

Review of Existing Laws and Executive Orders that Articulate Mental Health Concerns

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Background

- The fundamental aim of mental health legislation is to protect, promote and improve the lives and mental well-being of citizens.
- 75% of countries around the world have mental health legislation
- Only half (51%) have laws passed after 1990
- Nearly a sixth (15%) have legislation dating back to the pre-1960s

(WHO, 2001)

Background

- The need for mental health legislation stems from an increasing understanding of the personal, social and economic burdens of mental disorders worldwide.
- Legislation offers an important mechanism to ensure adequate and appropriate care and treatment, protection of human rights of people with mental disorders and promotion of the mental health of populations.
- Legislation also provides a good opportunity to raise public awareness about mental health and educate policymakers and the public about human rights issues, stigma and discrimination.

A review of the laws of the Philippines would show that issues related to mental health are touched upon by several codes, rules, and procedures. However, there is no single legislation which addresses mental health as a primary topic.

- So far 73 EOs and RAs have been reviewed.
- 63 of the 73 documents reviewed cover children either as a specific population of concern or together with other populations(i.e., women, PWD)
- 54 of these have implications on mental health (following the sub-programs of the NMHP: *wellness of daily living, extreme life experiences, substance abuse, and mental disorders*)

- 20 of the 73 documents reviewed directly mention mental health concerns, mostly on the provision of “*counseling*”, “*psychosocial*”, and “*psychological*” services.
- 13 of these 20 documents are on children; the rest are on women, solo parents, adoptive parents, persons with disability, victims of sexual abuse and trafficking, and drug dependents.
- The DSWD is the lead implementing agency in half of the 20 documents that directly mention mental health concerns.

Earliest Mental Health Legislation

Royal Decree of 1808 (Spain) – it established a hospital for the insane at Hospicio de San Jose, a charitable religious institution, to care for its first patient a sailor of the Spanish Royal Navy.

Public Laws and Resolution no. 2122 of 1912 – The first government mental health facility was created at the Insane Department of the San Lazaro Hospital.

Act No. 3815, as amended (1926)

The Revised Penal Code

It prescribes circumstances which exempt person from criminal liability

- Art. 12 Par.1 An imbecile or insane person who has committed an act which the law define as felony, shall be ordered by the court to be confined in one of the hospitals or asylum established for persons afflicted, and he shall not be permitted to leave without first obtaining the permission of the same court.

Republic Act 386 (1946) Civil Code of the Philippines

Capacity of the insane to act on civil matters (i.e., making a will, enter into contract, administering their property, to act as witness in court of law, etc)

THE 1987 CONSTITUTION

ARTICLE XIII HEALTH

Section 13 - The State shall establish a special agency for disabled person for their rehabilitation, self-development, and self-reliance, and their integration into the mainstream of society.

Family Code 1988

- Art. 36 - A marriage contracted by any party who, at time of the celebration, was psychologically incapacitated to comply with essential marital obligations of marriage, shall be void
- Art. 45 par. 2 – A marriage may be annulled for the cause that either party was unsound mind, existing at the time of marriage.

Republic Act 7277 (1992)

Magna Carta for Disabled Persons

An act providing for the rehabilitation, self development and self-reliance of disabled persons and their integration into the mainstream of society and for other purposes.

Republic Act No. 7610 (1992)

Special Protection of Children against Child Abuse,
Exploitation and Discrimination

An act providing for stronger deterrence and special protection against child abuse, exploitation and discrimination, providing penalties for its violation, and for other purposes

Republic Act No. 8172 (1995)

An act promoting salt iodization nationwide and for related purposes. (ASIN)

Section 4. Defined iodine deficiency disorder's as a broad spectrum of deficiencies resulting from lack of iodine in the diet which leads to the reduction of intellectual and physical capacity affecting everyone who is iodine-deficiency and may manifest as goiter, *mental retardation*, *physical and mental defects*, and cretinism.

Republic Act No. 8552

Domestic Adoption Act of 1998

An act establishing the rules and policies on the domestic adoption of Filipino children and for other purposes.

Sec. 2. Declaration of Policies. — (a) It is hereby declared the policy of the State to ensure that every child remains under the care and custody of his/her parent(s) and be provided with love, care, understanding and security towards the full and harmonious development of his/her personality.

REPUBLIC ACT NO. 9165

"Comprehensive Dangerous Drugs Act of 2002"

Section 2. *Declaration of Policy.* It is the policy of the State to safeguard the integrity of its territory and the well-being of its citizenry particularly the youth, from the harmful effects of dangerous drugs on their physical and mental well-being

REPUBLIC ACT NO. 9258

"Guidance and Counseling Act of 2004"

Professionalizing the practice of
guidance and counseling and
creating for this purpose a
professional regulatory board of
guidance and counseling

Executive Order No. 56, s 1986

Authorizing the Ministry of Social Services and Development to take protective custody of child prostitutes and sexually exploited children and for other purposes

Sec. 2. The Ministry of Social Services and Development shall provide suitable programs for the full rehabilitation of the minors under its custody

Executive Order No. 470 (1998)

Creating the Philippine Council For
Mental Health

*The council was never convened

Different Ways of Approaching Mental Health Legislation

- No separate mental health legislation – provisions related to mental health are inserted into other relevant legislation
- Consolidated mental health legislation
- Combined approaches – have integrated components as well as a specific mental health law

Advantages and Disadvantages of these Approaches

No separate mental health legislation

- It reduces stigma and emphasizes community integration of those with mental disorders
- Benefits a much wider constituency
- Difficulty in ensuring coverage of all legislative aspects relevant to persons with mental disorders
- Procedural processes aimed at protecting the human rights of people with mental disorders can be quite detailed and complex and may be inappropriate in legislation other than a specific mental health law. It requires more legislative time because of the need for multiple amendments to existing legislation.

Advantages and Disadvantages of these Approaches

Consolidated legislation

- Has the ease of enactment and adoption, without the need for multiple amendments to existing laws.
- The process of drafting, adopting and implementing consolidated legislation also provides a good opportunity to raise public awareness about mental
- However, consolidated legislation emphasizes segregation of mental health and persons with mental disorders; hence, it can potentially reinforce stigma and prejudice against persons with mental disorders.

There is little evidence to show that one approach is better than the other. A combined approach, involving the incorporation of mental health issues into other legislation as well as having a specific mental health law, is most likely to address the complexity of mental health, particularly the needs of persons with mental disorders.

Thank you