **Ms. Nandini Kapoor, Joint United Nations Programme on HIV/AIDS (UNAIDS)**, pointed out that while IEC programme is successful, a programme recently initiated by NACO has also successfully addressed the issues of discrimination by health professional in delivery of treatment and adherence to the treatment by the person living with HIV. In the said programme, people living with HIV have been engaged in delivery of treatment to the new HIV patients which not only allows efficient treatment delivery but also sharing of information on the treatment process and experiences.

17. Highlighting the issue of orphaned children living with HIV/AIDS, **Ms. Nandini Kapoor** stated that children living in care homes often face issues in leading a normal life once they attain the age of 18 years. They have problems getting jobs, marriage etc. Thus, she raised a need for researching on the issues of orphaned children living with HIV and deliberating on the way forward.

18. **Dr. Santosh Kumar Sah, Psychiatrist, Central Jail Hospital, Tihar** informed that Tihar Jail in collaboration with NACO has started Anti Retroviral Therapy (ART) Centre and Opioid Substitution Therapy (OST) Centre in the jail and also screening the inmates for HIV/AIDS. Taking forward the issue of discrimination, he drew attention to the fact that while

the HIV positive inmates cannot be discriminated and kept in separate cells, new cases of HIV due to 'Men having Sex with Men' (MSM) have been a cause of worry in prisons.

19. **Dr. Abhay Shukla, Public Health Specialist**, suggested a scope for convergence between the Charter of Patients' Rights and the issue of HIV/AIDS. He suggested that mainstreaming of the Charter in network of organizations working on HIV/AIDS can be a way towards creating awareness about rights of people living with HIV/AIDS as patients and the responsibilities of health professionals towards them.

20. Calling attention to the intersectionality between adolescent, sexual behavior and law (specially the Protection of Children from Sexual Offences (POCSO) Act) **Dr. Abhijit Das, Director, Centre for Health and Social Justice**, pointed out that the obligation to mandatorily report sex under the age of 18 years creates dilemma for health service providers as to whether report cases following the legislative guidelines or concede to the ethic of confidentiality issues in such cases. It also creates apprehension and restricts health seeking behavior among youth suffering from HIV/AIDS and Sexually Transmitted Diseases.

21. **Dr. Naresh Goel, Deputy Director General, NACO**, responded to the above stated issue citing the HIV and AIDS (Prevention and Control) Act, 2017 provides for confidentiality for any person living with HIV/AIDS. According to him, the said legislation comprehensively regulates the subject of HIV/ AIDS.

Agenda III: Charter of Patients' Rights

22. Lauding NHRC's initiative of formulating the Charter of Patients' Rights, **Dr. Abhay Shukla, Public Health Specialist**, posited that now there is a need to publicize the Charter since majority of health establishments and patients are still not aware of it. In this regard, he suggested making the Charter available on the NHRC website. Drawing attention to the M/o H&FW's conversion of the Charter into a set of DO's and DON'Ts, he proposed that the Ministry could also publicize it by uploading it on their website and using audio visual media. Further he raised the issue of implementation of the Clinical Establishments Act, 2010.

23. On the issue of implementation of Clinical Establishments Act, 2010 Hon'ble Member **Justice Shri P. C. Pant** raised the issue of how non-differential directions to implement provisions of the said Act has led to closure of small private healthcare clinics, which are often the sole healthcare service provider in rural areas.

24. Responding to the concerns on implementation of the Clinical Establishments Act, 2010, **Dr. Anil Kumar, Additional Deputy Director General, Ministry of Health and Family Welfare** stated that the Act directs states to implement the provisions in a phased manner.

25. Sharing one of the good practices in maintaining standards in healthcare institutions, **Dr. Santhosh Kumar Kraleti, National General Secretary, Saksham**, stated that the NABH has created three levels of accreditation and has further formulated the plan of action for reaching those levels. He opined that the M/o H&FW could also adopt this mechanism to ensure implementation of the Clinical Establishments Act.

26. Going back to the issue of Charter of Patients' Rights, **Dr. Abhay Shukla** drew attention to the fact that while Clinical Establishment Act may have logistical issues in implementation, the Charter contains rights which are inalienable and do not entail any additional cost of implementation. He said that the publicity of the Charter can start from the public hospitals under Pradhan Mantri Jan Arogya Yojana (PMJAY) wherein the hospitals can display the Charter in an area visible to the public and then also set a grievance redressal forum to address patients' rights violations.

27. **Dr. Indu Arneja, Director, Indian Institute of Healthcare Communication**, citing unawareness of health professionals about the Charter, opined that healthcare institutions need to take proactive measures in sensitizing healthcare professionals regarding the rights of patients.

28. **Dr. Santhosh Kumar Kraleti**, drew attention to the cases in past wherein hospitals under certain scheme have made patients undergo surgical procedures such as hysterectomy, appendectomy etc. irrespective of whether they need it or not. Further, in most cases the procedures were done by untrained professional leading to death and casualty of patients. He

stated that as such cases are grave violation of the patients' rights, institutions engaging in such activities need to be penalized and health regulatory bodies/ institutions need to undertake regular medical audits of such institutions.

29. **Dr. T. Sundararaman, Former Executive Director, National Health Systems Resource Centre**, opined that there is a need to align the Charter of Patients' Rights with the contracts in PMJAY. Further he pointed out that the Charter has failed to incorporate certain important rights such as right to access to healthcare and financial assistance. He further gave instances of how people in conflict affected states like Kashmir and stateless people are struggling to get access to medical care in India.

30. Addressing the concerns of abuse in certain treatment procedures, **Dr. Praveen Gedam, Deputy CEO, National Health Authority**, stated that the NHA is under process of formulating Standard Treatment Protocols wherein such abuses will be kept in check.

