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A REVIEW ARTICLE ON THE MENTAL HEALTH ACT IN INDIA: A LEGAL AND SOCIETAL EVOLUTION

Purbita Das

Research Scholar, School of Law and Justice, Adamas University

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ABSTRACT

Mental health legislation in India has undergone significant transformation, reflecting shifts in societal attitudes, international obligations, and the growing awareness of human rights. This article explores the evolution of mental health laws in India, focusing on the Mental Healthcare Act, 2017, which replaced the outdated Mental Health Act of 1987. The article analyzes key provisions, evaluates the Act's impact, and highlights implementation challenges, offering suggestions for a more inclusive and effective mental health care framework. This article analyzes the historical and legal development of mental health legislation in India, critically examines the features and impact of the 2017 Act, and suggests strategies to bridge the gap between policy and practice. To truly transform mental health care in India, the Mental Healthcare Act must be supported by systemic reforms, increased public awareness, and sustained political will, making mental health a central component of India's public health and social justice agenda.

INTRODUCTION

Mental health is an essential component of overall well-being, yet it has often been sidelined in legal and policy discourses. In India, a country of over 1.4 billion people, mental health issues affect a significant portion of the population. According to the National Mental Health Survey (2015-16), nearly 150 million Indians need active mental health intervention. Against this backdrop, mental health legislation plays a critical role in ensuring access to care, protecting rights, and guiding service delivery. Mental health is an integral aspect of overall well-being, influencing how individuals think, feel, and function in their daily lives. Despite its importance, mental health has historically been neglected in both policy and practice, particularly in low [1]- and middle-income countries like India. For decades, individuals with mental illness in India faced stigma, marginalization, and limited access to appropriate care. The legal framework that governed mental health until recently reflected outdated and custodial approaches, emphasizing institutionalization rather than recovery or integration into society. India's early mental health laws, including the Lunacy Acts of the British colonial era and the Mental Health Act of 1987, were criticized for being paternalistic and focusing more on controlling mentally ill individuals than protecting their rights. However, the global shift toward a rights-based approach to mental health—catalyzed by instruments such as the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD)—compelled countries, including India, to reform their mental health laws[2].

The **Mental Healthcare Act, 2017**, marks a watershed moment in India's legislative and public health landscape. This Act not only repeals the outdated 1987 law but also places mental health firmly within the framework of human rights and dignity. It recognizes the autonomy of individuals with mental illness, affirms their right to access quality care without discrimination, and decriminalizes suicide, reflecting a more compassionate and progressive legal philosophy.

This paper traces the evolution of mental health legislation in India, analyzes the key provisions of the 2017 Act, and examines its potential to bring about meaningful change in the lives of those affected by mental illness. It also highlights persistent implementation challenges and offers recommendations for bridging the gap between legislative intent and ground-level realities[3].

2. Historical Background

The evolution of mental health legislation in India reflects the broader socio-political attitudes toward mental illness, shifting gradually from a model of control and isolation to one of care and inclusion. The earliest laws dealing with mental health in India were introduced during the British colonial period, where the focus was primarily on protecting society from the "insane" rather than safeguarding the rights and dignity of individuals with mental illness [4].

The first major piece of legislation was the **Indian Lunacy Act of 1912**, which itself was a derivative of earlier laws such as the Lunacy (Supreme Court) Act, 1858 and the Indian Lunatic Asylums Act, 1858. These laws were heavily custodial in nature, allowing for the detention of individuals deemed mentally ill without robust legal safeguards. The terminology used—such as "lunatic" and "asylum"—reflected the stigmatized and discriminatory approach of the time. Care was synonymous with confinement, and little emphasis was placed on treatment, rehabilitation, or rights [5].

Post-independence, there was a growing realization that these colonial-era laws were incompatible with a democratic and rights-based society. In response, the **Mental Health Act of 1987** was enacted with the aim of providing a more humane and regulated framework for mental health care[6]. While the 1987 Act introduced certain reforms, such as the establishment of licensing procedures for psychiatric hospitals and the formation of mental

health authorities, it largely retained an institutional and medico-legal orientation. It failed to adequately address human rights concerns, did not offer patients autonomy in treatment decisions, and lacked mechanisms for community-based mental health services.

