

EVALUATION OF MENTAL HEALTH RIGHTS IN INDIA : A LEGAL INTERPRETATION

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Abstract

Mental health is a concept that has always been in debate time and over at both national and international level and there were a number of agreements and covenants organized that have contained some provisions concerned with mental health and rights of people suffering from it. In India initially there was not any express legislation dealing with this concept. But after the independence and when constitution came into existence the right to a person's health which also contains mental health has been an inseparable part of fundamental rights incorporated under article 21 of Indian Constitution. The courts in India have on several occasions recognised the right regarding mental health in many of its judgements and there was enactment of legislations like the mental healthcare act 1987 and 2017 to discuss the rights of people dealing with mental health issues and to make proper arrangements for their proper treatment. But even after all of these progressive steps there is more to be done in the sector of mental health laws by the community as a whole. This paper tries to explore the term mental health and examine the rights available to individuals suffering from mental health problems while also evaluating certain judgements that have carved a path for the recognition of right to mental health as a component of health in India.

Key Words: Mental Health, Rights, Law, Court, Discrimination

MENTAL HEALTH AT A GLANCE

One of the key components of general health is mental well-being. However, people should frequently make an effort to discuss this subject as much as they can. Everybody in the world is under a lot of mental strain these days, whether it is related to managing their personal and professional lives or their schooling, among other things. Even school going youngsters experience a great deal of stress. So, it is vital that the mental health should be given priority

and the government should try to implement some measures to make everyone understand this concept so that people can be sensitive towards the persons dealing with psychological and emotional pressure as it is an issue with which people of every age group deal be it children, youth or elderly and there is so much stigma around this subject that people try to avoid talking about it openly and struggle internally. The Indian cinema has also made some movies that have portrayed the concept of mental health struggles in a positive manner such as the movie 15 Park Avenue which deals with the problem of schizophrenia in a realistic and emotional manner and shows how any kind of mental illness takes a toll on the person suffering from it and how challenging it is to live with it in a society that is not ready to accept the concept of mental health, the impact it has on the victim, her family, surroundings and relationships. It tries to give people perspective to discuss this topic in a more sensitive and open manner. Recently the topic of mental health of pilots came into limelight after the unfortunate Ahmedabad plane crash incident. Previously, there has been a number of instances of pilot suicide using the aircraft to take their life along with other passengers as they are expected not to have any weaknesses and if they have a fear that if they open about their mental struggle then their professional life will be over.¹ It is also suggested that The Union Ministry of Health should take a balanced approach by enacting some legislations that require the healthcare providers to inform the concerned authorities in case any person's health will have an impact on the public safety while simultaneously protecting the personal information and privacy of the person.² In addition to that there is frequent cases in news relating to suicides of students at colleges and schools who are under a lot of pressure to perform well in their studies and there is no proper guidance and counselling for them to guide and to inform them about how to cope up with this stress. It has been observed in Britain that anxiety and a bit of depression because of work related stress have long term adverse effect on everyday life of a person and it means that they may develop mental impairment and this has made them disabled for the purpose of Equality Act 2010 as to protecting them from discrimination and harassment.³ Because of mental health related reasons there was a sizeable growth in the number of people taking leaves from their work in the year 2023 and 2024 as suggested by office of National Statistics in Britain.⁴

According to World Health Organisation (WHO), “mental health comprises of complete mental well-being of a person which enables them to cope with the stress of life, to realise their potential, to learn and work well so that they can contribute to the society. It is an integral part of health and includes in itself the ability to make decisions, to build relationships and to build the world that we are a part of. Mental health is a basic human right and is crucial for the personal, social and economic development.”⁵

¹Captain S. Sabu, *The Mental Health of Pilots is the Elephant in the Room*, The Hindu, Jul. 19, 2025, At 6.

²*Id.*

³Catherine Baksi, *Mental Health and the Law : Coping Strategies*, The Law Society Gazette, (Jul. 21, 2025), available at <https://www.lawgazette.co.uk/features/mental-health-and-the-law-coping-strategies/5123979.article>.

