

Laws Concerning Mental Health in India: A National Perspective

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ABSTRACT

The importance of mental health in national healthcare policy is becoming increasingly recognised, as evident in the significant evolution of India's mental health legislation. The Mental Healthcare Act of 2017 represents a significant change from previous laws' correctional approach to a rights-based framework. Following international norms such as the United Nations Convention on the Rights of Persons with Disabilities, it guarantees nondiscriminatory access to mental healthcare services, requires insurance coverage for mental illness, and decriminalises attempted suicide. In addition to regulating mental health facilities and prohibiting procedures such as unmodified electroconvulsive therapy, the Act places a strong emphasis on patient autonomy through measures like advance directives and designated representatives. Even with these developments, problems still exist. Financial and infrastructural constraints exacerbate the pervasive stigma and discrimination against mental illness. By providing significant funds to mental health programs like the National Tele Mental Health Programme, which seeks to offer easily accessible and reasonably priced care throughout India, the Union Budget 2025–2026 has made an effort to close these gaps. However, the need for more comprehensive integration of mental health into policy outside of healthcare is highlighted by statutory gaps in workplace mental health compliance under new labour standards. Protecting the rights and dignity of people with mental illness is made possible by India's advanced mental health laws. Addressing structural obstacles like stigma, a lack of resources, and cultural opposition is necessary for effective implementation. This legislation could revolutionise India's mental health system by increasing awareness and guaranteeing fair access to care, emphasising both individual rights and the welfare of the society.

Keywords: Mental Health, Legislation, Stigma, Resources, Healthcare

1. INTRODUCTION

Since ancient times, the Vedic writings in India have described a variety of mental ailments and afflictions. Numerous mental illnesses that were prevalent in southern India were acknowledged by traditional medicinal systems like Siddha. The Atharva Veda also provides a detailed account of schizophrenia. Numerous references to mental illnesses can be discovered even in the major epics, the Ramayana and the Mahabharata.¹

“The mind and the body influence each other”²

In Indian history, this idea has been recorded in the Ayurvedic system. The famous Indian guru Patanjali had placed a great emphasis on yoga as a means of achieving self-actualization through a strong body, a healthy mind, and a powerful spirit.³

The effectiveness of the therapy is based on four pillars, according to Sushruta: the patient (Rogi), the attendants or nursing staff (Upasthata), the medicine (Dravya), and the physician (Chikitsak).⁴

Although the origins of Indian psychiatry may be found as far back as King Ashoka's time, spirituality has always played a significant role in both diagnosing and treating mental illnesses in India.

¹ M Weiss. History of Psychiatry in India. Samiksa 1986;11:31-45

² N. Kumar. The Relationship between Physical & Mental Health: Co-occurring Mental & Physical Disorders. Indian J Med Res 120:434–436 (2004).

³ C.R. Chandrashekar & S.B. Math, Psychosomatic Disorders in Developing Countries: Current Issues and Future Challenges. Current Opinion In Psychiatry 19:201–206 (2006).

⁴ SH Nizamie & N Goyal. History of Psychiatry in India. Indian J Psychiatry 52(Supl):7-12 (2010).

There is proof that a mental hospital with Maulana Fazulur Hakim as its physician existed in Dhar, close to Mandu, Madhya Pradesh, in the fifteenth century, under the reign of Muhammad Khilji (1436–1469).⁵ In India's ancient medical practice, symptoms and treatments were elaborated, but there were no particular, well-documented asylums.

