

Forensic Psychiatry

Dr . J . James Rajesh

Differences Between

Psychiatric Disorders

&

Insanity

Introduction

- Insanity is certified only by a court
- An Insane person is not legally responsible for his acts.
- Privileges of a common man are not allowed to him.
- Special care in diagnosis, & treatment of insanity.
- *Duty to warn to include duty to protect*- Tarasoff case

Insanity, (Lunacy, Madness, Unsoundness of mind, Non-compos mentis)

- Definition

- When the illness interferes with a patient's perception, thinking, and feeling so profoundly that what he says to his fellow men no longer makes any sense to them, he is regarded as insane or in medical language psychotic
- It connotes a degree of mental disturbance so menacing and so disabling that the patient may be considered from legal point of view to be immune from certain responsibilities and may disallow him certain privileges that may require a degree of competence such as power to marry, make business contracts, ability to manage property, and may be enough criteria for compulsory hospitalisation (Modi)

- Lunatic or Insane means:- Psychiatric disorder of such severity that a court holds that there is no criminal liability

Mental Illness

- Means a **substantial disorder of thinking, mood, perception, orientation or memory** that **grossly impairs judgment, behaviour, *capacity to recognize 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 mind of a person, specially characterised by subnormality of intelligence

Terms Used in Psychiatry

- Psychosis-
 - Qualitative deviation from normalcy
- Neurosis-
 - Quantitative deviation from normalcy

FUNCTIONAL

- “ functional implies physiological, which manifests itself only in the form of a happening and in bodily performance without morphological change”

Terms used in psychiatry

- **Lucid Interval**

- It is a period of normalcy between two attacks of any psychotic, epileptic, or organic brain disorder

- **Dementia**

- Organic and global deterioration of intellectual functioning without clouding of consciousness

- **Deja vu**

- Illusion of visual recognition in which a new situation is incorrectly regarded as a repetition of previous memory

Psychiatric terms (Cont.)

- **Affect** means emotion or mood
 - A person's immediate emotional state,
- **Disorientation**
 - Means loss of bearing with regard to place, time, and other people.
- **Stupor**
 - Complete suppression of speech, movement, and action not accounted for by profound disturbance of consciousness
 - Seen in schizophrenia

Terms used in Psychiatry

- Delusion-

- It is a disturbance in content of thought in which *there is false or erroneous belief in something which is not a fact*. It is not consistent with patients intelligence, education and socio-cultural beliefs and cannot be corrected by any amount of logic, reasoning, or argument.
- A delusion is a belief that is firmly held despite evidence to the contrary and is not a conventional belief that the person might be expected to hold given his educational & cultural background

Definition (Cont.)

- A false belief based on incorrect inference about external reality that is firmly sustained despite what almost everybody else believes and despite what constitutes incontrovertible and obvious proof or evidence to the contrary (Diagnostic and Statistical Manual of Mental Disorders)
- An incorrect belief which is out of keeping with the person's cultural context, intelligence and social background and which is held with unshakeable conviction.
- The belief is *NOT* one, ordinarily accepted by other members of person's caste or community

Karl Jasper's Criteria

- A belief to be considered delusional
 - **Certainty** (held with absolute conviction)
 - **Incorrigibility** (not changeable by compelling counterargument or proof to the contrary)
 - **Impossibility** or falsity of content (implausible, bizarre or patently untrue)

Delusion-Cont.

- Types of delusion

- *Of persecution-*

- These are the most common type of delusions and involve the theme of being followed, harassed, cheated, poisoned or drugged, conspired against, spied on, attacked, or obstructed in the pursuit of goals.

- *Of Grandeur-*

- A person's exaggerated conception of his or her importance , power or identity

- *Of Reference-*

- False belief that others are talking about him / her (ex- people on radio or TV are talking to or about the person)

Types of Delusion

- **Of Infidelity**

- (Delusional Jealousy) - false belief about a person's lover being unfaithful.

- **Nihilistic delusion-**

- Belief that self, others or the world is nonexistent or coming to an end).

- **Of poverty-**

- A rich man believing that he is poor or will be deprived of his possession.

- **Delusion of self-accusation-**

- False feeling of remorse or guilt

- **Somatic delusions-**

- False belief involving functioning of body (belief that the brain is rotting or melting).

Types of Delusion

- **Bizarre delusion-**

- An absurd, totally implausible strange false belief (ex- invaders from space have implanted electrodes in a person's brain)

- **Systematized delusion-**

- False belief / believes united by single event or theme (a person is being prosecuted by the CBI, IB, RAW, or the Mafia)

- **Mood congruent delusion-**

- Delusion with mood appropriate content (a depressed person believing that he is responsible for destruction of the world)

- **Mood incongruent delusion-**

- Delusion with content that has no association to mood or is mood neutral (for ex- a depressed patient has delusion of thought control or broadcasting)

Types of Delusion

- Delusion may be
 - Primary (autochthonous)- of mood or perception
 - Or secondary- a depressed person with abdominal complaints may have delusion of cancer in abdomen
- **M. L. Importance of delusion**
 - Observed in Schizophrenia and MDP (Bipolar disorder)
 - *These are searched in diagnosis of a person as insane/ lunatic (immune from criminal liability)*
 - Some times normal beliefs were classified as delusional
“Martha Mitchell Effect”
 - Some of religious beliefs may be so strong as to be confused as delusional

Diagnosis

- **A belief is delusional if it is either patently bizarre, causes significant distress, or excessively pre-occupies the patient, especially if the person is subsequently unswayed in belief by counter-evidence or reasonable arguments.**

Hallucination

- Hallucinations are defined as **perceptions** in a conscious and awake state in the **absence of external stimuli** which have qualities of real perception, in that they are vivid, substantial, and located in external objective space
- It is a disturbance of perception in which there is false sensory perception not associated with real external stimuli. There may or may not be a delusional interpretation of the hallucinatory experience.
- **It is perception without stimulus**
- Hallucinations can be associated with drug (particularly delirants) or alcohol use, sleep deprivation, psychosis, neurological disorders, and delirium tremens.

An abnormal sensory experience that arises in the absence of a direct external stimulus, and which has the qualities of a normal percept and is experienced as real and usually in external space

Hallucinations can occur in any sensory modalities —

- Visual,
- Auditory,
- Olfactory,
- Gustatory,
- Tactile,
- Proprioceptive

Hallucination

- **Schizophrenia-**

- hallucinations are voices- threatening, obscene, accusatory or insulting, two or more voices may converse among themselves or a voice may comment on the patient's life or behaviour
- Their visual counterpart can also be behind the patient's back. It can be a feeling of being looked-stared at, usually with malicious intent. Not infrequently, auditory hallucinations and their visual counterpart are experienced by the patient together.