With India's ratification of the **United Nations Convention on the Rights of Persons with Disabilities (UNCRPD)** in 2007, there arose a pressing need to align national laws with international human rights standards. This global shift, combined with internal advocacy and judicial interventions, laid the foundation for the enactment of the **Mental Healthcare Act, 2017 [7]**. This new legislation marked a decisive turn toward a rights-based, patient-centered, and inclusive mental health care system, addressing many of the shortcomings of its predecessors.

3. Key Features of the Mental Healthcare Act, 2017

The **Mental Healthcare Act, 2017** represents a significant legislative shift in India's approach to mental health, moving away from a custodial model toward a rights-based and person-centered framework. One of the most defining features of the Act is the **recognition of mental health care as a justiciable right**, ensuring that every person has access to affordable, good-quality mental health services provided by the state. The Act places strong emphasis on **non-discrimination**, mandating equal treatment regardless of gender, religion, socioeconomic status, or any other identity marker [8].

A landmark provision of the Act is the introduction of the **advance directive**, which allows individuals to specify how they wish to be treated in the event they develop a mental illness, including the ability to appoint a **nominated representative** to make decisions on their behalf. This ensures that patients retain agency and autonomy in treatment decisions, even during times of incapacitation. The Act also establishes **Mental Health Review Boards (MHRBs)**, independent bodies responsible for protecting the rights of individuals, reviewing involuntary admissions, and addressing grievances related to mental health care [9].

3.1 Rights-Based Approach

- **Right to Access Mental Healthcare**: Every person has the right to access affordable, good quality mental health services.
- **Right to Community Living**: Individuals with mental illness have the right to live in, be part of, and not be segregated from society.
- **Right to Protection from Cruel, Inhuman and Degrading Treatment**.

3.2 Advance Directive

- Allows individuals to specify how they wish to be treated in the event of mental illness and who should make decisions on their behalf.

3.3 Decriminalization of Suicide

- Section 115: Attempt to die by suicide is presumed to be due to mental illness, thereby removing criminal liability under Section 309 of the Indian Penal Code.

3.4 Mental Health Review Boards (MHRBs)

- Independent bodies created to oversee involuntary admissions and treatment, and to protect patient rights.

3.5 Duties of Government

- Ensure establishment of mental health services at all levels.
- Promote awareness and reduce stigma.

4. Strengths of the Act

The **Mental Healthcare Act, 2017** is a landmark legislation in India that marks a significant shift towards protecting the rights and dignity of persons with mental illness. One of its major strengths is its focus on **decriminalizing suicide attempts** and ensuring that individuals receive care rather than punishment. The Act guarantees the **right to access mental healthcare services** and mandates that mental health services be integrated into general healthcare, promoting accessibility and affordability. It emphasizes **informed consent and autonomy** by requiring prior approval for treatment and respecting the preferences of the patient. The Act also provides for **advance directives** and the appointment of **nominated representatives**, thereby enhancing patient empowerment [10]. Another strength is the establishment of **mental health authorities** at the central and state levels to regulate services and protect patient rights. The Act further aims to reduce stigma and discrimination by prohibiting unfair treatment in employment, education, and other areas. Overall, it aligns with international human rights standards, providing a comprehensive legal framework for mental health care in India.

Table: Strengths of the Mental Healthcare Act, 2017

Strength	Description
Right to Access Mental Healthcare	Ensures availability, accessibility, and affordability of mental health services for all.
Decriminalization of Suicide	Attempts to commit suicide are not criminal offenses; focus on care and rehabilitation.
Patient Autonomy and Consent	Mandates informed consent for treatment and respects the individual's choices.
Advance Directives	Allows individuals to specify their treatment preferences in advance.
Nominated Representatives	Provides for appointment of representatives to assist in decision-making for patients.
Mental Health Authorities	Establishes Central and State Mental Health Authorities for regulation and oversight.
Protection from Discrimination	Prohibits discrimination in employment, education, and other rights due to mental illness.
Deinstitutionalization	Promotes community-based care over institutionalization wherever possible.
Right to Legal Aid and Redress	Patients can seek legal support and complaint mechanisms if rights are violated.
Alignment with International Standards	Ensures compliance with the UN Convention on the Rights of Persons with Disabilities (UNCRPD).

