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Mental Health Legislation, mental health services and forensic services: development and progress in Iraq

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ABSTRACT

Legislations are crucial for protecting human rights, individual's dignity and equity, and for regulating personal affairs, in particular issues related to defining obligations and rights. Mentally disordered individuals, worldwide, suffer from discrimination, stigmatization, victimization, deprivation and lack of care and liberty. Hence, formulating mental health legislation that secure patient's rights and safety and safety of others, is considered fundamental. Moreover, such legislation allows for provision and execution of effective mental health services.

Historically, Iraq is renowned and well appreciated for its unique ancient civilization and pro-life codes, including forensic law, but regrettably, despite this relatively advanced early understanding of the implications of mental illness for criminal responsibility, and for being the place where the first hospital service for people with mental illness was developed , care for people with mental illness in Iraq regressed greatly over the last few centuries. Following World War 1st, Iraq became an independent constitutional kingdom, and initiated legislations in almost all domains of life but, for political reasons, apart from occasional statements provided in the civil and criminal acts, no legislation to address the rights of people with mental illness existed until the newly established "National Mental Health Council, (2004)" formulated the current mental health act, which received Parliamentary approval and came into force in 2005.

The objective of this article is to present a brief chronological overview of development and progress of mental health services in Iraq as well as the Iraqi "Mental Health Act (2005)", and the factors that hinder its implementation.

Key words: Mental Health, Mental Health Acts, codes, laws, legislations.

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INTRODUCTION

The first written laws of any kind originated in ancient Iraq. The Code of Ur Nammu is the oldest known code, written on tablets in the Sumerian language in 2100-2050 BC.[1] It decreed equity in the land and set out a series of crimes and punishments. The Code of Hammurabi is a well preserved Babylonian law engraved on a stone obelisk, and is a very early example of a constitution, or law regulating a government, and is also an early example of the presumption of innocence. The first forensic psychiatry law also originated 2000 years ago in ancient Iraq. The Babylonian Law of Talmud is the first law to address issues of culpability, and states: "It is against the law to knock a deaf-mute, an imbecile, or a minor. He that wounds them is culpable, but if they wound him they are not culpable". [2] Islamic jurisprudence recognized the Insanity defence long before any European laws included it. Thus the prophet "Muhammad" more than 1400 years ago stated that "So the pen is lifted (that is no culpability) for a child until he reaches puberty, and for the insane until he recovers, and for the sleeping person until he wakes".[3]

DEVELOPMENT AND PROGRESS OF MENTAL HEALTH SERVICES IN MODERN IRAQ

General mental health services

In modern Iraq, the first psychiatric services

were established with the opening of the first mental hospital Dar Al-Shafaa (The House of Cure) around 1920-21. This hospital was located close to the Royal Teaching Hospital at Bab Al-Muadham, Baghdad, currently "The Medical City Teaching Hospital". Dar Al-Shafaa served a limited custodial purpose, but gradually became inadequate to deal with increased demand for psychiatric care. In 1953, Al-Shamm'eeyah Hospital for Mental Diseases was established, which was named after the Eastern Baghdad districts called "Shamm'eeyah" at which the hospital was established. After 14th July 1958 the Royal Monarchy was overthrown, republican doctrine replaced it, and the name of the hospital was changed to "Al-Rashaad Hospital" after building the new Al-Rashaad city which replaced the old "Shamm'eeyah" district.

Since 1953, Al Rashaad hospital has been the principal mental health and rehabilitation institution in Iraq, and a major centre to train mental health professionals at all levels in the country. Originally, almost all consultant psychiatrists who oversaw the care of patients and training had their mental health training in the UK, namely at the Institute of Psychiatry, and Bethlem Royal and Maudsley Hospitals. Therefore, the policy and service to a great extent has followed the British school. The hospital, from the start, was administered and budgeted by the Iraqi Ministry of Health (MoH). It offers service for outpatients as well as inpatients, both short and long stay. Its capacity approaches fourteen hundred beds (including about three hundred forensic beds and few hundred beds for long stay). It is provided with a well developed occupational therapy unit, and wide gardens and agricultural fields. Currently, the care is provided by psychiatrists who completed four year residency program in psychiatry under supervision of the Iraqi Board of Psychiatry, and have been awarded Board certification. During the Second Gulf War (GW 2), April 2003, the hospital was extensively looted and patients absconded. However, immediate efforts were made to rehabilitate the hospital and apart from a few patients, the remainders were safely returned to hospital.