The number of cases of mental illness skyrocketed in tandem with the growth of trade, political power, and authority. Since maintaining asylums in their different colonies was expensive and challenging, more asylums had to be constructed in London to care for these prisoners. The main reason the East India Company travelled to India was to engage in trade. The Company began to dominate India in 1757, which paved the way for the growth of the military and civil services.⁶

Bhore And Mudaliar Committees

The compilation *Mental Health – An Indian Perspective* summarises the Bhore Committee's description and recommendations. The Bhore Committee separated mental illnesses into two categories: mental illness and mental inadequacy:

i) Mental disorders can be acquired or inherited, and they are frequently both. Although the forms may vary depending on the age, mental disorders can affect people of any age. Many of them can be treated with contemporary techniques.
ii) On the other side, mental inadequacy is attributed to a congenital or inherited defect, or to a sickness or injury that happened just before or after birth. In light of India's mental health care shortcomings, the Bhore Committee made the following recommendations. Based on Moore Taylor's report, the Bhore Committee's 1940 recommendations for mental health argued for the need for both medical and mental health staff as well as improvements in mental hospitals. It played a key role in the establishment of Bangalore's National Institute of Mental Health and Neurosciences, formerly the All-India Institute of Mental Health.

In light of these, the Bhore Committee proposed the following short-term program recommendations:

- a) The development of a mental health organisation under the direction of the Center's Director General of Health Services and the Provincial Directors of Health Services;
- b) Enhancing the 17 mental hospitals that are now in operation in British India and establishing two new ones in the first five years, followed by five more in the following five;
- c) Offering resources for mental health training to ancillary staff in India as well as medical men outside; and
- d) The planned All-India Medical Institute's creation of a Department of Mental Health. Crucially, the promotion of positive mental health was mentioned, which calls for the balanced development of man's intellectual, emotional, and physical faculties.

2. MENTAL HEALTH CARE ACT, 2017

There are 116 sections in the Act, which have been divided into 16 chapters. The Act specifies that every person with a mental illness has the right to express how they would like to be treated. Additionally, the person will name a representative who will be in charge of making decisions about treatment, hospital admission, etc.

The Act ensures that everyone has the right to government-funded mental health care and treatment. In addition, a person with a mental condition is entitled to equal treatment and protection from cruel or degrading treatment. Suicide is no longer illegal under the Act, which also stipulates that anyone who attempts suicide would be assumed to be under a lot of stress and won't face consequences.⁷

3. CONSTITUTIONAL PROVISIONS WITH REGARD TO MENTAL HEALTH

For Indian citizens, the fundamental rights guaranteed by Part III of the Constitution are also referred to as the "Human Rights" or "Magna Carta." In order to promote the growth and well-being of Indian citizens, certain rights are guaranteed by the constitution. Citizens can petition the court to have their fundamental rights upheld against arbitrary or unconstitutional interference because they are also legitimate rights. Recent legal developments have broadened the definition of fundamental rights and established that all Indian people are entitled to them, regardless of their caste, religion, race, sex, or place of origin.

However, the question of whether these rights are readily available and justified emerges when it comes to their application, particularly to people with mental disabilities. The answer to this question is urgently needed since, despite the fact that many of these rights are theoretically valid, there are some challenges in putting them into practice.

The following essential rights are guaranteed to people with mental disabilities under the Constitution:

In its Preamble, the Constitution guarantees social, economic, and political justice to all of its residents, including those with mental disabilities:

Liberty - of thought, expression, belief, faith and worship;

⁵ G.C. Sugandhi. Dhar And Mardu (Hindi). Saptchar Press, Indore. (1956).

⁶ M.U. Mushtaq, Public Health in British India: A Brief Account of the History of Medical Services and Disease. Prevention in Colonial India. Indian Journal of Community Medicine 34(1): (2009).

⁷ <http://indianexpress.com/article/explained/new-mental-health-bill-provisions-rajya-sabha-2964545/>.

Equality - of status and of opportunity; and to promote among them all.

Fraternity - assuring the dignity of the individuals.

The most hopeful preamble of the constitution is this one, which guarantees that all of its people would be treated equally under the law, including with dignity.

In order to acknowledge and grant the mentally disabled their rightful social standing, rights, and benefits in society, a special reference can be made to them.

Article 14, which requires the state to treat everyone equally before the law, give equal protection, and guarantee that there is no discrimination based on religion, race, caste, sex, or place of birth, is the second most promising article in the constitution.