⁴*Id.*

⁵World Health Organisation, Fact Sheet on Mental Health, (Jun. 17, 2022), available at <https://www.who.int/news-room/fact-sheets/detail/mental-health-strengthening-our-response>.

There are many stereotypes and stigmas related with the concept of mental and psychological well-being as people think of it as a shameful thing and people dealing with are often neglected and marginalized and they face lot of issues such as discrimination, loss of opportunities as well as low productivity.⁶

We as a society need to understand that mental health has always been part and parcel of overall health and fitness of a person and that the mental health and human rights are interlinked. This notion has also been supported at international level. With reformation in the legislative systems there will be reduction in discrimination, stigma and segregation faced by people and with increase in human right based approach there would be proper access to quality healthcare.⁷ The two earliest legislations at international level are The French Mental Health Law, 1838 and English and Welsh Lunacy Act, 1890 regulating the mental health conditions and providing a way for the treatment.⁸ Now most of the nation are implementing their own mental healthcare laws. These legislations are necessary as they provide a proper framework, regulate and safeguard the rights of people dealing with such conditions and they provide proper rules, aims and objectives of mental health plan and policies.⁹

RIGHT TO MENTAL HEALTH: AT INTERNATIONAL PERSPECTIVE

The World Health Organisation (WHO) and Office of United Nations High Commissioner for Human Rights (OHCHR) have talked about a human rights-based path to mental health. “The WHO has called out many countries to make their mental health legislations in alignment with Convention on Rights of Persons with Disabilities (CRPD) and other human rights international and regional instruments and to repeal the acts that perpetuates stigma, discrimination and human rights violation.”¹⁰

The Universal Declaration of Human Rights, 1948 along with International Covenant on Civil and Political Rights, 1966 and International Covenant on Economic, Social and Cultural Rights, 1966 form a document known as International Bill of Rights which forms the foundation stone of human rights law. These covenants also talk about right to health which encompasses in itself the right to mental health though not expressly written. There is provision for highest attainable standard of health including both physical and mental health. There should be no inequality on the basis of mental illness and everyone should be treated alike.

The United Nations had adopted some principles in 1991 for the protecting the mentally ill persons and for improvement of their conditions and care provided to them making provisions for mental health facilities, mental healthcare, professionals for dealing with this and reviewing body to look after all the processes. The persons experiencing a mental health

⁶Praveen Kumar et al., *Changing Attitude and Stigma towards Mental Illness through Education among the Rural School Students*, 17(2)J. Indian Assoc. Child Adolesc. Ment. Health 87, 89 (2020).

⁷World Health Organisation & United Nations Human Rights Office of the High Commissioner, *Mental Health, Human Rights and Legislation Guidance and Practice*, 11 (WHO, 2023).

⁸*Id.*

⁹M.K. Funk & N.J. Drew, *Commentary on Mental Health Legislation*, 21(7) EMHJ, 527, 527 (2015).

¹⁰World Health Organisation, *supra* note 7, at 2.

condition should be treated with respect and dignity and they have a right to protection against every kind of exploitation be it sexual, economic or political. There should be no discrimination on account of mental health issues and the persons suffering from it should have proper access to exercise their economic, political, social, civil and cultural rights and they should have right to live and work in the community.¹¹ There were also a number other principles recognised by United Nations in the same instrument.

The United Nations Convention on Rights of Persons with Disabilities, 2006¹² also provides that there should not be any discrimination among people if someone is suffering from any kind of disability and casts a duty on the State parties to provide the people equal opportunity in getting access to healthcare services and education, to enjoy cultural and social life, no arbitrary interference in their private life, they should be free from any kind of violation and exploitation, able to live a dignified life free from torture and inhuman treatment among other things so that there is no discrimination due to any physical and mental disability. As a result of this convention many countries have implemented their own national and regional instrument for safeguarding the liberties and rights of persons suffering from disability and to make proper mechanism to provide treatment to them.