Hallucination

- **Hypnagogic hallucination-**
 - False sensory perception occurring while falling asleep - non-pathological
- **Hypnopompic hallucination-**
 - hallucination while awakening from sleep- non-pathologic.
- **Gustatory h-** Caused in uncinate seizure
- **Tactile (haptic) h-** false perception of touch or surface sensation as from an amputated limb (phantom limb)
crawling sensation on or under the skin (formication)

Hallucination

- **Somatic h- (cen·es·thet·ic H)-** occurring in or to the body most often visceral in origin burning sensation in brain , cutting sensation in bone marrow.
- **Olfactory hallucination- Fragrance/ foul smell**
- **Lillipution h (micropsia)** object are seen as reduced in size.
- **Mood congruent h -** depressed person hears voices calling him bad person. Manic patient hears being called in exaggerated terms about his worth, power , or knowledge.
- **Mood incongruent h-**

Hallucination

- **Hallucinosis-**

- Hallucinations. Most often auditory, that are associated with chronic alcohol abuse and that occur within a clear sensorium , as opposed to delirium tremens (DTS) in which hallucinations occur during clouded sensorium.

- **Command hallucination-**

- False perception of orders that a person may feel obliged to obey or unable to resist.

Terms in Psychiatry(Cont.)

- **Illusion** (False perception)

- It is a disturbance of perception in which there is misinterpretation of real external sensory stimuli. This may be corrected by reasoning. It may be seen in schizophrenic patients during active phase but may occur during prodromal phase or during remission. **Strong emotion or fear may also provoke illusion Ex. Shadow seen as ghost in burial ground.**
- They also occur in cases of substance abuse and in elderly persons where it may be transitory

- **Complex**

- Is a block in free flow of libidous energy. A group of repressed connected ideas so charged with emotion that it impels a person to think, feel, and act after a habitual pattern

Obsession

It is a disturbance of the content of thought in which there is **pathological persistence of an irresistible, recurrent and intrusive thought, feeling, idea, or sensation** that the sufferer recognises as irrational or disproportionate but can not eliminate from consciousness by logical effort. It is associated with anxiety which is reduced by a specific compulsive behaviour. Washing of hand or cloth, checking of locks or doors.

Terms in Psychiatry

- **Compulsion**

- These Are Repetitive behaviours or Mental Acts(e.g.. Praying, ,counting, repeating Words Silently) That the Person Feels Driven to Perform in response to an Obsession for preventing or reducing distress. But these are not connected realistically or are clearly excessive.

- **Repression-**

- **Suppression** unconsciously done by the defence mechanism of mind

Delirium

- A state of **clouding of consciousness** in which the person is bewildered, restless, disoriented, and may be associated with fear and hallucination
- **It is an acute organic brain syndrome** secondary to physical causes in which consciousness is affected and disorientation results often associated with illusions, visual hallucinations and persecutory ideation.
- There is **total amnesia for the period of attack on recovery**
- Seen in hyper pyrexia, Infection, poisoning, chr.granulomas, GPI, Dementia, & antitoxin

Amnesia

- A partial or complete loss of memory.
- **Anterograde** amnesia is a loss of memory subsequent to any cause e.g. brain trauma.
- *Retrograde* amnesia is a loss of memory for a period of time prior to any cause.

Agnosia

- An inability to organise sensory information so as to recognise objects (e.g. visual agnosia) or sometimes even parts of the body, (e.g. hemisomatoagnosia)

Terms in Psychiatry

- **Impulse (Compulsive behaviour) /Control Disorder**
 - This is a sudden and irresistible force compelling a person to the conscious performance of some action without motive or forethought
 - **Kleptomania,**
 - **Dipsomania-condition of periodic, compulsive bouts of alcohol intake**
 - **Pyromania,**
 - **Mutilomania(Mutilomania),**
 - **Sexual impulses, Compulsive sexual behaviour/sexual addiction / hypersexuality/excessive sexual desire disorder**
 - **Suicidal and homicidal impulses**

Somnambulism

- Also called (**Sleep walking**)
 - Motor activity during sleep for which there is no memory in morning when the person gets up.
 - **Somnolentia** or semi somnolence is known as sleep drunkenness
- **These are considered Insanity**

Circumstantiality

- A simple thing described in very round about manner
- Indirect speech that is delayed in reaching the point but eventually gets from original point to desired goal.
- It is characterised by an over inclusion of details and parenthetical remarks

Phobia

- A **phobia** is a fear of particular situations or things that are not dangerous and which most people do not find troublesome.
- It is **persistent, irrational, exaggerated**, and invariably **pathological dread** of a specific stimulus or situation.
- It causes a compelling desire to avoid the feared stimulus.
- **Agoraphobia**- Literally- fear of the marketplace taken now to be a fear of public places (Open place)
- **Claustrophobia** – fear of Closed space- becomes panicky if asked to enter a cave or a tunnel.
- **Acro-phobia**- Dread of high places

Phobia

- Aero phobia- An abnormal fear of draughts of air
- Ailuro phobia- Dread of cats
- Erythrophobia- Dread of red (refers to a fear of blushing)
- **Xeno phobia**-Intense fear or dislike of foreign things, people, their customs, and culture **Dread of strangers**
- Lachanophobia- Phobia of vegetables "vegetable" (or really anything cultivated in a garden, as opposed to collected from the wild. Eating or merely sight of vegetables leads to panic reactions sweating palpitations etc.

