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STIGMATIZATION AS A BARRIER TO NIGERIAN MENTAL HEALTH CARE: A REVISIT

ITUNU KOLADE-FASEYI+

Abstract

This paper in revisiting stigma as a barrier to mental healthcare discusses the challenge of stigma and the burden mental illness places on its sufferers many of who do not speak out when the early tell tale signs of mental ill-health are noticed because of corporate labeling and stigmatization. The objective of the study among others is to ascertain the adequacy or otherwise of Nigerian mental health legislations vis-à-vis gross human right abuses. The paper adopts doctrinal methodology for the study which reveals that stigma and discrimination of the mentally ill continues unrestrained because mental illness is not expressly addressed as a disability issue in Nigerian laws. It concludes by opining that when relevant laws are reformed, government partnership with unorthodox healers strengthened among other suggested recommendations, recurring issues will be laid to rest.

1. Introduction

The brain is that part of the central nervous system which lies within the cranian cavity surrounded by three membranes responsible for one's thoughts and feelings.[1] It is the most complex organ in the body, usually described as the seat of mental faculty. Just like many other parts or organs of the body fall sick or get diseased, the brain may malfunction or experience some disorders. When this occurs the affected individual is not in charge of his mental faculties and his overall mental health is jeopardized. Cicero, while writing on Grief of Mind opined that diseases of the mind are more destructive than those of the body.[2] This is true

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[1] Romanes, G.J., *Cunningham's Manual of Practical Anatomy,* 15th ed. Vol. 3, (Oxford University Press. United Kingdom, 1986) 208.

[2] Cicero, T., *The Tusculan Disputations of M. Tullius Cicero* Main, W.H (translator) (W Pickering, United Kingdom, 1824) 118 https://www.archive.org/stream/TUSCULAN/TUSCULAN_djvu.txt > accessed 23 July 2018.

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because mental disability could turn out to be more complex than physical impairment when the overall mental health of an individual is not given the required attention.

Cases of mental disorders or ill health are a common phenomenon around us, and not limited to geographical or sociological boundaries.[3] According to available statistics, about twenty percent of Nigerians have one form of psychiatric disorder or another. [4] It has been predicted that by the year 2030, the global burden of mental health disorders would reach 15% much of which would occur in low income and middle income countries and by the said year common disorders like depression, anxiety and substance abuse related disorders will cause more disability in people than complications arising from HIV/AIDS, heart disease, accidents and wars combined.[5]

The prevalence of mental disorder has enkindled different embers in its wake. It is not in doubt that persons who have one form of mental disability or the other face a lot of challenges all over the world especially in developing countries like Nigeria where different stereotypes and myths are rife. Apart from the fact that Nigeria is under-sourced in terms of professionals and infrastructure, mental health care is expensive and access by the mentally ill is usually limited to urban cities where majority of the specialist units, psychiatric hospitals/centers and NGOs are situated. The mentally disabled individual, their family members and care givers have to grapple with various daunting challenges day in day out. The mentally ill population is not well catered for during periods of ailment or properly integrated back into the society when they become well. With this sad commentary and given the expectation of discrimination and even dismissal at work, mentally ill individuals or their family members usually conceal their health status just to avoid the ostracization, social distaste, and stigma such status/ revelation is capable of evoking and in most cases the patients are usually very sick before they approach health facilities.

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[3] Westbrook, A.H., 'Mental Health Legislation and Involuntary Commitment in Nigeria: A Call for Reform' (2011) 10(2) *Washington University Global Studies Law Review*, 397 <http://www.openscholarship.wustl.edu/law_globalstudies/vol10/iss2/7> accessed 10 January 2018.

[4] *Mental Health Situation Analysis in Nigeria (*Mental Health Leadership and Advocacy Programme, College of Medicine University of Ibadan, 2012) 4. <*https://www.mhlap.org/jdownloads/mhlap%25202012/mental_health_situation_analysis_in_nigeria.doc*>accessed 15 March 2018.

[5]*The Global Burden of Disease: 2010 Update (*World Health Organisation, 2011) www.who.int/healthinfo/global_burden_disease/GBO_report_2010_update_full.pdf> accessed 21 July 2018.

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Taking present realities into consideration, it can be inferred that the existing institutional and legal framework for regulating mental health in Nigeria has become moribund and not capable of preventing stigma, meeting the needs of the mentally ill, protecting their rights and that of relevant stakeholders. This paper takes a critical look at stigma as one of the challenges of mental health in Nigeria and underscores the importance of changing the perceived stereotypes held by people and proceeds to state that individuals deserves to be respected irrespective of the physical or mental status they maintain or find themselves. In the end, suggestions for law reforms in line with international standards are proffered.