In the 1950s Professor Jack Abood (Figure 1), pioneer of modern psychiatric services in Iraq, ran a small private psychiatric hospital, named after him. This was nationalized by the state in the 1960s, and in the 1970s it became one of the MoH establishments and assigned the name "Ibn-Rushd Hospital for Mental diseases" after the popular Arabic philosopher and thinker, Ibn-Rushd (Averroes, 1126-1198) (Figure 2) who contributed scientifically to mental health and stressed the role of psychological well-being. Currently, the hospital accommodates about 70 general adult short stay beds, in addition to an outpatient clinic, a child psychiatry clinic, and a limited inpatient service for substance use patients.

Figure 1: Professor Jack Abood, the pioneer of modern psychiatric services in Iraq

In the second half of the twentieth century Iraq built up a huge army which was involved in several fierce wars against the Kurds and neighbouring countries and was attacked by allies twice (Gulf Wars 1 and 2). This has augmented development of military mental health services which, in some aspects, were identical to the civilian services, including forensic services. The principal psychiatric unit was established in Al-Rasheed Military Hospital, south Baghdad, which, as the whole hospital, was heavily looted and destroyed during Gulf War 2 (GW2) in 2003. The unit provided outpatient, inpatient, forensic, and educational services. There were many psychiatric committees with specific functions, including assessment for fitness to serve in the army, forensic, and others.

The air force before the Gulf War 2 had its general hospital (The Air Force Hospital), with a small psychiatric unit, located within a short

Figure 2: Ibn Rushd (Averroes, 1126-1198) Arabic philosopher and thinker who contributed scientifically to mental health. To his name one of Psychiatric Hospital in Baghdad has been called.

distance of Al-Rasheed Military Hospital in Al-Rustamya suburb south Baghdad. In addition there were few other psychiatric units within general military hospitals all over the country that served principal military bases at peripheral districts of several big provinces. These were all looted and destroyed in the chaos that followed Gulf War 2. However, some of these facilities are being reconstructed to serve the newly built army, which has to face tremendous fierce ongoing battles to restore peace and stability.

Until the 1980s, apart from Baghdad, provision of mental health services was limited to a few other large Iraqi cities (Mosul, Basra, Erbil), but in 2004 and after, the National Mental Health Council in collaboration with the WHO and IRC, and some other NGOs, has been able to expand on these services to cover the 18 Iraqi provinces. Furthermore, others (WHO, UNICEF, Red Cross, SAMSHA, IMC and the RCPsych) offered generous contribution and support, particularly, through advice, education and training that made expansion feasible and affordable.

The community provides a limited range of services for the elderly, orphans and the disabled, with some educational service for those with learning disabilities. It is pity that the prevailing state of unrest and insecurity has immensely curtailed provision of such services, and forced a significant number of leading psychiatrists to leave the country. However almost all available psychiatrists, governmental and non-governmental, have their private clinics that contributes substantially to fulfil the demand. Moreover, services suffer significant lack in availability of trained mental health professionals.

Iraqis, for the last 14 years have sustained extreme hardships, casualties, displacements within and beyond the country, and lack of security, all of which has negatively impacted on their general and mental health. Furthermore, budgets are increasingly constrained and so the efforts of health authorities to meet budgetary cuts greatly impairs efforts to improve and expand services, and to undertake the capacity building which are essential to meet population needs.

Forensic mental service and mental health legislation

Owing to increased demand for proper mental health legislation and policy, and the need for a law that provides legal protection and safety for both the mentally disordered and mental health professionals, in the 1980s, the Iraqi society of psychiatrists drafted a mental health act and submitted it for approval and legislation via the MoH, but, regrettably, that draft, after about 10 years of continuous efforts and repeated attempts to get it approved, was unsuccessful as the government of the time rejected the need and commented that “The country does not need such an act”.

