

The Interpersonal Tolerance Scale (IPTS): Scale Development and Validation Critical Analysis of Criminal Responsibility and legal Capacity of the Mentally ill Patient in Pakistan

Muhammad Ifzal Mehmood¹,
Sara Qayum² & Ashfaq U. Rahman³

Abstract

Article 12 of the UN Convention on the Rights of Persons with Disabilities (CRPWD) mentions the legal capability of mentally ill patient, which states that the state parties will make legislation to provide legal capacity to the persons with disability. Although Pakistan has signed the treaty, but the mental health laws of Pakistan are not in agreement on the legal capacity of a disabled person. This paper discusses the legal capability and Article 12 of CRPWD, to examine the possibilities under which the disabled person can utilize his/her legal rights. Second part demarcate the legal capacity and criminal liability. It is essential to mention that mental health patient in some cases cannot be charged for his criminal offence. A qualitative method of research is followed, which helped the researcher in the analysis of available data regarding legal capacity. It is observed that mental health laws of Pakistan need to be updated. The work recommends that article 12 of the CRPWD should be incorporated in the legislation regarding mental health patients.

Keywords: Mentally Ill Patient, Responsibility, Criminal, Legal Capacity, CRPWD

Introduction

From the mental health perspective, the phenomenon of "Mental capacity" is defined as "the cognitive requirements for an individual to be recognised as capable of exercising legal ability." (Bach & Kerzner, 2014). A person is declared legally incapable if there exist some defect i.e. idiots, lunatic etc. With the advancement in medical field, the phenomenon of legal incapacity is moved to physiological patients. Mental illness is recognized medically and legally. According to Szasz (1970) "Mental disease is a symbol that we have come to accept as fact. Physical illness is defined as when a person's body functions outside of certain anatomical and physiological norms, while mental illness is

¹ Assistant Professor Department of law, Shahzeed Benazir Bhutto University, Sheringal, Dir Upper. Email: Ifzal.mehmood@iiu.edu.pk

² Assistant Professor Department of law Hazara University Mansehra. For correspondence, email at saraqayum@gmail.com

³ Assistant Professor Department of Political Science Women university Swabi

defined as when a person's behaviour infringes certain moral, civil, and social standards. This helps to explain why so many ancient people have been diagnosed with various psychiatric disorders, ranging from Jesus to Castro and Job to Hitler. (Szasz, 1970). "His reasoning are not just wrongheaded, but are also inhumane," Leff said of Szasz's viewpoint, "Subsequently they reject the possibility for a condition [schizophrenia] that claims the life of one in ten victims" (Leff, 1993). Based on the quotations of Szasz (1970) and Leff (1993), mental illness is a reality that legislators should address. A legal determination of mental illness is also required since it will act as a dividing line between acknowledging that individuals are responsible for their decisions and could make them and possible intervention that would deprive the individual of basic citizenship rights.

United Nation Convention on the Rights of Persons with Disabilities (CRPWD) is the first universal document which recognised legal capacity of a mental disorder person. According to article 12 of the treaty the member states will facilitate a disabled person and he shall be treated equally before the law. CRPWD provides legal capacity for the purpose to end the concept of guardianship, to discourage force treatment and to free the disabled person, so that he can utilize his legal rights i.e., vote, marry and property. CRPWD also recognize the criminal responsibility of a mentally ill patient and the party states were given the recommendations to vitiate criminal responsibility of a mental ill patient. Pakistan has rectified CRPWD but the provisions regarding legal capacity of a mental ill patient is not properly incorporated in the legislation of the state.

This paper is distributed into four portions. Part first describes the concept of legal capacity and then differentiate legitimate capability and mental ability. The two words has different background, as legal capability is concerned to the ability of a person in perspective of law while the mental capacity is concerned to his psychological ability. Second part demarcates the legal capacity and criminal liability. It is essential to note that mental health patient in some cases cannot charged for his criminal offence. But legally every mental health patient is provided legal capacity by most of the legislative bodies of different countries. Third part of the word discusses article 12 of CRPWD and the opinion of different stake holders regarding legal capacity of a disabled person mentioned in the treaty. The fourth part demonstrates the mental health laws of Pakistan.