According to Article 15(2), no citizen may be subject to any kind of disability, liability, restriction, or condition pertaining to their access to stores, public restaurants, hotels, and public entertainment venues, or to the use of wells, tanks, bathing ghats, roads, and public resorts that are maintained entirely or in part with state funds or for the general public's use, based solely on their religion, race, caste, sex, place of birth, or any combination of these.

The preservation of life and personal liberty is guaranteed by Article 21 of the Constitution. It highlights that no one's life or personal freedom may be taken away from them unless it is done in accordance with a legally mandated process.

The rights of people with mental disabilities might be interpreted as being included in the aforementioned clause since it guarantees them protection against exploitation in addition to their rights and privileges to live in society. As time went on and laws improved, Article 21's boundaries were expanded. Many times, the higher courts have rendered important rulings and given Article 21 a more rational and substantial interpretation. The definition of the right to life can be inferred from these landmark rulings as encompassing more than just the rights necessary for human survival. It encompasses, among other things, the rights to health, clean drinking water, a pollution-free environment, privacy, education, and existence with human dignity.

In Chandan Kumar Banik v. State of West Bengal,⁸ The Supreme Court has ordered a hospital in the Hooghly region to give mentally challenged inmates who were being shackled by the hospital administration to control their violent and disruptive attitude some respite.

Right to constitutional remedies (Article 32). This article states that any disabled person may petition the Indian Supreme Court to uphold the fundamental rights outlined in the constitution. The right to health has been construed in a variety of ways by the Indian judiciary.

There are significant case laws in India that illustrate a variety of health-related issues as a result of public interest litigations.

In Vincent v. Union of India,⁹ "A healthy body is the very foundation for all human activities," the Supreme Court said. Therefore, under a welfare state, it is the state's responsibility to guarantee the establishment and maintenance of circumstances that promote well health.

In Consumer Education and Resource Centre v. Union of India,¹⁰ It was acknowledged that the right to health is a necessary component of the right to life since it is necessary for human survival.

The State has an obligation under Article 47 to improve public health, boost living standards, and improve nutrition. Among its main responsibilities, the state will prioritise improving public health, raising the standard of living and nutrition of its citizens, and enacting laws that forbid the use of harmful drugs and intoxicating beverages other than for medical purposes.

Improving the standard of living and nourishment of its citizens will be the state's top priority. The provision of primary and basic healthcare facilities that are necessary for the well-being of individuals with mental disabilities is a mandate and obligation of the government.

In Mahendra Pratap Singh v. State of Orissa,¹¹ The court ruled that while large hospitals would not be feasible in a nation like ours, villages within their borders might undoubtedly aim to establish a primary health centre.

It is evident from the discussion above that the Indian Constitution includes clauses ensuring everyone's right to the best possible level of bodily and mental well-being.

Laws pertaining to mental health must address the following problems and guarantee a fair level of access to medical care. A reasonable level of medical care entails and consists of:

- a) Simple access to healthcare, which is incorporated into primary care and offered at the community level.
- b) Free supply of necessary drugs: a list of necessary pharmaceuticals must be announced and regularly and uninterruptedly made available at no cost.
- c) Acceptability: Healthcare professionals must adhere to medical ethics and offer culturally relevant services.

⁸ (1995) Supp (4) SCC 505

⁹ AIR 990, 1987 SCR (2) 468

¹⁰ AIR 922, 1995 SCC (3) 42

¹¹ AIR 1997 Ori 37

- d) Quality: Medical facilities and services ought to be of high calibre and suitable for science.
- e) The primary health center's emergency care services.

4. STIGMA – MENTAL ILLNESS

Although people with mental illnesses do not discriminate, they occasionally do. There is a lot of stigma and prejudice against people who have mental illnesses. It is a sense of shame that separates an individual from the rest of society. A person is viewed as a stereotyped group when they are classified as mentally ill. Discrimination results from this pessimistic mindset, which also prevents those who suffer from mental illness from getting help. Serious societal and personal repercussions result from this.