It is imperative therefore to briefly discuss the various categories of mental health, the burden of mental illness and stigma as a challenge.

2. Mental Disorders

Mental disorders are behavioral or mental pattern that causes significant distress or impairment of personal functioning. While their symptoms are scientifically valid, verifiable and well known, there are no specific causes of some mental illnesses, some might be traceable to heredity or the environment, others may be due to stress or lifestyle.[6] Some of these disorders affect the disturbance of the personality in such a way that the degree of disturbance is dependent on the type and extent of severity.[7]

The Diagnostic and Statistical Manual of Mental Disorders (DSM)[8] categorized mental disorders into various groups and some of them are: Bipolar and Related Disorders,[9] Trauma and Stressor-Related Disorders,[10] Anxiety Disorders,[11] Psychotic disorders,[12] Neuro

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[6] Editorial, 'Increased Rate of Mental Disorder among Nigerians' *Premium Times* (Lagos, 25 October 2015) <http://www.premiumtimesng.com/news/headlines/192121-increased-rate-of-mental-disorder-among-nigerians-worries-experts.html> accessed 4 June, 2018.

[7] Olopade, O., *Law and Medical Practice in Nigeria* (College Press and Publishers Limited, Ibadan, 2008)136.

[8] American Psychiatry Association., *Diagnostic and Statistical Manual of Mental Disorders.* 5th ed. (American Psychiatric Publishing, 2013).

[9] This is usually marked by dramatic and unusual mood shifts as well as changes in activity and energy levels he affected individual may experience shifts between elevated moods (mania) and periods of depression.. see National Alliance on Mental Illness (NAMI), 'Types of Mental Illness' <https://namica.org/resources/mental-illness/types-mental-illness/ > accessed 4 June 2018.

[10] This can occur as a result of exposure to a stressful or traumatic event like natural disasters, war, accidents, witnessing a death, divorce or loss of job.

[11] This can be reflected in excessive and persistent fear or worry.

[12] It involves distorted awareness and thinking. The common symptoms are hallucinations and delusions. Schizophrenia is a common example of psychotic

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developmental disorders,[13] Neuro cognitive disorders.[14] Other forms of mental disorders include personality disorders, feeding and eating disorders, disruptive, impulse-control, and conduct disorders (kleptomania), substance-related and addictive disorders, sleep - wake disorders, among others.[15]

It should be noted that although mental disorders can cause disruptions in daily functioning, relationships, work, school, and other important domains, not all mental disorders make the victim violent and wild as most myths postulate and with appropriate diagnosis and treatment, however, people can find relief from their symptoms and discover ways to cope effectively. Sadly, sufferers are shunned because of their erratic behaviour and become targets of social prejudice and unfortunate stereotypes. Though it's a manageable disease, getting an individual to take medications is difficult especially when he does not believe he is sick.[16]

3. The Challenge of Stigma

Stigma is an attribute about a person that causes them to have a deeply compromised social standing, a mark of shame, dishonor or discredit.[17]While stigmatization is the rejection of by the society of an individual with an attribute viewed by that society as negative and undesirable,[18]it is an act of branding or labeling someone in disapproving terms.

Stigma is not of recent origin; from time immemorial, people have been discriminated or socially excluded from gatherings or meetings because of several reasons ranging from financial affiliations, ethnicity or tribe to

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disorder which affects 1% of adults globally. See Fenichel, O., *The Psychoanalytic Theory of Neurosis* (Norton Publishers, New York, 1990) 415.

[13] Autism spectrum disorder, Intellectual disability (like mental retardation) and communication disorders (like language and childhood onset fluency disorder or stuttering) are common examples of neuro developmental disorders.

[14] This is characterized by cognitive decline in areas like memory, attention, language, learning, and perception. These cognitive disorders can be due to medical conditions including Alzheimer's disease, HIV infection, Parkinson's disease, substance/medication use, vascular disease, and others.

[15] NAMI, *op cit.*

[16] NAMI *op.cit.*

[17] Mental Health Policy 2015-2025 Draft 2014, Version 3 https://www.searo.who.int/maldives/mediacentre/ental-health-policy-2015-2025.pdf accessed 4 June 2018.