Legal Capacity and Criminal Responsibility of Mentally Ill Patient Background and definition

A conception found in society regarding mentally ill person is that he/she will not be charged for any criminal act. Because the mental health patients are not in their sense and their conduct is not according to their thinking (Campbell &

Higginbotham, 1991). This is the legal concept of insanity as an insane person is also not charged for a criminal act according to the law. However, the legal concept of insanity could not be equalized with mental disorder. In contrast to mental illness, the insanity has primarily to do with legal competence of a person (Hogget, B. M. (1990).

Mental illness is a scientific concept in so far as it embodies a classification of conditions which are used both to describe and where possible, explain the origins and natural progress of the conditions, and to facilitate the discovery and application of treatment and cures. Some mental illness has proven physical bases, while others have no established physical causes (Kendell, 1975). Schizophrenia is also a mental disorder and categorized in mental illness (Tsimploulis, Niveau, Eytan, Giannakopoulos, & Sentissi, 2018). Schizophrenia is a brain disorder in which a person is incapable to know what he does. "The core characteristics of this disorder include the existence of determined rational shortcomings primarily disturbing exclusive tasks, as well as changed activity in emotional and cognitive areas, which has been linked to a reduction in self-control and, as a result, a reduction in violation," says Talreja (Tsimploulis, et.al., 2018).

The first incident of insanity was noted in an English lawful treaty of 1581, in which it was decided that an insane person will not be held responsible for his crime. However, the recent phenomena of insanity plea is dominated in the result of a case in 1873. According to this case a person named Daniel M'Naughten have assassinated Sir Robert Peel (British Prime Minister (Talreja, Shah, & Kataria, 2013)., the person was not convicted on the plea that he was suffering from mental disorder and it is necessary for the conviction that the person should be mentally fit (UKHLD, 1943). Another rule which benefits the mental health patient is Durham Rule. According to this rule a person cannot be convicted if the act was the result of mental illness. This rule is still followed in the state of New Hampshire (Durham Rule).

The legislation of different countries varies according to their cultural differences. Different countries follow different legal system i.e., some follow common law system while others put emphasis on civil law (Grossi & Green, 2017). According to Canadian law, a person is not convicted if it is proved that he is mental health patient (Miladinovic & Lukassen, 2014). "No person is criminally accountable for an act performed or an omission made while suffering from a mental condition that left the person incapable of understanding the nature and quality of the conduct or omission or of knowing that it was unlawful," according to the Criminal Code of Canada (CCC, 16). While in other countries like Sweden, Pakistan and many African countries a mental ill patient is considered

guilty. However, the convicted mentally ill patient will be provided compulsory treatment (Ogunlesi, Ogunwale, De Wet, Roos, & Kaliski, 2012).

Methodology of research

This work employed a qualitative method. This research is mainly focussed about enactments i.e., national and international laws and a doctrinal method which is largely library-based was adopted for this research. Both primary and secondary sources were approached. Primary sources included formal authoritative records of law containing national provisions, international conventions and statutory provisions framed by law-making bodies. As for secondary sources, books, journals, legal encyclopaedias, case digests, indexes, official statistics, and relevant documents were thoroughly consulted. Books containing basic data were obtained from the Library of International Islamic University Malaysia and Central and Law Library of International Islamic University Islamabad.

Discussion and Results

Differentiating Legal Capacity and Mental Capacity

The term capacity denotes the ability or right to do something (Oran, & Tosti, 2000). In law, the capacity is mentioned Richard as "the ability of the individual to negotiate the responsibilities thrust upon him or her" (Richard, 1999). The ability of an individual to decide is determined by their capacity (Bartlett, & Sandland, 2007). A patient who is incapable to assent to treatment for a specific physical ailment he/she will be treated without his consent and the responsibility of treatment will lie elsewhere. Capacity is not a simple topic, as a result of a major stroke, a person's mental capacity for making a variety of judgments may be impaired ([1995] 3 All ER 290 (CA)). But it would not be expected to count that person within the scope of mental health legislation. People with mental disabilities would be presumed capable until shown to be otherwise (2002] EWCA Civ 1889).