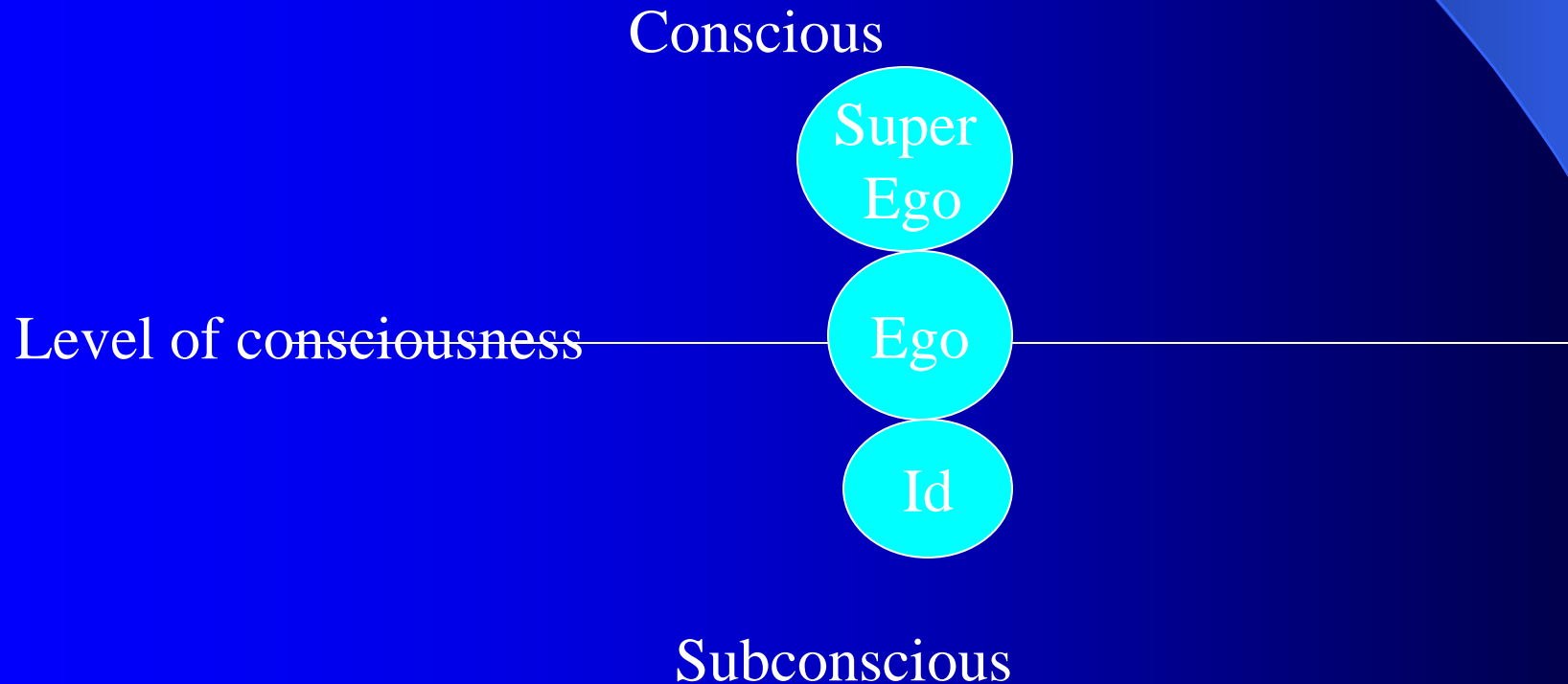
Phobia

- Photophobia- Irrational fear of light or lighted space
- Pyrophobia- Irrational fear of fire
- Xylophobia- Fear of wooden objects or forest
- Pan phobia- Dread of every thing
- Specific phobia- Dread of a specific object or situation
Ex. (dread of spider or snakes)
- Social phobia- Dread of public humiliation as in fear of public speaking , performing, eating in public.

Terms in Psychiatry

- EGO-

- It is an attribute of the personality which keeps on moderating the Id in relation to its reality testing function which is also controlled by the superego



Egosyntonic- Behaviours, values, and feelings that are in harmony with or acceptable to the needs and goals of the ego or consistent with one's ideal self image

Egodystonic- It is the opposite, referring to thoughts, and behaviours that are in conflict or dissonant with the needs and goals of the ego or further in conflict with a person's ideal self-image.

Fugue

- It is a state of dissociated consciousness in which, during the attack, the person unconsciously changes his identity and vocation.
- With taking of new identity there is amnesia for old identity.
- Habits and skills are unaffected
- It is a suicide equivalent

Classification of Psychiatric Disorders

- *1. Diagnostic and Statistical Manual of Mental Disorders (DSM)–V (American Psychiatric Association)*
 - considerably less user-friendly
 - Interestingly, the billing codes for Medicare follow the ICD system rather than their own DSM–IV.
- 2. World Health Organization has developed the 10th edition of the ICD (ICD–10) implemented from 2014 last update to ICD-10 will be Version 2019.

ICD- 10

- More clinically orientated
- Not so rigid in its definitions, favours general descriptions.
- It allows clinical judgement to form diagnoses, But this freedom makes it unsuitable for research purposes, necessitating the development of separate research diagnostic criteria.
- *Any belief, therefore, that the categories incorporated in either system of classification are 'writ in stone' is deeply misplaced.*

Classification of Psychiatric Disorders (ICD- 10)

F00 to F99

- 1.F00-F09 Organic- infection, neoplasm, vascular disorders leading to
 - Acute- delirium; Chronic- dementia
 - Organic
 - amnesic syndrome
 - delusional or mood disorder
 - Personality or behavioural disorders

ICD-10 Version 2016

- 2.F10-F19 A wide variety of disorders that differ in severity and clinical form but that are all attributable to the use of one or more psychoactive substances
 - Substance misuse- Alcohol, cannabis, Opium, cocaine etc
 - Trance and possession disorders in psychoactive substance intoxication
- Dependence syndrome
 - A cluster of behavioural, cognitive, and physiological phenomena that develop after repeated substance use and that typically include a strong desire to take the drug, difficulties in controlling its use, persisting in its use despite harmful consequences, a higher priority given to drug use than to other activities and obligations, increased tolerance, and sometimes a physical withdrawal state. Chronic alcoholism, Dipsomania, Drug addiction

3.F20-F29 [Psychosis (Insanity)]

- Schizophrenic and Delusional disorders, and a larger group of acute and transient psychotic disorders. Schizoaffective disorders also have been retained.
- The schizophrenic disorders are characterized in general by *fundamental and characteristic distortions of thinking and perception, and affects* that are inappropriate or blunted

Schizophrenia

- It is a mental disorder characterized by loss of contact with reality/ **qualitative deviation** from normality in behaviour, thinking, and or perception (psychosis),
- It is associated with hallucinations,
- Delusions (Firmly held false beliefs)
- Abnormal thinking and behaviour,
- Reduced expression of emotions,
- Diminished motivation, and problems in daily functioning, including work, social relationships, and self-care.

F30- F39

- 4. Affective (mood) disorders
 - The fundamental disturbance is a change in affect or mood to depression (with or without associated anxiety) or to elation. Accompanied by a change in the overall level of activity and related symptoms. Most of these disorders tend to be recurrent and the onset of individual episodes can often be related to stressful events or situations.
 - Mania/ Depression
 - Bipolar

5.F40-F49 Neurotic, stress related and somatoform disorder

- Anxiety dis.-Phobic,panic& generalised
- Obsessive Compulsive dis.
- Reaction to severe stress
- Dissociative (conversion) dis.- Hysteria
- Somatoform dis.-Repeated Med.Con.
- Neurasthenia-Chr.Fatigue Syn.