[18]Lelliot, P., and others, *Mental Health and Work* (Royal College of Psychiatrists, London, United Kingdom, 2008) <http://www.eprints.lse.ac.uk/id/eprint/23289> accessed 10 June 2018.

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health status.[19] The major attitudinal barrier to mental health care in Nigeria is stigma or discrimination in all ramifications.[20] Although various health conditions can lead to stigmatization, it is on record that mental disorders rank second globally only to HIV/AIDS.[21]

Restrictive attitudes towards the mentally ill can be ascribed to several myths held by different people; some individuals assume persons with psychotic disorders are a public nuisance as they are mentally retarded, wild, and unpredictable, with violent and bizarre behaviours and therefore pose a threat to public safety.[22] Others hold the notion that sufferers are perhaps responsible for their predicament because of misuse or abuse of drugs or psychoactive substances like cannabis sativa, cocaine, heroine, marijuana, tramadol which are usually used for euphoric effect. In addition, there is widespread belief that mental illness could be due to supernatural or mystical source,[23] possession by evil spirits, trauma, alcoholism, genetic factors, among others.

Respondents in a survey conducted in a Nigerian university teaching hospital by Ukpong and Abasiubong,[24] on stigmatizing attitudes towards the mentally ill, cited causes of mental illness as misuse of drugs (89.4%), traumatic events (82.7%), misuse of alcohol (75.0%), stress (72.1%), genetic inheritance (68.3%), witchcraft (52.0%), and possession by evil spirits (44.2%). They generally held strong negative

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[19]The case of students who sued Oxford University for discrimination was recently reported in newspapers amid surge in mental health claims against Universities. See Worley, W., "Oxford Sued for 'Mishandling' Special Needs" *The Times Newspaper* (8 August 2017) https://www.thetimes.co.uk/article/oxford-sued-for-mishandling-special-needs-jmsfzkxn8 accessed 22 July 2018.

[20] Other forms of barriers like financing, lack of mental health services, brain drain etc can be linked to stigma.

[21]Roeloffs, C., and others, 'Stigma and Depression among Primary Care Patients' (2003) (25) *General HospitalPsychiatry*,311-315. <https://www.researchgate.net/publication/10569737_stigma_and_depresion_among_primary_care_patients/amp > accessed 10 June 2018.

[22]Armiyau, A.Y., 'A Review of Stigma and Mental Illness in Nigeria'(2015) (5) *Journal of Clinical Case Reports,* 488 <https://www.omicsonline.org/open-access/a-review-of-stigma-and-mental-illness-in-nigeria-2165-7920.1000488.php?aid=40679> accessed 10 June 2018.

[23] Jegede, A.S., 'The Notion of '*Were*' in Yoruba Conception of Mental Illness' (2005) 14(1)*Nordic Journal of African Studies;* 117 <https://www.pdf.semanticscholar.org/1de5/1611a3b6e705bda53630e9c652cba334a119.pdf> accessed 20 March 2018.

[24] Ukpong, D.I., and Abasiubong, F., 'Stigmatising attitudes towards the mentally ill: A Survey in a Nigerian University Teaching Hospital' (2010) 16(2) *South African Journal of Psychiatry,* 56 <https://www.ajol.info/index.php/sajpsyc/article/view/68829> accessed 10 June 2018.

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attitudes towards the mentally ill and believed they should be denied their individual rights and hospitalized as soon as the symptoms occur. Some religious individuals in Nigeria believe mental illness is a spiritual phenomenon caused as a result of spiritual attack for these people, spiritual treatments like prayer and fasting, drinking holy water and oil are common treatments used by these religious healers.[25] For more severe cases, different physical punishments are inflicted on the mentally sick all in the bid to exorcize the evil spirits from its present abode which is the body of the mentally ill.[26] Many believed that women who were once patients should not be trusted as babysitters because mentally ill people could not work in regular jobs. There is also the notion that such individuals should not be allowed to be living in residential areas with 'normal' people but rather in mental facilities on the outskirts of cities.[27]

These negative attitudes no doubt suggest an unusual level of illness-related burden carried not only by the mentally ill but his parents, family members and caregivers to the extent that there is an unusual intolerance of basic social contact with people known to have such illness or the mental health personnel taking care of such people. [28] Parents are blamed for not being proactive in preventing mental illness that befall their children; siblings, spouses or close friends are blamed for not assisting sick relatives to stick strictly to treatment regimen whenever they relapse; children are afraid of being contaminated by the mental illness of their parents and may dissociate themselves from them. [29] In the bid to avoid societal scrutiny and stigmatization, these individuals who should be close to the mentally ill and look after his welfare are usually eager to dump them on the streets, healing centers or psychiatric institutions without constant visit or follow up, leaving the mentally ill at the mercy of the society with the derogatory term of *'ömö ìjoba'* (government child) being hurled at them.