Shame, blame, despair, anguish, a lack of confidence, low self-esteem, and social exclusion are all experiences and emotions associated with stigma. It prevents people from recovering from mental illness effectively and efficiently. A mentally healthy society is necessary to enable those who suffer from mental illness to seek treatment, rehabilitate, participate in fulfilling activities, gain social status, and lessen discrimination—the biggest barrier to recovery—in society.

What is stigma?

Stigma is the term used to describe how members of society view and treat people with mental illnesses. For fear of embarrassment, mentally sick people's conditions are kept under wraps and frequently go untreated. Treatment for the condition, including therapy, medicine, and other therapies, is associated with stigma. It should be viewed as a condition of being rather than a sickness, affecting people differently, in diverse ways, and starting at any age. The fact that mental illness is treatable is not widely known. People with mental illnesses are thought to be unstable and perhaps violent. This results in discrimination, which may be readily apparent.

Where does stigma originate?

The lack of knowledge and education about mental illness in society contributes to its increasing stigma. It helps to break the uneasy pause while discussing mental illness and being there to listen patiently. Reducing the stigma of mental illness, ending silence, sharing feelings, and dispelling misinformation about mental illness are the goals of the society's local campaign. Through communication, education, and encouragement to seek help, when necessary, we must dispel myths about mental illness.

Treatments are currently available, and society can be more tolerant and helpful. In order to raise awareness of mental disease in general society, we must provide clear, fundamental knowledge on what mental illness is and the factors that contribute to it. When speaking with mentally ill people, one must create a welcoming and comfortable environment by demonstrating compassion and being an attentive listener.

Individuals who suffer from severe mental illness have two challenges. On the one hand, they battle the symptoms, and on the other, the impairments brought about by the societal misperception of mental illness. Therefore, stigma has two effects: self-stigma and public stigma.

Public stigma is the way that members of the general public react to those who have mental illnesses. The elements that make into public stigma include:

First, stereotypes are unfavourable opinions about a group, such as that they are dangerous, untrained, or morally reprehensible;

Second, it is prejudice, individuals with erratic personalities, and unpleasant emotions like fear and rage;

The last type of discrimination is avoidance, which includes denying people housing and employment prospects, among other things.

Self-stigma: When someone has a mental condition, they may turn against themselves. Discriminatory factors such as being hazardous, unpredictable, or accountable for their condition, as well as being excluded from social, educational, and employment possibilities, have an impact on their psychological well-being and cause self-stigma. They believe the negative words, which leads them to believe that they are dangerous, unable of recovering, undeserving of care, and accountable for their sickness. This results in low self-esteem, a sense of shame, and an inability to achieve their life's ambition. They believe that since they are unable to recuperate and lead normal lives, there is no point in exerting effort. They conceal their issues and refuse to get help in order to avoid prejudice and being classified as mentally ill. People continue to feel that mental illness is shameful and should be kept secret the more hidden it is. This exacerbates their problems even more and makes recovery more challenging.

These rob people with mental illness of a happy life, a good employment, safe housing, access to health care, and other things. Research on the disease's effects has advanced significantly, and more lately, it has brought attention to the stigma associated with mental illness. Despite the fact that these illnesses are curable, people are nonetheless reluctant to discuss them. We ought to approach these people in the neighbourhood, assist them in living independently, and teach them how to handle social situations.

5. MENTAL HEALTH CARE ACT WITH REGARD TO VIOLATION OF HUMAN RIGHTS

Since the beginning of human civilisation, individuals who have mental illnesses have been neglected and denied access to all of the fundamental and human rights that the Indian Constitution guarantees to all of its citizens. WHO adopted the Mental Health Care Law and the recommendations for improving the human rights of people with mental illnesses in 1996. The following are the ten fundamental ideas of mental health care law¹²:

1. Prevention of mental diseases and promotion of mental health
2. Availability of mental health care
3. Evaluation of mental health in compliance with globally recognised standards
4. The availability of the least restrictive form of mental health treatment
5. Self-determination
6. The entitlement to receive assistance in exercising self-determination
7. The review process is available
8. An automated system for periodic reviews
9. Professional decision-maker
10. Adherence to legal norms

The Mental Health Care Act addresses the defence of mentally ill people's human rights. The Act guarantees that everyone will have access to high-quality, reasonably priced mental health care and treatment services. This Act includes a very new and clear clause protecting the human rights of people with mental illnesses. A person with a mental illness should never be treated cruelly, cruelly, or cruelly in any way.