6.F50-F59 Behavioural syndromes associated with physiological disturbance

- Eating dis. Sleep dis. Sexual dysfunction, Puerperal mental dis.
- Abuse of non-dependence producing substances

7.F60-F69 Disorders of Adult Personality & Behaviour

- Paranoid disorder-Unreasonably or obsessively anxious, suspicious or mistrustful
- Pathological gambling
- Kleptomania Pyromania, Trichotillomania
- Transsexualism, Fetishism, Exhibitionism
- Voyeurism, Paedophilia, Sadomasochism
- Bisexuality, homosexuality (Now deleted)
- Factitious disorder

Antisocial Personality Disorders (ASPD)./ **Dissocial personality disorder** **Psychopath/ Sociopath**

- Due to faulty maturation of personality a psychopath/ sociopath does not grow emotionally in harmony with his chronological age with the result that there is inability to control his impulses and drives which are more often than not antisocial.
- He wants immediately here and now satisfaction of his desires and drives.
- He does not learn from experience.

Characteristics

- A disregard for laws and social mores
- A disregard for the rights of others
- A failure to feel remorse or guilt
- A tendency to display violent behaviour

Sociopath	Psychopath
<p>Nervous easily agitated, volatile, prone to emotional outbursts, including fits of rage</p>	<p>Do not form emotional attachment, or feel real empathy for others</p>
<p>Likely to be uneducated and live on the fringes of society In the eyes of others, sociopaths will appear to be very disturbed.</p>	<p>They often have disarming, or even charming personality, are very manipulative and can easily gain people's trust. They often have families/ long term relationship without being suspected about their true nature</p>
<p>Unable to hold a steady job or stay at one place for long It is difficult but they do form attachments with individual or group</p>	<p>They learn to mimic emotions despite their inability to actually feel them and appear normal to unsuspecting people</p>

Sociopath	Psychopath
Any crime committed by a sociopath, including murder, will tend to be haphazard, disorganized and spontaneous rather than planned	Often are well educated, cool, calm, and meticulous and may hold steady jobs. Their crimes, whether violent or non-violent, will be highly organized, and generally offer few clues for authorities to pursue.
Sociopathy is more likely the result of “nurture” (environment). likely the product of childhood trauma and physical/emotional abuse.	Psychopathy is the largely the result of “nature” (genetics) underdevelopment of the part of the brain responsible for impulse control and emotions

Psychopathy is the most dangerous of all antisocial personality disorders because of the way psychopaths dissociate emotionally from their actions, regardless of how terrible those actions may be. Many prolific and notorious serial killers were psychopaths

8.F70-F79 Mental Retardation

- Mental retardation is a condition of arrested or incomplete development of the mind, which is especially characterized by intellectual disabilities,
- impairment of skills manifested during the developmental period, which contribute to the overall level of intelligence, i.e. cognitive, language, motor, and social abilities.
- Retardation can occur with or without any other mental or physical disorder

F70-Mild Mental Retardation

- Approximate IQ range of 50 to 69;
- 85% of total mentally retarded people in this group
- In adults, mental age of a child from 9 to under 12 years.
- Likely to result in some learning difficulties in school.
- Many adults will be able to work and maintain good social relationships and contribute to society.
- Also called :- feeble-mindedness; mild mental subnormality; Moron; mild oligophrenia

F71 Moderate Mental Retardation

- Approximate IQ range of 35 to 49
- In adults, mental age from 6 to under 9 years
- Likely to result in marked developmental delays in childhood but most can learn to develop some degree of independence in self-care and acquire adequate communication and academic skills.
- Adults will need varying degrees of support to live and work in the community.
- Also called:- moderate mental subnormality; Imbecile; Moderate oligophrenia

F72 Severe Mental Retardation

- Approximate IQ range of 20 to 34
- In adults, mental age from 3 to under 6 years
- Likely to result in continuous need of support.
- Also called:- severe mental subnormality; Severe oligophrenia

F74-Profound Mental Retardation

- IQ under 20
- In adults, mental age below 3 years.
- Results in severe limitation in self-care, continence, communication and mobility.
- Also called:- profound mental subnormality; Idiot; Profound oligophrenia

F 78 & F 79

- F-78 Other mental retardation
 - When assessment of the degree of intellectual retardation by means of the usual procedures is rendered particularly difficult or impossible by associated sensory or physical impairments, as in blind, deaf-mute, and severely behaviourally disturbed or physically disabled people.
- F-79 Unspecified mental retardation
 - There is evidence of mental retardation, but insufficient information is available to assign the patient to one of the above categories.

Psych.dis.-Classification-Cont.

- 9. F80-F89 Disorders of Psychological development-Reading, spelling, childhood autism
- 10.F90-F98 Behavioural and emotional disorders with childhood and adolescent onset. Sibling rivalry, Selective mutism(SM), Tic dis. Stammering
- 11.F99-F99 Mental disorders not otherwise specified.

Difference Between True and Feigned Insanity

Symptoms	True	Feigned
Motive	Absent No history of crime	Present
Onset	Gradual	Sudden
Predisposing factors	Usually present Loss of money or near ones	Absent
Facial expression	Detached, vacant	Frequently changing exaggerated

Cont.

Signs & Symptoms	Uniformly Present whether observed or not	Present only when under observation Not fitting any disease
Insomnia	Present	Tries but sleeps after a day or two
Exertion	No apparent fatigue	Breaks down after a day or two
Habits	Dirty & Filthy	Not so

Cont.

Skin and Lips	Dry and harsh	Normal
Frequency of examination	Does not mind repeated examination	Resents for fear of detection

Criminal Responsibility of An Insane Person

- For an action to be called a crime:-
 - a) Actus reus- Voluntary Conduct
 - b) Mens rea- Evil intent or guilty mind
 - c) Defendant's willful intent in order to prove guilt for most criminal charges
 - d) Moral Imperative- Morally it seems wrong to hold insane guilty
 - e) Perception of fairness- Sense of fairness of court undermined to equate sane and insane on same footing

Mc Naughten Rule (Right- Wrong Test)

Most Respected Legal Test of Insanity

- To establish a defence on the ground of insanity, it must be clearly proved that, *at the time of committing the act*, the party accused was labouring under such a **defect of reason** from disease of mind, as not to know the **nature & quality of act** he was doing, **or if he did know it, he did not know he was doing what was wrong.**

Daniel Mc Naughten

Edward Drummond Sir Robert Peel

1843

Section 84 of IPC

- Nothing is an offence which is done by a person who **at the time of doing** it is by reason of unsoundness of mind **incapable** of knowing the **nature of the act** or that he is doing what is either **wrong or contrary to law**

Irresistible Impulse Test

- A person is not responsible for an act committed under an **impulse which he was unable to resist** because of mental disease.
- Court's interpretation- **Police man at the elbow test**
- Doctrine of partial Responsibility
 - There must be aberration or weakness of mind.
 - There must be a state of mind bordering on though not amounting to insanity.
 - There must be a mind so affected that the responsibility is diminished from full responsibility to partial responsibility.