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[25] Adelufosi, A.O., and others, 'Does Religiosity Influence Attitude to Mental Illness?- A Survey of Medical Students in a Nigerian University' (2013) 2(2) *Journal of Behavioural Health*, 137 <https://www.researchgate.net/publication/268504219_Does_Religiosity_Influence_Attitude_to_Mental_Illness_A_survey_of_Medical_students_in_a_Nigerian_University> accessed 10 June, 2018.

[26] Jegede, A.S., *op.cit., 120.*

[27] Ukpong, D.I., and Abasiubong, F., *op.cit.*

[28] *Mental Health Situation Analysis in Nigeria op. cit.,5.*

[29] Corrigan, P.W., and Miller, F.E., 'Shame, Blame and Contamination: A Review of the Impact of Mental Illness Stigma on Family Members' (2004) 13(6) *Journal of Mental Health, 537 <https://www.*psycnet.apa.org/record/2004-22051-002> accessed 5 June 2018.

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Most of the erroneous notions held by people are unfounded, unverifiable and could be attributed to lack of enlightenment or awareness about the categories of these disorders or their causative factors. Oyewunmi[30] noted that among the Yoruba ethnic group, it is believed that mental illness (*àrùn opolo*) is the same as psychosis (*wèrè*) and synonymous to mental retardation (*òdè*). Individuals suffering from depression, anxiety and bipolar disorders are corporately labeled mad (*wèrè*) and addressed so in as much as their behavior is beyond what is termed 'normal' standard. The rationale for accessing such non conformity with the normal standard or approved ways of life is not known as same could be modified by individual subjective bias.

Because of this corporate labeling and stigmatization, many sufferers do not speak out when the early tell tale signs of mental ill-health are noticed. Instead, they self medicate or isolate themselves by 'covering up the illness' sinking deeper into mental obscurity; many go without professional help but prefer to visit traditional and spiritual healers and seek orthodox treatment only as a last resort when their condition might have deteriorated and by then the situation might have become critical and difficult to salvage. [31]

This writer agrees with Corrigan *et al*[32] when they indicated that individuals exposed to and knowledgeable about mental ill-health are less likely to hold negative stigmatizing attitudes but further state that stigmatization is not a function of formal education and it is not peculiar only to the uneducated as several findings[33] have showed that even the 'educated' and 'knowledgeable' still hold negative stereotypes and bias. A research conducted by Adewuya and Oguntade[34] in eight selected health institutions in Nigeria revealed that 64 per cent of the respondent who were doctors of less than 45 years old with less than 10 years

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[30]Oyewunmi, A.E., and others, 'Mental Health and the Nigerian Workplace: Fallacies, Facts, and the way forward' (2015) 7(7) *International Journal of Psychology and Counseling* <https://www.academicjournals.org/IJPC2015.0317 > accessed 10 May 2018.

[31] *Mental Health Situation Analysis in Nigeria op.cit.,* 4.

[32]Corrigan, P.W., and others 'Familiarity with and Social Distance from People who have Serious Mental Illness' (2001) *Psychiatry Online* <https://ps.psychiatryonline.org/doi/abs/10.1176/appi.ps.52.7.953 > accessed 15 June 2018.

[33] See Adewuya, A. O., and Makanjuola R.O., 'Social Distance Towards People with Mental Illness in Southwestern Nigeria' <https://www.journals.sagepub.com/doi/abs/10 > accessed 10 May 2018 and Adelufosi A . O., *and others op.cit.,*135-139.

[34]Adewuya, A.O., and Oguntade, A. A., 'Doctors Attitude Towards People with Mental Illness in Western Nigeria' (2007) 42(11) *Social Psychiatry and Psychiatric Epidemology*;931-936 <https://www.researchgate.net/publication/6118040_Doctors%27_attitude_towards_people_with_mental_illness_in_western_nigeria/> accessed 15 June 2018.

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clinical hold the view that there should be less contact with the mentally ill as they are inherently dangerous. In another study carried out by Adelufosi and others,[35] 72% of the medical students held the view that future career in psychiatry was an unlikely choice. It is the opinion of this writer that if the anti stigma campaign would work, then the reorientation should start from these medical personnel.