5. Challenges and Criticisms

While the Mental Healthcare Act, 2017 has been widely hailed as a progressive and rights-based reform, it has also attracted substantial criticism. One of the key concerns is the *gap between legislation and implementation* [10]. India faces a severe shortage of mental health professionals, infrastructure, and funding, making it difficult to deliver on the Act's promises. Many states have not yet established the Mental Health Review Boards or fully functional State Mental Health Authorities, as mandated by the law. Moreover, critics argue that the Act places an unrealistic burden on an under-resourced system by guaranteeing extensive rights—such as the right to access mental health services and the right to community living—without ensuring the practical means to fulfill them [11].

Additionally, the Act's strong emphasis on individual autonomy and advance directives, though commendable in principle, raises concerns about its feasibility in a socio-cultural context where family plays a central role in care decisions. There are ambiguities around implementation in rural and marginalized communities, where mental health awareness is low and stigma is high [12]. Furthermore, legal procedures, such as those involving involuntary admissions and rights appeals, can be lengthy and confusing, potentially leading to delays in urgent treatment. Thus, while the Mental Healthcare Act represents a significant step forward, its effectiveness is hindered by systemic inadequacies,

administrative delays, and lack of public awareness, requiring urgent and sustained policy attention [13].

5.1 Implementation Gaps

- **Lack of Infrastructure**: Many states have yet to establish Mental Health Review Boards or sufficient mental health facilities.
- **Workforce Shortages**: India has a deficit of trained mental health professionals, including psychiatrists, clinical psychologists, and psychiatric social workers[18].

5.2 Awareness and Stigma

- Despite the Act, social stigma around mental illness persists, affecting access and utilization of services.

5.3 Coordination and Funding

- Implementation is hindered by interdepartmental coordination issues and inadequate budgetary allocations for mental health [14].

6. Way Forward

To ensure the Mental Healthcare Act, 2017 achieves its intended impact, a multi-pronged and sustained effort is essential. Strengthening mental health infrastructure must be a top priority, including increasing budgetary allocation, expanding community-based services, and training more mental health professionals across disciplines. States must be held accountable for implementing the statutory bodies mandated under the Act, such as Mental Health Review Boards and State Mental Health Authorities. Awareness campaigns targeting stigma and misinformation should be launched, especially in rural and marginalized communities, to foster greater acceptance of mental health issues [15]. Additionally, there is a need to simplify legal procedures related to admission and treatment, while ensuring robust safeguards for rights protection. Most importantly, integrating mental health services into primary healthcare and adopting a culturally sensitive approach will help bridge the urban-rural divide and make mental healthcare accessible, acceptable, and effective for all.

- **Capacity Building**: Investment in human resources and infrastructure for mental health care.
- **Public Awareness Campaigns**: Nationwide campaigns to reduce stigma and promote mental well-being.
- **Monitoring and Accountability**: Strengthen oversight mechanisms to ensure compliance with the Act.
- **Digital Mental Health Solutions**: Utilize telemedicine and digital platforms to bridge treatment gaps [16].

CONCLUSION

The Mental Healthcare Act, 2017 is a landmark legislation in India's legal and healthcare landscape. It marks a shift from institutionalization to patient autonomy and community care. However, its success depends largely on effective implementation, public awareness, and sustained political and financial commitment. As India moves forward, it must prioritize mental health as an integral part of public health and human rights [17]. The Mental Health Act in India, particularly with the enactment of the Mental Healthcare Act, 2017, marks a significant shift in both legal and societal attitudes toward mental health. Moving away from custodial care to a rights-based approach, the law acknowledges the dignity, autonomy, and agency of individuals with mental illness. It aligns India's mental health framework with international standards, particularly the UN Convention on the Rights of Persons with Disabilities (UNCRPD)[19].

However, while the legislation is progressive on paper, its success depends on effective implementation, adequate infrastructure, sensitization of stakeholders, and a shift in public perception. Societal stigma, lack of awareness, and insufficient mental health resources continue to be major challenges. Bridging the gap between law and practice remains critical. In essence, the evolution of the Mental Health Act reflects a growing recognition of mental health as an integral part of overall well-being. As India continues this journey, it must focus not only on legal reform but also on cultivating a more inclusive and compassionate society [20].

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