Mental capacity is not the same as legitimate capability. The legal capacity indicates the person's capacity as he or she is liable for a doing inside the jurisdiction of the lawful structure, whereas the mental capacity is concerned with the person's "putative psychological abilities." Every legal system on the planet has limited legal capacity by determining mental capability (Szmukler, 2015). "Status approaches" limit legal ability based on a second category status, such as "imprisoned patient" ([1979] 2 EHRP 387). The decision of to restrict an individual's lawful capability is done according to the condition of a person. For the determination of legal capacity, a technique of functional test is followed by

different legislation around the world. The functional test is used for a mental health patient to determine his legal capacity and to appoint the legal guardianship for the offender (Campbell, 1994). Several law makers and scholars are of the opinion that functional test for the determination of mental capacity is observed after the instructions provided by article 12 of CRPWD (Nilsson, 2014).

The functional approach for the determination of mental disability is popular because this phenomenon is being considered as neutral and there is not any external factor involved during the examination of this process. Decision of the mental ill patient is pronounced after the declaration of result obtained from the functional process (Freyenhagen & O'Shea, 2013). However functional approaches are "been condemned for avoiding the interpersonal proportions of mental assessment" (Series, 2015). General comment No.1 of CRPWD objected on the stern belief on functional test and argued that in functional test third party is being involved which can change the result accordingly. General Comment states that "mental ability is not, as is generally accessible, an impartial, systematic and certainly going on phenomena but is conditional on common and civil contexts". The functional test is inequitable, is essential to discussion about article 12 of CRPWD.

Legal Capacity and UN Convention on the Rights of Person with Disability (CRPWD)

The CRPWD is a universal accord which was accepted by the General Assembly of the United Nations in 2006. In February 2013, 155 members states have signed, and 127 states had rectified the treaty (Szmukler, Daw, & Callard, 2014). The purpose of CRPWD is to promote "at the national, regional, and worldwide levels, policies, strategies, programmes, and actions to further equalise opportunities for people with disabilities" (Pozón, 2016). The objective of the CRPWD is stated in Article 1, which provide that it will "All individuals with incapacities will benefit from a full and equitable environment in which to implementation all human rights and fundamental freedoms, as well as respect for their inherent dignity. "Although most of the rights are protected by the UN treaties but CPRPD deals only with the privileges of person with incapacities (Bartlett, 2009). CRPWD had not defined the term disability and left the interpretation of disability to the state parties. The disabled person is categorized as having "long term physical, mental, intellectual or sensory impairment which in interaction with various barriers may hinder their full and effective participation in society on equal basis with others". Moreover, the Committee on the Rights of person with disabilities have endorsed that the patient mentally ill patient falls under the Convention.

Article 12 of the CRPWD establishes the legal competence of disabled people, stating that they would be treated equally before the law. "States parties reaffirm that persons with disabilities have the right to be recognised as persons before the law everywhere," according to article 12 (1). "States parties shall acknowledge that persons with disabilities possess legal ability on an equal basis with others in all spheres of life," according to Article 12 (2). "States parties shall take reasonable steps to facilitate access by persons with disabilities to the help they may require in exercising their legal capacity," according to Article 12 (3) "States parties shall ensure that all measures relating to the exercise of legal capacity provide for suitable and effective safeguards to prevent abuse in conformity with international human rights law," according to Article 12(4). (CRPWD, 12) Disabled people will be allowed equal rights in managing their property and finances, according to Article 12(5) (Stavert, 2015).

The first section of article 12 is relevant to article 6 of UDHR and article 16 of ICCPR, which provides that every person will be treated alike before the law. These rights were granted after the age of colonialization, in which all the citizens were not given the right to be treated equally before the law (Dhanda, 2012). However, article 12 (1) of the CRPWD clearly mentioned the legal right of disabled person and declared that they are skilled of civil rights and obligations within both civil and criminal justice system. Kanter argues that "A breach of article 12 would be any law or practise that prevents a person with a handicap from being recorded at birth, declined a document of identification, barred from getting possessions, or otherwise recognised by the law (1)" (Kanter, 2014). According to second section of article 12, the disabled person will have to enjoy lawful ability on equal basis in every aspect of their life. CRPWD is another human rights treaty which have mentioned the phenomena of lawful capability, the first one was UN Convention on the elimination of discrimination Against Women (CEDAW, 15). Lawful capability is defined after consultation with international legal experts as "the legal power to suit based on such rights, as well as the capacity to hold a right and act and exercise it." (Santos Cifuentes 2008). Legal capability is essential because it is concerned with autonomy of a person. Quinn (2011) stated its importance as "a sword to allow us to make our own decisions and a shield to protect us from others who claim to be able to make our decisions for us (Quinn, 2011).