4. The Law and Stigma

The continued prevalence of mental illness and stigma in Nigeria could be linked to low priority given to the mental health sector by the government especially her inability to review the old legislation of colonial legacy sixty years after enactment. The first attempt at law reform was in 2003 with the Mental Health Bill[36] which hibernated for six years at the National Assembly until it was withdrawn in 2009. A similar bill which was re-introduced to the National Assembly has not seen the light of the day. It is important to note that although attempts made by the legislature have not yielded substantial results, in the area of policy making, giant strides have been made especially by updating the erstwhile outdated Mental Health Policy which has paved way for the National Policy for Mental Health Services Delivery.[37]

In Nigeria, mental illness is not expressly viewed or addressed as a disability in law. As a matter of fact, sufferers are excluded from the enjoyment of fundamental human rights on the grounds of mental incompetence or insanity. Gross human rights abuses and discrimination cutting across all strata of human life is rife. Available laws, policies and programmes not only violate fundamental human rights but deprive individuals from enjoying these rights on the basis of their disability; they are restrained and involuntarily committed to psychiatric institutions.

The Constitution of the Federal Republic of Nigeria, 1999 (as amended) enshrined copious provisions protecting the fundamental human rights of citizens among which is the proscription of discrimination.[38] But as

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[35] Adelufosi, A.O., and others, *op.cit.* 137.

[36] Mental Health Bill www.nass.gov.ng/document/download/184 accessed 10 May 2018.

[37] National Policy for Mental Health Services Delivery 2013 Federal Ministry of Health www.cheld.org/wp-content/uploads/2015/02/national_policy_for_mental_health_service_delivery_2013_pdf accessed 1 November, 2018.

[38] See Section 42 Constitution of the Federal Republic of Nigerian, 1999 (as amended).

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observed by Onyemelukwe,[39] the nation's grundnorm did not identify (mental) health status as one of the grounds on which discrimination is prohibited and as at the time of writing this paper, no known anti-discrimination or anti-stigma domestic enactment has singled out or addressed mental health status *vis-à-vis* discrimination in Nigeria,[40] but in other climes, the mentally ill are well protected.[41]

With the high rate of reported cases of stigmatization, it is no longer in doubt that generic recognition of human rights 'for all' people has become insufficient and not capable of protecting persons with disabilities; this perhaps explains the numerous regional and international human right instruments dedicated to preventing stigmatization and discrimination of the mentally ill in the society. While some of them (like the ILO Convention) [42] are legally binding, others just serve as guideline for good practice in the area of mental health.[43] In all, these instruments seek to protect the basic rights and guarantee the fundamental freedom of the mentally ill by recognizing them as a person in law rather than objects of charity and pity.

Fundamental rights are inalienable; they are the foundation as well as building block of every law including mental health law. Gostin[44] opined that government do not have the sole power of granting or

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[39]Onyemelukwe, C., 'Stigma and Mental Health in Nigeria : Some Suggestions for Law Reform' (2016) (5) *Journal of Law, Policy and Globalization,* 63<https://www.iiste.org/Journals/index.php/JLPG/article/view/34236 > accessed 10 January 2018.

[40] The 2011 Lagos State Special People's Law though with impressive provisions, fail to address mental health or its related discrimination issue See<https://www.lagoshouseofassembly.gov.ng/download/special-peoples-law-vol-5/ > accessed 10 June 2018.

[41] See Indian Mental Healthcare Act 2017, Equality Act 2010, South African Mental Health Act 2009, Disability Discrimination Act 1995, Americans with Disabilities Act 1990, Civil Rights of Institutionalized Persons Act 1980. Ontario Human Right Code.

[42] The Convention Concerning Discrimination in Respect of Employment and Occupation or Discrimination (Employment and Occupation) Convention No 111 of 1958

<https://www.ilo.org/dyn/normlex/en/f%3Fp%3DNORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C111> accessed 20 July 2018.

[43] The United Nations Declaration The European Convention on Human Right (ECHR) on the Rights of Mentally Retarded Persons Resolution 2856(xxvi) of 1971, Standard Rules for Equalization of Opportunities for Persons with Disabilities, 1993, The Madrid Declaration on Ethical Standards for Psychiatric Practice and WHO Guideline for the Promotion of Human Right of Persons with Mental Disabilities, 1996.

[44] Gostin, L. O., and Gable, L., 'Human Right of Persons with Mental Disabilities- A Global Perspective on the Application of Human Rights Principles to Mental Health' (2004) (63) *Maryland Law Review*, 20.