Durham's Rule

- In 1954 in Durham case, Justice David Bazelon (USA) gave the ruling that “An accused is not criminally responsible if his/her unlawful act was the product of mental disease or mental defect”
- In 1972 this rule was discarded by a court consisting of nine judges including justice Bazelon

Curren's Rule

- This Rule came in force in 1961
- It postulates that "The jury must be satisfied that at the time of committing the prohibited act the defendant, as a result of mental disease or defect, lacked substantial capacity to conform his conduct to the requirements of the law which he is alleged to have violated".
- It is similar to irresistible impulse test
- Now discarded

Model Penal Code Of American Law Institute

- Test of Insanity given in the code is widely followed in courts of USA.
 - People are not responsible for criminal conduct if at the time of such conduct, as a result of mental disease or defect, they lacked substantial capacity either to appreciate the criminality (wrongfulness) of their conduct or to conform their conduct to the requirement of law
- The term mental disease or defect does not include abnormality manifested only by repeated criminal or otherwise antisocial conduct

Other Terms Used

- “Not guilty by reason of insanity” or “Guilty but Insane”
- Diminished Responsibility also called “Twinkie defence”

Causes of Insanity

Hereditary:- genes and family history

Environmental:- such as stress or a history of abuse, especially if they happen in childhood

Biological factors such as chemical imbalances in the brain

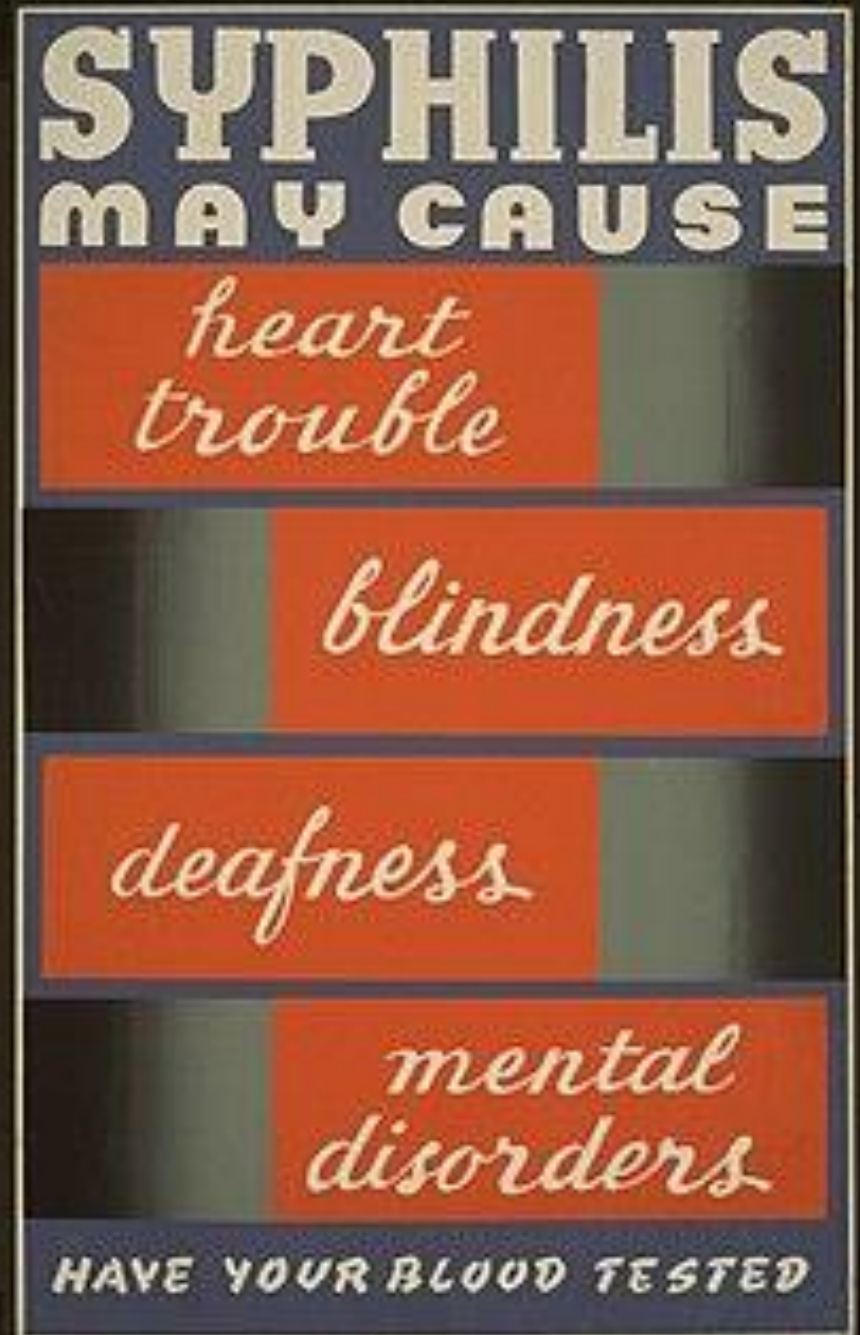
A traumatic brain injury

A mother's exposure to viruses or toxic chemicals while pregnant

Use of alcohol or recreational drugs

Having a serious medical condition like cancer

Having few friends, and feeling lonely or isolated.



Difference Between True and Feigned Insanity

Symptoms	True	Feigned
Motive	Absent No history of crime	Present
Onset	Gradual	Sudden
Predisposing factors	Usually present Loss of money or near ones	Absent
Facial expression	Detached, vacant	Frequently changing exaggerated

Cont.

Signs & Symptoms	Uniformly Present whether observed or not	Present only when under observation Not fitting any disease
Insomnia	Present	Tries but sleeps after a day or two
Exertion	No apparent fatigue	Breaks down after a day or two
Habits	Dirty & Filthy	Not so

Cont.