Before 2005, in spite of the need, there was no separate formal mental health legislation to govern forensic psychiatric practice and other legal matters. Instead, issues related to court referrals and decisions about responsibility and ability of the accused to defend in front the court or to plead, and involuntary admission to a mental health facility for evaluation and treatment, such issues had to be made according to few statements provided in the Penal code. Therefore, admission of mentally ill offenders or patients suffering from disorganized behaviour or threatening harm to themselves or to

Table 1: Sections of involuntary admission (Mental Health Act, 2005)

Section Number	Period of detention	Purpose & outcome	Requirements	Criteria
7	72 hours	• Observation and assessment, in order to submit a clear treatment plan • Refer to specialist psychiatric committee, or if not available to second opinion • The outcome is either discharge if the patient has no mental disorder or can be treated as an outpatient, or admitted as voluntary patient, • But, if the patient needs compulsory admission for treatment, then section 8 will apply	• Psychiatrist assessment form • Clarify clinical features • Exhaust other means to admit patient voluntarily	• Mental disorder • Interests of patient • Protect patient and /or others
8.1	30 days	• Treatment for 30 days • Once the patient`s condition improves he will be discharged with a forensic psychiatric report recommending follow up if needed.	• Report by the committee or two approved psychiatrists, recommending detaining the patient in a treatment unit for the purpose of treatment for 30 days nonrenewable. • The above decision will be submitted to the courts. • The patient or his relative has the right to appeal against this decision within 14 days from the date of admission by writing to the hospital manager or a committee reporting to the National Council for Mental Health.	• The patient suffers from acute mental illness, or mental retardation, or personality disorder with dangerous behaviour with the prospect of the condition improving. • There should be utmost necessity to secure patients health and safety as well as others safety.
8.2	180 days maximum renewable.	• This is applied if the patient`s condition does not improve following 30 days of detention under the previous provision • It could also be applied from the start depending on the clinical judgment. (by two approved psychiatrists).	• The patient, his relative or his lawyer have the right to appeal against this decision within 30 days from the date of issue	

others was controlled by civil courts, i.e. the courts dealing with matters of personal status. This committal has in many respects the binding effect of a compulsory admission under the British Mental Health Acts. Since the 1950s, voluntary admission has become more common.[5]

During the 20th century, forensic Mental Health Services were undeveloped in Iraq, but documents show that a number of psychiatrists were practicing different forensic activities by the 1950s, for example one of these documents, in 1950, shows that Jack Abood, a well known psychiatrist in Iraq, was a member in a committee consisting of five doctors of different specialties, looking into court referrals requesting committee decision with regard to criminal responsibility of an offender. This committee was established at the Faculty of Medicine, Baghdad University. Later on a specialist forensic psychiatric committee was established, which consisted of three psychiatrists, then 5 psychiatrists, ran a forensic psychiatric wing called Ibn al-Haithem, a high secure unit located in Al-Rashad mental hospital, administered by the hospital. This committee was offering nonobligatory advice to the courts all over the country. The forensic psychiatric committee addressed assessment of offenders of their mental disorder, fitness to plead, and criminal responsibility. Also it gave a recommendation for the court

to treat mentally ill offenders compulsorily. It followed up all mentally disordered detainees periodically and recommended to the court to release those who improved, and imposed no further risk. The forensic psychiatric committee was also assigned the responsibility of training psychiatrists, psychologists, social workers and nurses.[4]

Formulation and content of current Iraqi mental health act

In 2003, after Gulf War 2, a National Mental Health adviser to the Iraqi MoH was appointed, a National Mental Health Council was established, and a well defined policy and strategy was prepared to promote psychiatric services in Iraq, in collaboration with WHO.[5]

In 2004-2005 the first mental health act and its code of practice was formulated, and was passed by the Iraqi government in 2005. The objective of the act was to bring legislation up to international standards, and to emphasize the provision of appropriate mental health services, including forensic practices that protect rights of detained patients.

The act consists of six chapters,[6] which include 21 sections, dealing with different aspects of mental health services in general and forensic in particular. It is worth mentioning that the formulation of the act was influenced by the concepts in the British Mental Health Acts, as a number of the leading Iraqi psychiatrists who shared in its formulation were trained in the British psychiatric institutions; however, cultural differences were considered and taken into account.

The first chapter of the act deals with definitions such as psychotic disorders, neurotic disorders, mental retardation (Mild-moderate-severe), antisocial personality disorders, and other mental disorders.