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denying human rights because such rights are acquired by persons based on their humanity therefore they do not have to prove being entitled to the bundle of rights or that they could be trusted to exercise it in approved manners; the mere fact that they are human beings (and nothing more) automatically garb them with the said status.[45]

Article 5 of the European Convention on Human Right stipulates that there shall be no deprivation of liberty of persons except such is carried out in accordance with prescribed procedure. The Convention went further to specify in Article 5(1) (e) 'unsoundness of mind' as one of the grounds in which deprivation could be lawful. Deprivation of liberty here according to *HL v United Kingdom*[46] is construed to mean: "complete and effective control over residence, assessment, treatment and movement." In the case of *X v United Kingdom*,[47] the European Court of Human Rights held that recalling a conditionally discharged patient without medical recommendation or investigation was a violation and deprivation of his liberty and stated that section 66 Mental Health Act, 1959 of the United Kingdom violated Article 5 ECHR.

The United Nations Principles for the Protection of Persons with Mental Illness and the Improvement of Mental Health Care[48] (The Principle) is an international instrument protecting the mentally infirm from discrimination. The Principle[49] provides that there shall be no discrimination on the grounds of mental illness. The discrimination anticipated includes distinction, exclusion or preference that has the effect of nullifying or impairing equal enjoyment of rights.

Although the Principle is lauded in several quarters for providing the much needed guidance on procedural areas of mental health, it came under heavy criticism for offering weaker protection than other human rights mental health instruments. It is also observed with utmost respect that most of its provisions are punctuated with the word 'patient' and holds the view that the word alone amounted to name-calling and therefore discriminatory. Gender neutral terms like 'persons,' 'people,' 'individual' which do not necessarily label or confer the stigma of being mentally sick or infirm could have been more appropriate.

It is imperative to note that issues regarding disability were first globally addressed by the United Nations Convention on the Rights of Persons

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[45] *Ibid.*, 22.

[46] 45508/99 [2004] ECHR 471.

[47] 46 Eur. Ct. 4.R (ser.A) (1981).

[48] Resolution 46/111 of 17 December, 1991 www.un.org/documents/ga/res/46/a46r/19.html accessed 20 July 2018.

[49] Principle 1(4).

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with Disabilities (CRPD).[50]The Convention classified persons with disabilities to include those who have long term *physical, mental, intellectual, or sensory impairments* which in interaction with various barriers may hinder their full and effective participation in society on an equal basis with others.[51] Szmukler, Daw and Callard[52] posit that it might be difficult to fully come to terms with the nature of mental impairment that could constitute disability but it remains settled that under the Convention, the existence of a disability shall not justify a deprivation of liberty[53] or discrimination.[54]In furtherance to this, the Convention protects the right to be free from exploitation and abuse,[55] independent living and community inclusion,[56] right to participation in cultural life,[57]among others.

It is our humble submission that as lofty as the provisions of the CRPD seem to be, its practicability remains unrealistic if there is no local enactment domesticating it in Nigeria.[58] Importantly, the principles of full and effective participation and inclusion in the society as well as non discrimination stipulated in Article 3 CRPD will be a mirage.

It is important to note here that internationally, mental health matters are getting the required attention with the inclusion of mental health in the sustainable development goals of the United Nations in September 2015.[59] The implication of this singular act is that mental health is taken as a priority for global development for the next fifteen years with the target being the reduction of premature mortality from non-communicable diseases through prevention, treatment and promotion of mental health and well being.[60] Lack of financial resources to adequately

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[50] The CRPD was adopted by the UN General Assembly in 2006 and came into operation in 2008. As at 2018, it had been signed by 161 countries and ratified by 177 countries. See <https://www.un.org/development/desa/disabilities/convention-on-the-rights-of-persons-with-disabilities.html> accessed 15 June 2018.

[51] Article 1, CRD.

[52]Szmukler, G., Daw, R., and Callard, F., 'Mental Health Law and the UN Convention on the Rights of Persons with Disabilities' (2014) (37) *International Journal of Law and Psychiatry*, 246.

[53] Article 14(1) (b) CRPD.

[54] Article 5 CRPD.

[55] Article 16 CRPD.

[56] Article 19 CRPD.

[57] Article 30 CRPD.

[58] See Section 12 (1) Constitution of the Federal Republic of Nigerian, 1999 (as amended) and *Abacha v. Fawehinmi* (1999-2000) 5 All NLR, 351.