Skin and Lips	Dry and harsh	Normal
Frequency of examination	Does not mind repeated examination	Resents for fear of detection

Criminal Responsibility of An Insane Person

- For being called a crime:-
 - a) **Actus reus**- Voluntary Conduct
 - b) **Mens rea**- Evil intent or guilty mind
 - c) Defendant's willful intent in order to prove guilt for most criminal charges
 - d) Moral Imperative- Morally it seems wrong to hold insane guilty
 - e) Perception of fairness- Sense of fairness of court undermined to equate sane and insane on same footing

Mc Naughten Rule (Right- Wrong Test)

- To establish a defence on the ground of insanity, it must be clearly proved that, *at the time of committing the act*, the party accused was labouring under such a **defect of reason** from disease of mind, as not to know the **nature & quality of act** he was doing, **or if he did know it, he did not know he was doing what was wrong.**

Daniel Mc Naughten

Edward Drummond Sir Robert Peel

1843

Section 84 of IPC (Legal Test of Insanity)

- Nothing is an offence which is done by a person who **at the time of doing** it is by reason of unsoundness of mind **incapable** of knowing the **nature of the act** or that he is doing what is either **wrong** or **contrary to law**

Irresistible Impulse Test

- A person is not responsible for an act committed under an **impulse which he was unable to resist** because of mental disease.
- Court's interpretation- **Police man at the elbow test**
- Doctrine of partial Responsibility
 - There must be aberration or weakness of mind.
 - There must be a state of mind bordering on though not amounting to insanity.
 - There must be a mind so affected that the responsibility is diminished from full responsibility to partial responsibility.

Durham's Rule

- In 1954 in Durham case, Justice David Bazelon (USA) gave the ruling that an accused is not criminally responsible if his/her unlawful act was the product of mental disease or mental defect
- In 1972 this rule was discarded by a court consisting of nine judges including justice Bazelon

Curren's Rule

- This Rule came in force in 1961
- It postulates that
 - “An accused is not criminally responsible, if at the time of committing the act, he did not have the capacity to regulate his conduct to the requirements of law as a result of mental disease or defect”
- It is similar to irresistible impulse test
- Now discarded

Model Penal Code Of American Law Institute

- Test of Insanity given in the code is widely followed in courts of USA
 - People are not responsible for criminal conduct if at the time of such conduct, as a result of mental disease or defect, they lacked substantial capacity either to appreciate the criminality (wrongfulness) of their conduct or to conform their conduct to the requirement of law
- The term mental disease or defect does not include abnormality manifested only by repeated criminal or otherwise antisocial conduct

Other Terms Used

- Guilty but Insane
- Diminished Responsibility also called “Twinkie defence”

Rights of Insane Persons Admitted in Mental Hospital

- Right to Privacy & Dignity
- To be visited by lawyers, clergies & private physicians + Privacy in talk
- Not to be subjected to ECT, Lobotomy without informed consent of patient
- Right to refuse treatment except in emergency or by court's order

•Cont.

- Right to receive visitors during visiting hours unless unfit which should be properly documented
- Right to be free from excessive or unnecessary medication
- Right to ‘least restrictive environment’ also called ‘least restrictive alternative or less restrictive option’

Seclusion

RESTRAINT

LEATHER CUFFS,
ANKLETS
or STRAIGHT JACKETS

Iron wrist
shackles with
chains and
padlock;
Germany ca.
17th century









Modern chain
handcuffs
made of
hardened steel;
Hiatt 2010



Modern
steel
legcuffs















Straitjackets
on display
at
Glen
side
Mus
eum



Civil Rights & Responsibilities

- Inquisition

- Court may direct an inquisition when a lunatic is alleged to be incapable of managing his property and if so certified by the physician. Then the court may appoint manager of the property
- 2nd inquiry and necessary order may be passed when it is reported that sanity has returned.

- Contract:-

- A contract is invalid if one of the parties at the time of making it was by reason of insanity incapable of understanding it and forming judgement as to its effect upon his interests
- However an honest contract when the other party was unaware of the insanity is valid. But not valid when undue advantage was taken of insanity

Civil Rights & Responsibilities

- Consent:-

- An insane person can not give a valid consent

- Marriage:-

- An insane person cannot marry and if married then it is a ground for nullity of marriage even if consummated
- Ground for divorce if becomes mad after marriage

- Evidence:-

- Not competent to appear as witness
- Except during lucid interval

Testamentary Capacity

- Capacity to make a valid will :-
 - An understanding of the nature of the document
 - Knowledge of the property to be disposed off
 - An ability to recognise those who may have a moral claim on the property
- Can make will under lucid interval
 - Can make will even if suffers from delusions provided these are not related to the will
- Sound and disposing mind
 - If he has sufficient mental capacity to understand the nature and consequences of his acts

Ethics in Psychiatry

- Informed consent to be taken regarding diagnosis, prognosis, risks and benefit of alternative courses of treatment
- Treat patient to improve his condition rather than for the convenience of caretakers.
- Involuntary hospitalisation restricts freedom so rules of fair procedure for admission to be followed.
- Treatment to restore and maximize patient's competence to make his own decisions.

Ethics in Psychiatry(Cont.)

- Sexual activity with a current or a former patient is unethical and medical registration will be cancelled if proved.
- In several countries including India it is a criminal offence.
- Insurance companies do not cover for such malpractice cases

Mental Healthcare Act 2017

- An Act 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 there to

Mental Healthcare Act 2017

- It has replaced Mental Health Act 1987
- The first Act was 'Indian Lunacy Act' of 1912
- It equates doctors of modern science with AYUSH physicians for the treatment of psychiatric disorders
- ***Mental illness means a substantial disorder of thinking, mood, perception, orientation or memory that grossly impairs judgement, behaviour or capacity to recognise reality or ability to meet the ordinary demands of life, mental conditions associated with abuse of alcohol and drugs, but does not include mental retardation.***
- ***Mental illness shall be determined according to the latest edition WHO classification of diseases***

Mental Illness Shall Not Be Determined on the Basis of

- (a) political, economic or social status or membership of a cultural, racial or religious group, or for any other reason not directly relevant to mental health status of the person;
- (b) non-conformity with moral, social, cultural, work or political values or religious beliefs prevailing in a person's community.

Mental Healthcare Act 2017

- WHEREAS the *Convention on Rights of Persons with Disabilities and its Optional Protocol* was adopted on the 13th December, 2006 at United Nations Headquarters in New York and came into force on the 3rd May, 2008;
AND WHEREAS India has signed and ratified the said Convention on the 1st day of October, 2007;
AND WHEREAS it is necessary to align and harmonise the existing laws with the said Convention.
- BE it enacted by Parliament in the Sixty-eighth Year of the Republic of India

Mental Healthcare Act 2017

- *The determination of mental illness of a person shall not mean that he is of unsound mind unless so declared by a competent court*
- Every person including a person with mental illness shall be deemed to have the capacity to make decisions regarding his mental healthcare or treatment if such person has the ability to understand information relevant for such decision and its consequences

Advance Directive

- 5. (1) Every person, who is not a minor, shall have a right to make an advance directive in writing, specifying any or all of the following, namely:—
 - (a) the way the person wishes to be cared for and treated for a mental illness;
 - (b) the way the person wishes not to be cared for and treated for a mental illness;
 - (c) the individual or individuals, in order of precedence, he wants to appoint as his **nominated representative**.