Individuals who suffer from mental illness should be treated with the same respect and decency as everyone else. Simply claiming to have a disability does not make him or her a burden in society. Rights like the right to work, the right to education, the right to appeal, etc., should be protected by society. Various facets of society must actively participate in order to guarantee the protection of their rights.

Additionally, laws related to mental health must set rules so that the nation can have a systematic and organised health policy, support earlier mental health programs, and offer community-based mental health services that are both efficient and easily accessible.

Legal literacy regarding mental health concerns is desperately needed right now, particularly in the judiciary.¹³

A few rights that must be upheld by the governments of the various nations have been identified in order to shield mentally ill people from prejudice and persecution. People with mental illnesses have the following rights:

a) **The right to live with dignity:** The right to live with dignity: People with mental illnesses shouldn't have to endure any kind of physical or psychological humiliation. Legal status ought to be granted. Many rights should be free from obstacles, such as those pertaining to the legal system and political rights like the ability to vote.

b) **Right to appeal:** They should have the freedom to notify the appropriate authorities if they experience discrimination or neglect at work or in any public setting. Free legal help should be given to them at the judicial level, and special courts should be set up if necessary.

To investigate the issues faced by mentally ill people, mental health courts ought to be established. It is important to have an accurate and organised record.

c) **Right to rehabilitation:** The law should provide for the post-hospital treatment of mentally ill individuals and guarantee their complete reintegration into society so they can live normal lives.

d) **Right to privacy:** Research on people with mental illnesses should not be conducted on them unless it directly benefits them or is necessary for diagnosis and treatment. The concerned physician and personnel should be the only ones to know the diagnosis, course of treatment, medicines, etc. The mentally ill person and/or his or her family members or carers should give their informed consent.

e) **Right to Education:** right to obtain education at all levels, including primary, secondary, high school, and postsecondary. With the cooperation of the concerned faculty and family members/caretakers, special attention and provisions should be made in the areas where they are deficient if the educational authorities believe that their performance is below that of others. This will address the various issues in the educational system.

f) **Right to family and community life-** A person who is diagnosed with a mental illness should be allowed to marry if his voluntary consent is taken into account and he is encouraged to live a normal life in the community and in society at large.

g) **Right to economic and social security:** The government must provide social insurance and guarantee their access to health care. Simultaneously, the government should increase the funding of mental health services and implement programs such as paying a certain amount to mentally ill people as a pension or allowance for their family's maintenance

¹² Division of Mental Health and Prevention of Substance Abuse World Health Organization Geneva, 1996-WHO/MNH/MND/96.9.

¹³ Human rights in mental health care: an introduction Lakshmidhar Mishra, IAS (Retired), is Special Rapporteur, National Human Rights Commission, New Delhi. published by: National Human Rights Commission Faridkot House, Copernicus Marg New Delhi 110 001.

because they are dependents, as well as enabling them to take advantage of government subsidies like travel concession allowances and gas subsidies.¹⁴

h) Right to employment: Employers have the right to hire mentally ill people if they are qualified for a specific position or post at their place of employment and their disability does not interfere with that job. This ensures that effective measures are in place to secure the right to work. provisions to be made for fair and compassionate working conditions.

i) Right for assistance, including legal, for protecting their rights: With the assistance of legal aids, facilities for establishing guardianship or custody of mentally ill individuals who are unable to manage their own financial affairs (such as managing their property, business affairs like shares, bank transactions, etc.) should be closely watched on a regular basis.