[59] www.who.int/mental_health/suicide-prevention/SDGs/en accessed 1 November, 2018

[60] See Target 3.4 Sustainable Development Goals available www.sustainabledevelopment.un.org/sdg3 accessed 1 November 2018.

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meet demands particularly as regards facilities for treatment and rehabilitation of drug dependent persons have been identified as core issue in the African continent to which a balanced and integrated approach to drug control and mental health is being made.[61] The African Charter makes copious provisions on the right of individuals to enjoy the best attainable physical and mental health while state parties are enjoined to take necessary steps in ensuring the protection of such rights[62]

The case of *Purohit and Moore v. The Gambia*[63] brings home the position of the African continent on mental health protection. In that case, the African Commission on Human and Peoples' Rights held that The Gambia fell short of satisfying the requirements of Articles 16 and 18 (4) of the African Charter and that her Lunatics Detention Act was deficient and discriminatory of persons with mental disabilities.

Positive promotion of mental health and human rights are mutually reinforcing,[64] a violation of human rights affects mental health therefore, and individuals who perceived any infringement on their fundamental rights could approach the courts for necessary remedy which could include huge monetary cost in form of damages. In the case of *McLaughlin v Charles Hurst*,[65] the employee claimed to be harassed and victimized having previously complained of disability discrimination without reasonable adjustment being made to her workload. Although most of the claims failed, the South African Industrial Tribunal found that the defendant failed to deal with the disability discrimination 'correctly and in a sufficient time frame' in that, the treatment received compounded her pre-existing condition (depression) and went ahead to a ward huge cost against the defendant for psychiatric injury suffered. In similar vein, the case of *BAE Systems (Operations) Limited v Marion Konczak*[66] lends credence to the fact that an employer's wrongdoing could exacerbate a pre-existing illness. In that case, the sexist comment of Ms Konczak's Line Manager that: 'women take things more emotionally than men while men tend to forget things and move on" was held to be discriminatory and incidental

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[61] African Union Plan of Action on Drug Control 2013-2017 www.au.int/sites/default/files/pages/32900-file-aupa_on_dc_2013-2017_english.pdf accessed 1 November, 2018.

[62] See Article 16 (1) African Charter on Human and Peoples' Rights www.achpr.org/instruments/achpr/&ved accessed 1 November 2018.

[63] (2003) AHRLR 96 (ACHPR 2003) www.ach-pr.org/files/sessions/33rd/communications/241.01/achpr33_241_01_eng.pdf accessed 1 November 2018.

[64] Gostin, L.O., and Gable, L., *op.cit.*, 49.

[65] NI IT 83/15.

[66] [2017] EWCA Civ 1188.

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to pushing her over the edge into mental illness. The company was held liable and huge cost awarded against them.

To be successful in such discrimination claims, claimant must show the link between such discrimination and the mental illness complained of.[67] Mental health just as much as physical health is a mainstay of life.[68] It is our submission therefore that government owe it a duty to ensure that this sector is not left moribund; mental health myths and misconceptions will continue to flourish in Nigeria if the present lacuna as regards mental health and discrimination or stigmatization is not filled.

6. Recommendations

As earlier discussed, a number of specific measures have been postulated to nip in the bud the regime of stigmatization of the mentally ill. The under-listed reforms in the following areas are further suggested:

6.1. Law Reform

In comparison with other countries of the world, the Nigerian mental health law is not only anachronistic but also archaic. The importance of putting legal and institutional framework in place to address all recurring issues surrounding Nigeria mental health sector cannot be over emphasized. This is because mental health is fundamental to the overall public health of the nation. In order to have a mental health sector Nigerians will be proud of, it is important to urgently repeal the prevailing Lunacy Act so as to give way for new enactment. The Mental Health Bill which has hitherto been hibernating at the National Assembly needs to be passed into law. For mental health legislation to have any real effect there must be the political will to support it.[69] It is advocated that Nigerians, including mentally ill persons are entitled to full enjoyment of all rights and freedoms set out in international human rights instruments without discrimination. The government of the day needs to take proactive steps and do the needful.

In addition, it is suggested that the offence of attempted suicide be decriminalized. Persons who attempt to take their lives should not be

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[67] See *Charlesworth v Dransfields Engineering Services Limited* [2017] UKEAT; *Newway Motor and Diesel Engineering (Pty) Limited v Marsland* (2009) 12 BLLR 1181.

[68] *Madrid v Gomez* 889F. Supp.1146,1261(N.D. Cal.1995).