31. To Dr. Praveen Gedam's information, **Dr. Abhay Shukla** proposed that the NHA should consider including the Charter of Patients' Rights in the Standard Operation Protocol currently under formulation. For widespread publicity of the Charter, he recommended that the Commission may direct Special Rapporteurs to speak to concerned stakeholders about the Charter during their visits. Further he also pointed out that certain very important rights, such as right to emergency medical care, right to choose the source for obtaining medicines or tests, right to proper referral and transfer free from perverse commercial influences, right to protection for patients involved in clinical trials, are excluded from the M/o H&FW's DOs and DON'Ts. These rights being imperative and provided for in various Indian legislations need to be mentioned in the DOs and DON'Ts.

32. **After due deliberations, the following recommendations emanated from the meeting:**

- I. Ministry of Social Justice and Empowerment to send a detailed report to NHRC regarding the current status and functioning of all the de-addiction centres in India.

(Action: M/o Social Justice and Empowerment)

- II. **Substance abuse treatment services in Juvenile Homes:** State Human Rights Commission should proactively collaborate with the Juvenile Justice Committees and Juvenile Justice Boards to develop and monitor treatment services for substance abuse cases in juvenile homes.
- (Action: All State Human Rights Commissions)**
- III. **Expansion of training facilities for health professionals in identification and treatment of substance use disorders:** The NIMHANS Digital Academy which has already been training medical officers and other health professional in States like Bihar, Gujarat, Chhattisgarh, Odisha etc. should be replicated by all the States. This will help and catalyze the human resources and improve substance use treatment facilities.
- (Action: M/o Health and Family Welfare)**
- IV. **Targeted substance abuse treatment programmes in the marginalized and vulnerable geographies:** Considering the social determinants such as poverty, homelessness, populations residing in the slums and tribal areas, there is a need for targeted interventions in order to address the area specific issues leading to higher prevalence substance abuse.
- (Action: M/o Social Justice and Empowerment)**
- V. Ministry of Health and Family to send a status report of budget utilization and implementation of Rashtriya Kishor Swasthya Karyakram (National Adolescent Health Programme) towards prevention of substance misuse.
- (Action: M/o Health and Family Welfare)**
- VI. **Functional de-addiction centres at university level:** Youth specific programmes and de-addiction facilities need to be made accessible for students at all times.
- (Action: M/o Social Justice and Empowerment)**
- VII. **Research on orphaned children living with HIV:** Undertake research examining the issues of orphaned children living with HIV and deliberating on the way forward.
- (Action: National AIDS Control Organization)**

VIII. To publicize the Charter, the Commission may upload the Charter of Patients' Rights on NHRC website

(Action: NHRC)

IX. The Ministry of Health and Family Welfare should publicize the Do's and Don'ts by putting it up on their website and spreading awareness through audio-visual-print mediums for wider publicity and effective implementation of the Charter of Patients' Rights

(Action: M/o Health and Family Welfare)

X. Ministry of Health and Family Welfare to ensure that the display of Charter of Patients' Rights in all government hospitals is made mandatory.

(Action: M/o Health and Family Welfare)

XI. **Awareness mechanism for sensitizing healthcare providers about Charter of Patients' Rights:** Ministry of Health and Family Welfare to ensure inclusion of Charter of Patients' Rights in the training programmes for health professionals.

(Action: M/o Health and Family Welfare)

XII. **Inclusion of all the patients' rights in Ministry's Dos and Don'ts as delineated in the NHRC's Charter of Patients' Rights:** Ministry of Health and Family Welfare should ensure that rights envisaged in the Charter of Patients' Rights are not excluded in the Ministry's DOs and DON'Ts. For instance, right to emergency medical care, right to choose source for obtaining medicines or tests, right to proper referral and transfer free from perverse commercial influences, right to protection for patients involved in clinical trials are excluded in the DOs and DON'Ts.

(Action: Ministry of Health and Family Welfare)

LIST OF PARTICIPANTS

NHRC Officials

1. Justice Shri P.C. Pant, Member
2. Shri Surajit Dey, Registrar (Law)
3. Shri Sudesh Kumar, Senior Research Officer
4. Shri Arun Kumar Tewari, Section Officer, JD(R) Unit
5. Dr. Seemi Azam, Research Officer, SRO Unit
6. Ms. Tania Chatterjee, Junior Research Consultant
7. Ms. Aastha Dawar, Junior Research Consultant
8. Ms. Devosmita Bhattacharya, Junior Research Consultant
9. Shri Pallav Kumar, Junior Research Consultant

Core Group Members

1. Dr. Abhijit Das, Director, Centre for Health and Social Justice
2. Dr. Abhay Shukla, Public Health Specialist
3. Prof. T. Sundararaman, Former Executive Director, National Health Systems Resource Centre
4. Dr. Santhosh Kumar Kraleti, National General Secretary, Saksham
5. Dr. Santosh Kumar Sah, Psychiatrist, Tihar Prison
6. Prof. Pratima Murthy, Professor and Head Department of Psychiatry, National Institute of Mental Health and Neurosciences, Bangalore
7. Dr. Nimesh G Desai, Director, IHBAS
8. Dr. Indu Arneja, Director, Indian Institute of Healthcare communication

Representative of Union Ministries/Government Bodies and Special Invitees

1. Shri Ashish Gawai, Deputy Secretary, Ministry of Health and Family Welfare
2. Dr. Anil Kumar, Additional Deputy Director General, Ministry of Health and Family Welfare

PHOTOGRAPHS OF THE MEETING OF THE CORE GROUP