The third portion of Article 12 states that states parties must support disabled people so that they can exercise their legal competence. "Supported decision-making regimens" was a phrase approved by the CRPWD Working group to describe a wide range of aids for the exercise of legal capability. The General Comment emphasises that "support" is a broad term that encompasses

"both official and informal support arrangements of varied sorts and intensities." As examples of aids, it includes initiatives such as universal design and availability in banks and financial institutions, aided decision-making, the development, and acceptance of a variety of non-traditional communication strategies, and advanced planning instruments. The fourth portion of article 12 states that respect would be guaranteed for disabled person regarding their rights, will and preference. Different commentators have critically evolved the phenomena of will and preferences. Disabled will in the past cannot be his preference in the future and vice versa. (CRPWD, GC)

A disabled person may have competing requirements in the existent in various situations. Richardson describes the scenario of an individual with severe anorexia who "wishes to live yet does not want to eat" (General Richardson, 1999). "Where a person is consciousness yet refuses help, a verbal declaration may not always indicate the authentic wants of an individual," says the author, according to Flynn and Arstein Kerslake (Arstein-Kerslake, & Flynn, 2017). The disabled person should have the right to inherit property, govern their own financial affairs, have access to bank loans, and not be deprived of their property, according to the latter section of article 12. Property ownership is a human right guaranteed by several world-wide human rights agreements, including the UDHR, 17, CERD, 5(d) (V), and CEDAW, 16. The CRPWD extends that property right to disabled people.

Mental Health Laws of Pakistan

After the independence from the British in 1947, Pakistan followed the Lunacy Act of 1912. The main concern of the said Act was on detention and the treatment of a mentally ill patient was not discussed properly (Tareen & Tareen, 2016). Notwithstanding, through technological development new ways of psychotropic medication was introduced. In 1970, it was thought that Lunacy Act should be replaced by new law. The government in 1992 made a draft of legislation for the mental health patients and circulated the document among the psychiatrists for their recommendations (Rehman, Tareen, Chaudhry & Javed, 1994). But unfortunately, the legislators did not amend the Lunacy Act until 2001. A draft of mental health laws was presented in Pakistan Psychiatric Society's biennial meeting in 2001, which was also attended by UK psychiatrics. The draft was distributed among the UK psychiatrics and a new document was finalized by the psychiatrics of Pakistan and UK (Tareen & Tareen, 2016). A new enactment came into effect in 2001 and was named "Mental Health Ordinance"

There are remarkable amendments done in the new Mental Health enactment. In the previous legislation the terms lunatic, criminal lunatic and

asylum were used which is replaced by the term mental health "Mental disorder" includes "mental deficiency, serious behaviour condition, severe psychological deficiency, and any other disorder or disability of the mind" (MHO,2001). A comprehensive definition for different mental health issues, e.g., in 2001 enactment severe personality disorder is named as persistent disorder or disability of mind (Gilani, Gilani, Kasi, & Khan, 2005). According to Lunacy Act of 1912, a lunatic person could be imprisoned for a minimum period of ten days and maximum up to 30 days(LA, 1912). The new law restricted the time duration for detention up to 72 hours (MHO 2001). During the mentioned time, a psychiatric should be provided for the treatment of mental health patient. The new law also endorsed the establishment of Federal Mental Health Authority which have already started working in Islamabad. This body comprised of seven eminent psychiatrics and seven other members, principally administrators (MHO, 2001) The Federal Mental Authority did not work properly, and it was lapsed because the ordinance was not passed from the Parliament (Mufti, 2011).