Conditions of Advance Directive

- **10.** It shall be the duty of the psychiatrist to give treatment to a person with mental illness, in accordance with his valid advance directive.
- **11.** (1) Where a mental health professional or a relative or a care-giver of a person desires not to follow an advance directive such mental health professional or the relative or the care-giver of the person shall make an application to the concerned **Board to review**, alter, modify or cancel the advance directive.

Conditions

- **13.** (1) A medical practitioner or a mental health professional shall not be held liable for any unforeseen consequences on following a valid advance directive.
- (2) The medical practitioner or mental health professional shall not be held liable for not following a valid advance directive, if he has not been given a copy of the valid advance directive

NOMINATED REPRESENTATIVE

- 14. (1) Every person who is not a minor, shall have a right to appoint a nominated representative.
- Shall be made in writing on plain paper with signature/ thumb impression also of representative
- Where no representative appointed following will deemed in order of precedence
 - The individual appointed as the nominated representative in the advance directive
 - a relative/ a care-giver/
 - A suitable person/ Director, Department of Social Welfare, or his designated representative will be appointed by the Board

RIGHTS OF PERSONS WITH MENTAL ILLNESS

- Every person shall have a right to access mental healthcare and **treatment of affordable cost**, of good quality, available in sufficient quantity, **accessible geographically**, without discrimination on the basis of gender, sex, sexual orientation, religion, culture, caste, social or political beliefs, class, disability or any other basis and provided in a manner that is acceptable to persons with mental illness and their families and care-givers

Integration of Mental Healthcare With General Healthcare.

- Integrate mental health services into general healthcare services at all levels-including *primary, secondary and tertiary*.
- Ensure that the long term care in a mental health establishment for treatment of mental illness shall be used only in exceptional circumstances.
- Even short term admission will be used as a last resort

- Ensure that as a minimum, mental health services run or funded by Government shall be available in each district;
- If Govt facility is not available then cost of treatment in private hospital of that district will be borne by Govt.
- Persons with mental illness living below the poverty line whether or not in possession of a below poverty line card, or who are destitute or homeless shall be entitled to mental health treatment and services free of any charge
- Government shall notify Essential Drug List and all medicines on the Essential Drug List shall be made available free of cost to all persons with mental illness

- **Every person with mental illness shall,—**

- (a) have a right to live in, be part of and not be segregated from society; and
 - (b) not continue to remain in a mental health establishment merely because he does not have a family or is not accepted by his family or is homeless or due to absence of community based facilities.

- Government shall, within a reasonable period, provide for or support the establishment of less restrictive community based establishments including half-way homes, group homes and the like for persons who no longer require treatment in more restrictive mental health establishments such as long stay mental hospitals

- Every person with mental illness shall be protected from cruel, inhuman or degrading treatment in any mental health establishment and shall have the following rights, namely:—

- (a) to live in safe and hygienic environment;

- (b) to have adequate sanitary conditions;

- (c) to have reasonable facilities for leisure, recreation, education and religious practices;

- (d) to privacy;
- (e) for proper clothing so as to protect such person from exposure of his body to maintain his dignity;
- (f) to not be forced to undertake work in a mental health establishment and to receive appropriate remuneration for work when undertaken;
- (g) to have adequate provision for preparing for living in the community;
- (h) to have adequate provision for wholesome food, sanitation, space and access to articles of personal hygiene, in particular, women's personal hygiene be adequately addressed by providing access to items that may be required during menstruation;
- (i) to not be subject to compulsory tonsuring (shaving of head hair);
- (j) to wear own personal clothes if so wished and to not be forced to wear uniforms provided by the establishment; and Right to community living. Right to protection from cruel, inhuman and degrading treatment.
- (k) to be protected from all forms of physical, verbal, emotional and sexual abuse.

- Every person with mental illness shall be treated as equal to persons with physical illness in the provision of all healthcare facilities like- emergency services, ambulance, quality of living conditions, and all other facilities.
- A child under three years shall not be separated from mother admitted except for the safety of the child.
- Every insurer shall make provision for medical insurance for treatment of mental illness on the same basis as is available for treatment of physical illness
- **A person with mental illness/ nominated representative shall have the rights to the following information, namely:—**
 - (a) Under which provision of the law the patient is being admitted.
 - (b) of his right to apply for review to the Board regarding his admission.
 - (c) the nature of the person's mental illness and the proposed treatment plan and side effects of the treatment
 - (d) receive the information in a language and form that such person receiving the information can understand.
- A person with mental illness shall have the right to confidentiality in respect of his mental health, mental healthcare, treatment and physical healthcare.

- All health professionals providing care or treatment to a person with mental illness shall have a duty to keep all such **information confidential** which has been obtained during care or treatment with the following **exceptions**, namely: nominated representative, other health professionals providing care, to **protect any other person from harm** or violence (only such information that is necessary to protect); release of information upon an order by concerned Board or the Central Authority or High Court or Supreme Court or any other statutory authority competent to do so; and release of information in the interests of public safety and security.
- *No photograph or any other information relating to a person with mental illness shall be released to the media without the consent of the person with mental illness.*
- **The right to confidentiality shall also apply to all information stored in electronic or digital format in real or virtual space.**
- **All persons with mental illness shall have the right to access their basic medical records as may be prescribed.**

- The mental health professional may withhold specific information in the medical records if disclosure would result in,—serious mental harm to the person with mental illness; or likelihood of harm to other persons.
- A person with mental illness admitted to a mental health establishment shall have the right to refuse or receive visitors and to refuse or receive and make telephone or mobile phone calls at reasonable times subject to the norms of such mental health establishment.
- A person with mental illness admitted in a mental health establishment may send and receive mail through electronic mode including through e-mail. Or refuse to receive mails/ emails from particular person or community
- A person with mental illness shall be entitled to receive free legal services to exercise any of his rights given under this Act.
- Any person with mental illness or his nominated representative, shall have the right to complain regarding deficiencies in provision of care, treatment and services in a mental health establishment to the in charge doctor/ the board / or the state authority in not satisfied

Central / State Mental Health Authority

- Maintain a register of all mental health facilities under central Govt. and also compile information from all state govt. regarding facilities under their control.
- Develop quality and service provision norms for different types of mental health establishments under the Central/ State Government
- Supervise all mental health establishments under the Central / State Government and receive complaints about deficiencies of services;
- Maintain a national / State register of clinical psychologists, mental health nurses and psychiatric social workers based on information provided by all State Authorities.
- Train all persons including law enforcement officials, mental health professionals and other health professionals about the provisions and implementation of this Act;