The second chapter refers to setting up of National Council for Mental Health and its obligations.

The third chapter deals with compulsory admission and detention of patients for treatment. It includes three sections, two sections on the details of the disorders, and the third one is about how to seek police help to facilitate admission of patients or their return to hospital when they abscond.

The fourth chapter gives details about the care of charged mentally disordered offenders. It refers to the formation of two forensic psychiatric committees; the first is called "primary forensic committee" while the second is the "psychiatric appeal committee". In addition to that it includes guidance to write forensic psychiatric reports and procedures for appeal.

The fifth chapter establishes that all documentation (formal and informal) will be subjected to scrutiny by appointed Senior Professionals. This would limit false reporting and establishes the legal accountability of the person issuing the report

Lastly, the sixth chapter is guidelines for the police to arrest and take to a place of safety individuals who are reported to behave oddly or their behaviour is a risk to themselves or to others. Further the chapter also addressed the need for locked treatment units of different levels of security.

Sections dealing with involuntary admissions are presented in table 1.

Progress achieved after adoption of the act

In order to promote forensic psychiatry service and build capacity in the field, 3 Iraqi psychiatrists, in 2005, were attached to forensic psychiatric facilities in the UK, and received the required training. Subsequently, in 2007, a well organized unit, called (Forensic Psychiatric unit) was established at Ibn Al-Haithem wing, Al-Rashaad hospital. The unit is administered by a committee called "the forensic psychiatric committee". The latter is responsible for the care, treatment, follow up and safety of the patients in the unit. In addition it provides

Table 2: Number of Involuntary admissions to Al-Rashaad Hospital, Baghdad

Year	Number of Referrals for involuntary admission
2003	56 patient
2004	280 patient
2010	391 patients
2011	349 patients

forensic reports to the court about those who were referred by the courts. The report is subject to appeal by all involved parties in the court case, including the court itself. The appeal will be looked at by the "appeal psychiatric committee", which approves the forensic committee report, returns the case back to the forensic committee for further evaluation and re reporting, or rejects it and gives its own decision, which is considered final. However, neither the forensic nor the appeal report is obligatory to the court.

Sections dealing with issues of compulsory admissions, however, have not been operational due to the complicated security circumstances in Iraq, and all the cases which require compulsory admission are still processed by the courts, often in response to a formal request submitted by the patient's family. The numbers of cases which were referred from courts in the years under consideration are presented in table 2.

All the civil (non forensic psychiatric) issues of mentally disordered patients are dealt with by a committee called the "general psychiatric committee". Again reports of the latter are subject for appeal, by all parties, to the "appeal psychiatric committee".

In view of the complex situation in Iraq, psychiatrists are reluctant to join these committees to avoid threats, kidnapping and assassination. These developments call for effective multi agency working particularly with the Higher Judicial Council.

Amongst other developments since the act has become operational is more emphasis on human rights and on the policy about obtaining consent . Furthermore a multi-disciplinary team approach has been applied.

DISCUSSION

The need for mental health services is an essential prerequisite for building the health of individuals and societies, and mental health legislation is crucial in defining the responsibilities and authorities of the profession and carer institutions, and for preventing abuse of the mentally disordered, define minimum responsibilities of the government, the authority, responsibilities and liability of members of the profession.

Before the political change in 2003, the available mental health services were inadequate, far disproportionate to the need, given lower priority than other medical services, and were governed by regulations of the section of non-communicable disease within the office of public health in the Ministry of Health. Plans lacked a clear vision and policy and no mental health policy or legislation as such existed. Moreover, no budget was allocated to mental health. The wars and conflicts, Iraq faced since 1980, and the consequent cuts in budgets allocated to Ministry of Health, impeded seriously the provision of sufficient health services in general and in particular mental health services. The situation horribly deteriorated during the 13 years of UN sanctions and embargo on Iraq to the extent that essential and lifesaving medicines became either not available at all or inconsistently available. Further, under those difficult circumstances, as the case with other medical specialties, large number of leading psychiatrists left the country and the majority of mental health facilities suffered lack of qualified professionals. Contrary to expectations, the fall of the regime in April 2003 unfortunately opened the doors for extensive looting that included even the principal mental health facilities. This has been followed by a sustained state of unrest and insecurity that has made several other experienced mental health personnel leave the country. However, in spite of these adversities, the change marked a new era in Mesopotamian psychiatry. The good intentions, commitment and enthusiasm of the remaining devoted professionals, augmented by the support of colleagues abroad and humanitarian NGOs, succeeded in developing a clear vision, mental health policy, strategy and legislation for Iraq that were translated into an action plan for rehabilitation, promotion and expansion of mental health services to most parts of the country, including a mental legislation based on up to date knowledge of advances in the field. Many of the principles and items of the legislation have come into force. However, it remains incomplete due to the continuing unrest and conflict situations in the Iraqi street, which lead to hesitancy amongst professionals to work in committees that deal with mentally disordered offenders. Lack of protection to doctors, insuf-