After 18th amendment in the constitution of Pakistan, the authority for the legislation in health department was shifted to provinces. The Federal Mental Health Authority was dissolved, and the provincial government were being instructed to pass appropriate mental health legislation. The Sindh government tried to amend the existing Mental Health law and a new draft was passed from the provincial assembly. According to the new law the Inspector General of Prisons will see the mental state of a person and "A provision would be made to redirect a mentally ill person from the criminal justice system to the mental health system" (SMHA 2013). Although Sindh government had tried to amend the mental health law but the provincial governments of Punjab (PMHA, 2014) and Khyber Pakhtunkhwa (KPMH, 2017) have substituted only the word "Federal Government" with "Government" in their legislation. However, the Baluchistan government is still silent regarding the legislation of Mental Health.

It is observed that the new legislation is silent on the crucial question of civil liability of mentally disabled persons. This question is important to determine whether mental health patient is legally capable for the proceeding of his case or not? According to the ordinance a mentally ill patient is incapable to enter into contract (MHA, 2001)so, it would be unjust to drag the mentally ill person to the court while he is unable to understand the proceeding of his/her matter.

Conclusion

This paper has examined article 12 of CRPWD in detail in which legal capacity is provided to the disabled person. According to the treaty every disabled person would be legally capable to utilize his rights. Although the phenomena should be not practiced in every aspect of his life because sometimes it will be in his favour to not utilize the right of lawful capability. By analysing the issue of legal capability and criminal responsibility, a disabled person is legally provided the right of his affairs but in contrast he would be not liable for his criminal acts. Consequently, a mental capability and legal ability of a person is two different phenomena. The paper mentions that mental capacity should not be linked with legal capacity. These terms are different in their area i.e., legal capacity is linked with the liability of a person for his action while mental capacity is the biological mental status of a person. CRPWD clearly mentioned the difference between mental capacity and legal capacity. Pakistan has rectified CRPWD, and it is binding on the member states of the treaty to incorporate the laws of disabled in their respective jurisdictions. Mental Health laws of Pakistan do not clearly mention the legal capacity of a mentally disabled person. Although the contract law of the state mention that a mentally disabled person cannot enter into a contract, and he will not be liable for any kind of agreement. There is a dire need to update the mental health laws of Pakistan and should include the articles of CRPWD in their legislation.

Recommendations

This work proposes the following recommendations

- (1) Mental capability and legal ability of a person is two different phenomena. A clear distinction should be made in legislations of Pakistan and mental capacity should not be linked with legal capacity. These terms are different in their area i.e., legal capacity is linked with the liability of a person for his action while mental capacity is the biological mental status of a person. CRPWD clearly mentioned the difference between mental capacity and legal capacity.
- (2) Pakistan has rectified CRPWD and according to the convention, it is binding on the member states to incorporate the laws of disabled in their respective jurisdictions. Mental Health laws of Pakistan do not clearly mention the legal capacity of a mentally disabled person. Although the contract law of the state mention that a mentally disabled person cannot enter a contract, and he will not be liable for any kind of agreement. There is a dire need to update the mental health laws of Pakistan and should include the articles of CRPWD in their legislation.

- (3) Regarding the legislation around mental health particularly criminal responsibility, the laws of Canada could be followed. As according to Canadian law relating to mental health, mental health patients are not sentenced.

Reference

- Arstein-Kerslake, A., & Flynn, E. (2017). The right to legal agency: domination, disability and the protections of Article 12 of the Convention on the rights of persons with disabilities. *International Journal of Law in Context*, 13(1), 22-38.
- Bach, M., & Kerzner, L. (2014). A new paradigm for protecting autonomy and the right to legal capacity. <https://www.lco-cdo.org/wp-content/uploads/2010/11/disabilities-commissioned-paper-bach-kerzner.pdf>
- Bartlett, P. (2009). The United Nations Convention on the Rights of Persons with Disabilities and the future of mental health law. *Psychiatry*, 8(12), 496-498.
- Bartlett, P., & Sandland, R. (2007). *Mental health law: policy and practice*. Oxford University Press.
- Campbell, T. D. (1994). Mental health law: institutionalised discrimination. *Australian and New Zealand Journal of Psychiatry*, 28(4), 554-559.
- Campbell, T., & Heginbotham, C. (1991). Mental illness: Prejudice, discrimination and the law, p. 138.
- Convention on the Elimination of all Forms of Discrimination Against Women, Article 16 (1) available at <https://www.ohchr.org/en/professionalinterest/pages/cerd.aspx>
- Convention on the elimination of discrimination Against Women, article 15 (2).
- Criminal Code of Canada, Section 16. see at <https://laws-lois.justice.gc.ca/eng/acts/C-46/section-16.html>
- CRPWD article 12.
- Dhanda, A. (2012). Universal legal capacity as a universal human right. *Mental Health and Human Rights: Vision, Praxis, and Courage*, 177-188.
- Freyenhagen, F., & O'Shea, T. (2013). Hidden substance: mental disorder as a challenge to normatively neutral accounts of autonomy. *International Journal of Law in Context*, 9(1), 53-70.
- Genera Richardson, 'Report of the Expert Committee: Review of the Mental Health Act 1983' (Department of Health 1999).
- General Comment No.1.