The Erwadi fire happened on August 6, 2001. In this incident, a fire claimed the lives of twenty-eight inmates at a religious mental institution. At the Moideen Badusha Mental Home in Erwadi Village, Tamil Nadu, all of these prisoners were chained. Erwadi, which was well-known for the dargah of Quthbus Sultan Syed Ibrahim Shaheed Valiyullah, who travelled to India to spread Islam from Medina, Saudi Arabia, had a large number of mental hospitals. Many people think that the oil from the lamp burning in the dargah and the holy water from the dargah may heal all ailments, particularly mental ones. Frequent caning and beatings were also part of the treatment, which was meant to "drive away the evil." The patients were fastened to trees with heavy ropes during the day. Iron chains held them to their beds at night. In their dreams, the patients awaited a divine order to return home. It was anticipated that it would take anywhere from two months to many years for the directive to arrive. persons reportedly established homes to care for the patients as the number of persons seeking treatment at dargah rose. The majority of these homes were established by individuals who had travelled to Erwadi in search of a treatment for a family member.

Although the fire's cause is unknown, most of the 45 prisoners who were shackled to their mattresses in the dilapidated shelter where they slept had little chance of survival once it spread. This practice was illegal in India. Five people were hospitalised with severe burns, while some prisoners who had less secure shackles managed to escape. The deceased's bodies could not be recognised.

It is determined that people with mental illnesses are vulnerable to abuse by anyone in society, including spouses, family members, carers, professionals, other citizens, and even law enforcement, if a protective mechanism is not in place. One key tool for ensuring that mentally ill people receive appropriate, sufficient, and compassionate healthcare is legislation. A civilised society that respects and cares for a marginalised segment of the population is demonstrated by its commitment to upholding human rights.

Mental health treatment is not seen as a significant component of public health care in India. Therefore, laws pertaining to mental health are crucial to protecting the rights of those who are mentally ill. Protecting, advancing, and enhancing the lives and mental health of those who suffer from mental illness is the primary goal of mental health laws.

The Act still needs a lot of provisions to safeguard, advance, and raise the quality of life for people with mental illnesses. Implementation requires strict measures.

When necessary, provisions must be made for the intervention of psychiatric emergency services. It must also raise awareness in the community by holding workshops and programs on a regular basis while closely monitoring them. If any of the rights of people with mental illnesses are infringed, a mechanism for penalising the guilty should be included. People with mental illnesses shouldn't be isolated.

Thoroughly enforcing the current laws can accomplish far more than considering revisions or passing new legislation. Therefore, the fundamental principle should be that execution should come first, followed by changes.¹⁵ Laws protecting people with mental illness are numerous, but none of them will be effective unless all citizens are aware of their legal rights. However, enforcing, overseeing, and regulating mental health laws continue to be significant obstacles. Anticipating and raising awareness for the welfare of mentally ill people is a humanitarian attitude.

6. CONCLUSION

The delivery of appropriate, sufficient, timely, and humane healthcare is ensured in large part by legislation. The protection, advancement, and enhancement of the life and mental health of its residents are the primary goals of these laws. In India, there is extensive but dispersed health care legislation.

Based on the discussion above, it is evident that the Indian Constitution includes fundamental rights that provide the right to the best possible level of physical and mental well-being. Thus, the government and its representatives are making sure that people with mental illnesses have access to these essential rights. It incorporated mental health services within the framework of general healthcare delivery. It has also made it easier for the community's recovered mentally ill to receive proper psychosocial care by connecting them with local non-governmental organisations.

¹⁴ Human Rights in patient care: a theoretical and practical framework by Jonathan Cohen and Tamar Ezer - health and human rights volume 15.

¹⁵ Mental Health Act, Salient Features, Objectives, Critique and Future Directions (11) Dr. J. K. Trivedi - MD (Psych.), MRC Psych (U.K.) Professor, Department of Psychiatry, KG Medical University, Lucknow-226003, India.

At the end, it may be stated that the rights of people with mental illnesses must be promoted and protected immediately. The efficient operation of mental health authorities and organisations, along with appropriate funding for them, make this feasible. Also, by implementing community awareness campaigns, the stigma associated with mentally ill people can be eliminated.

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