ficient incentives, in addition to inadequate budget allocated to mental health were other discouraging and demoralizing factors. Consequently, the sections of the mental health act that are concerned with involuntary admission haven't yet been implemented, and currently involuntary admission is still processed by the civil courts.

In 2011 a workshop was organized by Iraqi Ministry of Health to discuss the difficulties and obstacles that faced the provision of mental health services and hindered progress and implementation of the mental health act. The committee that emerged from this workshop is currently in a process of reviewing the mental health act and its code of practice, and expected to come up with important recommendations and suggestions for improvement. The reviewing committee has added an explicit "List of Human Rights", and emphasized the view that mental health is an intersectoral issue, requires involvement of the community in provision of services through inclusion of different governmental sectors, organizations, commissions, NGOs and community leaders as members in National Mental Health Council, and establishing better ties with the Higher Judicial Council. The committee circulated a new draft to obtain comments and suggestions before submitting the final version for formal approval of the concerned authorities.

CONCLUSION

Mental health services and legislation in Iraq received, for the first time after the regime change, modest attention and support; this has included putting a clear vision and mental health policy. The new mental health act has improved the application of appropriate specific criteria for involuntary admission, the application of principles of human rights, and an emphasis on rehabilitation and discharge. However, significant problems remain, including the lack of adequate services, especially for forensic cases, lack of continuity of care, risk to psychiatric staff from kidnapping, terrorism etc which makes them reluctant to serve on forensic committees. Furthermore, the complicated security situation has meant that, despite the new mental health act, all the cases for compulsory admission are still processed by the civil courts.

RECOMMENDATIONS

In order to achieve our vision to upgrade mental health services, including forensic ones, to appropriate standards that fulfil patients' needs and secure their human rights, the authors recommend that,

1. Mental health services ought to be comprehensive and accessible to all people regardless of where they live. Most people with mental disorder can be treated in the community by primary care services, with more complex cases requiring specialist attention. A small number of people with mental disorder require brief inpatient stays, and a yet smaller proportion require medium or long term secure accommodation to protect the public from harm.
2. Community resources should be mobilized, expanded and upgraded quantitatively and qualitatively to provide local comprehensive support and help for patients and their families.
3. Wider integration of mental health care into primary care is essential,
4. Small numbers of inpatient beds for short admissions for people with mental illness need to be available in every district.
5. Different grades of secure units (low, medium and high) to accommodate the relatively small but significant numbers of forensic patients with different severity and degree of risk should be established and made accessible in several regions in the country, so that complex forensic patients can be treated in a hospital rather than prison environment, and so that the public is not at risk
6. Efforts are required to enforce the mental health act sections and make the act fully operational,
7. Expert opinion should be sought to review the act and facilitate its implementation,
8. Professionals and workers in the field require protection and safety as well as incentives and professional recognition to undertake such complex challenging and sometimes dangerous work to achieve this; efforts should be made to improve communication with non health sectors in the

community, particularly the higher judicial council.

9. Raising awareness programs to promote mental health education need to be more comprehensive.

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Abbreviation list: International Medical Corps (**IMC**), International Red Cross (**IRC**), Ministry of Health (**MoH**), Non Governmental Organizations (**NGOs**), Royal College of Psychiatry (**RCPsych**), Second Gulf War (**GW 2**), Substance Abuse and Mental Health Services Administration (**SAMSHA**), United Kingdom (**UK**), United Nation (**UN**), United Nations International Children's Emergency Fund (**UNICEF**), World Health Organization (**WHO**)

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