- Gilani, A. I., Gilani, U. I., Kasi, P. M., & Khan, M. M. (2005). Psychiatric health laws in Pakistan: from lunacy to mental health. *PLoS Medicine*, 2(11), e317.
- Grossi, L. M., & Green, D. (2017). An international perspective on criminal responsibility and mental illness. *Practice Innovations*, 2(1), 2.
- Hoggett, B. M. (1990). *Mental health law*. Sweet & Maxwell. Published online by Cambridge University Press: 03 January 2018 <https://www.cambridge.org/core/journals/the-british-journal-of-psychiatry/article/abs/mental-health-law-by-brenda-hoggett-london-sweet-maxwell-1990-393-pp-2500/9D207672F4B5CB5B4CBFD361B1996323>
- International Convention on the Elimination of All Forms of Racial Discrimination, Article 5 (d) (v). available at <https://www.ohchr.org/en/professionalinterest/pages/cerd.aspx>
- Kanter, A. S. (2014). *The development of disability rights under international law: From charity to human rights*. Routledge.
- Kelly, B. D. (2009). Criminal insanity in 19th-century Ireland, Europe and the United States: Cases, contexts and controversies. *International journal of law and psychiatry*, 32(6), 362-368.
- Kendell, R. E. (1975). *The role of diagnosis in psychiatry*. Blackwell Scientific Publications.
- Khyber Pakhtunkhwa Mental Health 2017. available at <http://www.pakp.gov.pk/2013/acts/the-khyber-pakhtunkhwa-mental-health-act2017/>
- Leff, J. (1993) 'Comment on crazy talk: thought disorder or psychiatric arrogance by Thomas Szasz', *British Journal of Medical Psychology* 66:77.
- Lunacy Act 1912, section 13-16. Available at <http://nasirlawsite.com/laws/la1912.htm>
- Mental Health Ordinance 2001, section 19. http://www.ljcp.gov.pk/Menu%20Items/Reports_of_LJCP/13/131.pdf
- Mental Health Ordinance 2001, section 2(1), (m) see at <http://punjablaws.gov.pk/laws/430a.html>
- Mental Health Ordinance 2001, section 3 (3) (v) see <http://punjablaws.gov.pk/laws/430a.html>
- Miladinovic, Z., & Lukassen, J. (2014). Verdicts of not criminally responsible on account of mental disorder in adult criminal courts, 2005/2006-2011/2012. *Juristat*, 3, 85-002.
- Mufti, K. (2011). Implementation of mental health policy in Pakistan. *Journal of Postgraduate Medical Institute (Peshawar-Pakistan)*, 24(3).