[69] Davidson, L., 'Mental Health Laws would diminish Stigma and improve the lives of Millions' *The Guardian* (Lagos, 26 April 2016) <www.theguardian.com/global-development-professionals-network/2016/apr/26mental-healt-law-diminish-stigma-improve-lives> accessed 15 June 2018.

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prosecuted; instead they should be considered as needing psychological help and treated accordingly.

6.2. Integration of mental and general health care

It is not in doubt that mental wellbeing is an important part of general health as the mind and body are undeniably inextricably linked together. The erstwhile United States Surgeon General tried to capture this reality when he declared that 'there is no health without mental health.'[70] In closing the treatment gap for persons with disabilities, it is therefore recommended that psychiatric treatment be brought closer to the people who need them by establishing neuropsychiatric departments in general hospitals. Their services can be accessed as an Out Patient Department by individuals who may not be too eager to be present at a psychiatric institution for fear of being stigmatized. Fallout of this should also lead to the linkage of patients' confidential record. When mental and general health care systems are linked together, patients' history is known and treatment administration is holistically done.

6.3. Partnership with Unorthodox healers

It a known fact that due to various reasons ranging from high cost of orthodox treatment to limitations occasioned by distance or individual preference, alternative sources of mental care are employed. These traditional healers, religious and faith healers use different modalities of treatment including homeopathic remedies and other practices derived from their holy books. It is recommended that practice of psychiatry within this sector be standardized and regulated by the government to make way for uniformity and accountability. The recommended partnership should aim at respecting local values that do not violate human rights[71] and seeking win-win solutions. The healers should be encouraged to make referrals to the nearest psychiatric center for cases beyond their control for professional intervention; incentives for such referrals will encourage them.

6.4. Public Enlightenment, Mental Health First Aid and Attitudinal change

When people are enlightened and educated about their mental health before all the precipitating cause of mental ill health or breakdown are

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[70]Satcher, D., 'Release of the Mental Health Report' <www.surgeongeneral.gov/about/previous/satcher/speeches/mentalhe.html> accessed 20 January 2018.

[71] The practice of using the mentally ill as beggars or beating sufferers will be checkmated.

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manifested, they are able to seek professional help on time. It also need to be said that while public enlightenment and reorientation is good, the government should nip in the bud contributory factors like poverty, drug abuse, among others that serves as breeding ground and lead to the prevalence of stigma. Fighting stigma to eliminate it is a collective responsibility which all relevant stakeholders should take up.

It is recommended that something similar to a first aid box should be available in homes, offices, public buildings, schools etc and first aid mental health skills be taught members of the public. This will reduce the fire-brigade approach often time adopted during mental breakdown.

6.5. Review of medical curriculum and call for Good Conditions of Service

Closely related to (d) above is the call for a review of the medical curriculum in Nigerian Medical Schools to extend psychiatry posting beyond the prevailing six weeks. Many Medical Schools[72] only place much emphasis on public health and primary health care and by the time students are exposed to psychiatry during their sub specialty 'outside posting,' it is almost too late as their interest is not piqued.

In addition, to reduce the brain drain[73] being experienced in the mental health field, it is recommended that the profession be made more attractive in terms of remuneration. Hazard allowance and other entitlements should be paid as at when due only then can the thirst for greener pastures be reduced.

7. Concluding Remarks

In the preceding sub headings, stigma as a barrier to mental health care in Nigeria was revisited; the challenge of stigma as well as its interactions with the law and the people caught in the stigma quagmire have been discussed. It is not in doubt that stigmatization and discrimination of the mentally ill and their care givers continues unabated in Nigeria, taking a devastating toll on its victims. However, it is established that when mental health is promoted and stigma is reduced, synergistic results as regards mental health care is certain. It

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[72] Issa, B.A., and others 'Attitudes of Medical Students to Psychiatry at a Nigerian Medical School' (2009) (19) *Hong Kong Journal of Psychiatry*72-77 <https://www.easap.asia > accessed 17 June 2018.

[73] In a population of about 150 million, there are less than 200 practicing psychiatrist, the number of psychiatrist nurses, occupational therapists, psychologist and social workers in the field are shocking. See *Mental Health Situation Analysis in Nigeria op.cit., 4.*

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should be noted that a society with improved mental wellbeing, sustainable mental health care system with zero tolerance for stigmatization is feasible. It is hoped that when policy makers do the needful, then that society will be a reality; and whenever the need arises in Nigeria to subject mental health law *vis-à-vis* stigmatization to structural reforms, the opinion expressed in this work will be a convenient platform.

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