MENTAL HEALTH ESTABLISHMENTS

- Means any health establishment, including AYUSH, run by private or public authority, where persons with mental illness are kept for treatment, either temporarily or otherwise; and includes any general hospital or general nursing home but does not include a family residential place where a person with mental illness resides with his relatives or friends;
- **No person or organization shall establish or run a mental health establishment unless it has been registered with the Authority under the provisions of this Act.**

- The Mental Health Establishment for registration shall have:-
 - (a) the **minimum standards of facilities and services** as may be specified by regulations made by the Authority;
 - (b) the minimum qualifications for the personnel engaged in such establishment as may be specified by regulations made by the Authority;
 - (c) provisions for maintenance of records and reporting as may be specified by regulations made by the Authority
- The Authority may, *suo motu* or on a complaint received from any person with respect to non-adherence of minimum standards specified by or under this Act or contravention of any provision thereof, order an inspection or inquiry of any mental health establishment, to be made by such person as may be prescribed
- Any mental health establishment aggrieved by an order of the Authority refusing to grant registration or renewal of registration or cancellation of registration, may, within a period of thirty days from such order, prefer an appeal to the High Court in the State

- Every mental health establishment shall display the certificate of registration in a conspicuous place in the mental health establishment in such manner so as to be visible to everyone visiting the mental health establishment
- Every mental health establishment shall display within the establishment at conspicuous place (including on its website), the contact details including address and telephone numbers of the concerned Board.

- **MENTAL HEALTH REVIEW BOARDS**

- The State Authority shall, by notification, constitute Boards to be called the Mental Health Review Boards, for the purposes of this Act.

Located in **every district headed by district judge-working retired** or a person qualified to be appointed. Members- from district magistrate, psychiatrists, and patients or caregiver. All appointed by State authority chairman.

Patients or their representatives or NGOs can apply to board for redressal of grievances from mental health establishments.

Appeal against the decision of the board lies with high court of the state.

81. (1) The Central Authority shall appoint an Expert Committee to prepare a guidance document for medical practitioners and mental health professionals, containing procedures for assessing, when necessary or the capacity of persons to make mental health care or treatment decisions.

85.(1)“independent patient or an independent admission”

refers to the admission of person with mental illness, to a mental health establishment, who has the capacity to make mental healthcare and treatment decisions or requires minimal help.

86. (1) An adult can get himself admitted as an independent patient.

(7) Subject to the provisions contained in section 88 an independent patient may get himself discharged from the mental health establishment without the consent of the medical officer or mental health professional in charge of such establishment.

87. An attendant(a female for female patients) shall stay with minor admitted patients for the entire duration of stay in the hospital

A minor shall be discharged on request of nominated representative.

Supported Admissions:- Under section 89 on certification from two doctors one being a psychiatrist for a period of 30 days

The person is ineligible to receive care and treatment as an independent patient because the person is unable to make mental healthcare and treatment decisions independently and needs very high support from his nominated representative in making decisions.

The medical officer or mental health professional in charge of the mental health establishment shall report to the concerned Board,—

(a) within three days of the admissions of a woman or a minor;

(b) within seven days the admission of any person not being a woman or minor.

90. (1) If a person with mental illness admitted under section 89 requires continuous admission and treatment beyond thirty days or a person with mental illness discharged under sub-section (15) of that section requires readmission within seven days of such discharge, This shall also be reported to the board.

- (a). Two psychiatrists have independently examined the person with mental illness in the precedingthe preceding seven days and both independently conclude based on the examination and, on information provided by others that the person has a mental illness of a severity that the person—
 - (i) has consistently over time threatened or attempted to cause bodily harm to himself; or
 - (ii) has consistently over time behaved violently towards another person or has consistently over time caused another person to fear bodily harm from him; or(iii) has consistently over time shown an inability to care for himself to a degree that places the individual at risk of harm to himself;
- (b) both psychiatrists, after taking into account an advance directive, if any, certify that admission to a mental health establishment is the least restrictive care option possible under the circumstances;

(8) Period of admission limited to 90 days at first instance

(9) May be extended to 120 days and then 180 days each time on certain conditions

(10) Shall be discharged if the board if the board does not give permission

(15) The incharge doctor can discharge if the patient considered fit

(16) The patient can continue to be admitted as independent patient.

91. Leave of absence allowed as considered necessary

92. If a patient admitted U/S 103 (relevant sections of armed forces acts) runs away without leave then of information will be arrested and sent back to the hospital

93. The patient can be transferred from one hospital to another within the state or outside the state

94. Any registered medical practitioner is allowed to treat with consent of the patient or his nominated representative in emergency but not give ECT and treatment period restricted to 72 hours or in case of disaster up to 7 days

95 Prohibited Procedures:-

1. (a) **electro-convulsive therapy** without the use of muscle relaxants and anaesthesia;
- (b) electro-convulsive therapy for minors; without permission of board
- (c) **sterilisation** of men or women, when such sterilisation is intended as a treatment for mental illness;
- (d) **chained in any manner or form whatsoever.**

96. **Psychosurgery** will only be performed with prior consent of patient/ and the board.

97. *Seclusion or solitary confinement*, or physical restraint may only be used when, it is the only means available to prevent imminent and immediate harm to person concerned or to others; And it will be recorded

99. **Research can be conducted with informed consent** of patient and where patient unable then consent of state authority provided the proposed research follows all the national and international guidelines approval has been obtained from the institutional ethics committee

100. **Duties of Police Officers:-** Take under protection any wandering mentally ill person or if he is risk to himself or others and take him to health establishment for assessment within 24 hrs. Not to keep in police lock up or prison. Search family members and drop him there if the doctor permits

101. Police will report to magistrate all cases where a mentally ill person is being neglected or ill treated

102 The magistrate will send the patient to mental health establishment for assessment and plan of treatment for a period of 10 days.

103. (1) An order under armed forces act or Cr.P.C. directing the admission of a prisoner with mental illness into any suitable mental health establishment, shall be sufficient authority for the admission of such person in such establishment.

104. Applies to all State run custodial institutions (including beggars homes, orphanages, women's protection homes and children homes)

105 An accused under trial will also be referred if alleged to be mentally ill

106. No mental health professional or medical practitioner shall discharge any duty or perform any function not authorised by this Act or specify or recommend any medicine or treatment not authorised by the field of his profession.

107. Mental health establishment without registration fine five thousand to fifty thousand on first occasion then up to two lakhs and then up to five lakhs on all subsequent detection. Health professionals working in unregistered mental health establishment to be fined up to 25 thousand

108. Contravention of any provision of this Act - six months imprisonment, or fine up to ten thousand or both for the first timer then 2 years and fine not less than fifty thousand but may be up to 5 lakh