- Nilsson, A. (2014). Objective and reasonable? Scrutinising compulsory mental health interventions from a non-discrimination perspective. *Human Rights Law Review*, 14(3), 459-485.
- Ogunlesi, A. O., Ogunwale, A., De Wet, P., Roos, L., & Kaliski, S. (2012). Forensic psychiatry in Africa: prospects and challenges: guest editorial. *African journal of psychiatry*, 15(1), 3-7.
- Oran, D., & Tosti, M. (2000). *Oran's Dictionary of the Law* (p. 124). West Legal Studies/Thomson Learning. <https://www.ekhtebar.com/wp-content/uploads/2018/10/Orans-Dictionary-of-the-law.pdf>
- Pozón, S. R. (2016). The convention on the rights of persons with disabilities and mental health law: A critical review. *Alter*, 10(4), 301-309.
- Punjab Mental Health Act 2014. available at http://papmis.pitb.gov.pk/uploads/bills/billpassed_2014_13.pdf
- Quinn, G. (2011). *Legal Capacity Law Reform: The Revolution of the UN Convention on the Rights of Persons with disabilities*. <available at: <http://frontline-ireland.com/legal-capacity-law-reform-of-the-un-convention-on-rights-of-persons-with-disability/>>
- Re C (Adult: Brutton and Co., Jewell and Home Counties Dairies [2002] EWCA Civ 1889. Available at Re C (Adult: Brutton and Co., Jewell and Home Counties Dairies [2002] EWCA Civ 1889.
- Re S (Hospital Patient: Court's Jurisdiction)[1995] 3 All ER 290 (CA)). Available at <https://www.cascaidr.org.uk/2017/03/23/re-s-hospital-patient-courts-jurisdiction-1995-3-all-er-290-ca/>
- Rehman, A., Tareen, I., Chaudhry, M., & Javed, A. (1994). Forensic psychiatry in Pakistan. *Current State of Psychiatry in Pakistan*, 47-52.
- Richard, P. H. (1999). Law of contract 4 the ed., P.80. available at <https://store.legal.thomsonreuters.com/law-products/Treatises/Williston-on-Contracts-4th/p/100005004>
- Santos Cifuentes and others, *Legal Opinion on Article 12 of the CRPWD* (University of Leeds Disability Studies Group Archives, 2008) <Available at: http://www.leeds.ac.uk/disability-studies/archiveuk/legal%20opinion/LegalOpinion_art12_FINAL.pdf> [last assed on 31st October 2019]
- Series, L. (2015). Relationships, autonomy and legal capacity: Mental capacity and support paradigms. *International Journal of Law and Psychiatry*, 40, 80-91.
- Sindh Mental Health Act 2013, Section 54. See at http://sindhlaws.gov.pk/setup/publications_SindhCode/PUB-15-000271.pdf

- Stavert, J. (2015). The exercise of legal capacity, supported decision-making and Scotland's mental health and incapacity legislation: working with CRPWD challenges. *Laws*, 4(2), 296-313.
- Szasz, T. (1970) *Ideology and Insanity: Essays on the Psychiatric Dehumanisation of Man*, Garden City: Doubleday, p.23
- Szmukler, G. (2015). UN CRPWD: equal recognition before the law. *The Lancet Psychiatry*, 2(11), e29.
- Szmukler, G., Daw, R., & Callard, F. (2014). Mental health law and the UN Convention on the rights of persons with disabilities. *International journal of law and psychiatry*, 37(3), 245-252.
- Talreja, B. T., Shah, S., & Kataria, L. (2013). Cognitive function in schizophrenia and its association with socio-demographics factors. *Industrial psychiatry journal*, 22(1), 47.
- Tareen, A., & Tareen, K. I. (2016). Mental health law in Pakistan. *BJPsych international*, 13(3), 67-69.
- Tareen, A., & Tareen, K. I. (2016). Mental health law in Pakistan. *BJPsych international*, 13(3), 67-69.
- The Durham Rule, <https://criminal.findlaw.com/criminal-procedure/the-durham-rule.html> [last assessed on 30th October]
- Treitel, G. H. (1984). An outline of the law of contract, p.205 available at <https://library.lincoln.ac.uk/items/112213>
- Tsimploulis, G., Niveau, G., Eytan, A., Giannakopoulos, P., & Sentissi, O. (2018). Schizophrenia and Criminal Responsibility: A Systematic Review. *The Journal of nervous and mental disease*, 206(5), 370-377.
- United Kingdom House of Lords Decisions (1943) Daniel M'Naughten's case. available at <https://commons.und.edu/cgi/viewcontent.cgi?article=3753&context=ndl>
- Universal Declaration of Human Rights, article 17 <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=23932&LangID=E#:~:text=Article%2017%20of%20the%20Universal,often%20to%20enrich%20Nazi%20officials.>
- Winterwerp v the Netherlands (App no 6301/73) [1979] 2 EHRP 387. Available at <https://www.globalhealthrights.org/wp-content/uploads/2013/01/ECtHR-1979-Winterwerp-v.-Netherlands.pdf>