MENTAL HEALTH LEGISLATIONS IN INDIA

Mental health problem includes in itself a number of diseases for example schizophrenia, bipolar disorder, depression and anxiety among many other things and is leading cause of suicides also. The National Crime Records Bureau has also published in a report that there were 1,70,924 suicides reported in India in the year 2022 which showed an increase of 4.2% as compared to 2021.¹³ This data demonstrates how a person's life and health are being negatively impacted by everyday issues. Those who have been dealing with mental health issues also have the right to privacy and the right to live a life of dignity, as stated in article 21 of the Indian Constitution, which deals with the right to life and personal liberty. The rights of people who are dealing with these concerns and the responsibilities of healthcare providers are also outlined in a number of laws.

A. Indian Lunacy Act, 1912

The first step towards recognizing mental health related issues was done with the enactment of Indian Lunacy Act of 1912¹⁴ made by the Britishers which was largely implemented to protect the society from the mentally ill person instead of providing the patients with care and treatment. There was no talk of the mentally ill person's rights regarding mentally illness and mentally retardation as same things and right to mental healthcare was not regarded as human right.

¹¹Principles for the protection of persons with mental illness and the improvement of mental health care, Dec. 17, 1991, G.A. Res. 46/119.

¹²United Nations Convention on the Rights of Persons with Disabilities, opened for signature Mar. 30, 2007, 2515 U.N.T.S. 3.

¹³National Crime Records Bureau Ministry of Home Affairs, Accidental Deaths and Suicide in India 2022, 196, (2023), available at <https://www.ncrb.gov.in/uploads/files/AccidentalDeathsSuicidesinIndia2022v2.pdf> .

¹⁴Indian Lunacy Act, 1912, No. IV (India).

B. Mental Health Act, 1987

Since India got independence in 1947 the major legislation that was enacted which was formed to tackle the mental health problems was Mental Health Act of 1987¹⁵ which talked about providing persons suffering from mental illness with psychological care and assistance and treatment for the same defining mentally ill person as, “a person who is in need of treatment by reason of any mental disorder other than mental retardation.”¹⁶ It provided for an establishment of a Central Authority for Mental Health Services to regulate and give directions for the services, supervise the psychiatric hospitals and nursing homes and to give suggestions to Central Government on mental health matters and in the same manner there was provision for State Authority for Mental Health Services also for the states.¹⁷ It also talked about the admission of mentally ill person in psychiatric hospitals and processes for the same. It provided punishment and penalty for detaining a mentally ill person in hospitals¹⁸, mismanaging the property of that person¹⁹ and person contravening any provisions of the Act was also made to be punished²⁰. But there were some lacunas in this Act. This Act failed to take into account the rehabilitation and treatment process of patients after their discharging the patients from the psychiatric hospitals, it also curtailed the liberty of these persons which was considered a violation of human rights and it also did not take into consideration the financial conditions and the emotional burden it had on the patients as well as the caregivers.²¹

C. Mental Healthcare Act, 2017

The new Mental Healthcare Act of 2017²² was introduced after taking into consideration the United Nations convention on Rights of Persons with Disabilities, 2006²³ to protect and promote the rights of people suffering with mental health ailments and make provisions to provide proper healthcare services to them. This Act has tried to give detailed description about the rights of people with mental illness and the duties to appropriate government towards them, to provide emergency treatment to people and minors also.²⁴ It puts emphasis on patient autonomy, decriminalizes suicides and strengthens the provisions related to mental healthcare facilities.²⁵ This means that social, religious, political, or economic status cannot determine a person's mental illness because these factors are irrelevant in this case; previous treatment is relevant but does not determine future care; and a person's mental illness cannot

¹⁵Mental Health Act, 1987, No. 14, Acts of Parliament, 1987 (India).

¹⁶*Id.* § 2(1).

¹⁷*Id.* § 3,4.

¹⁸*Id.* § 83.

¹⁹*Id.* § 84.

²⁰*Id.* § 85.

²¹Toolika Payak, *Our Journey to Mental Healthcare Act 2017*, READER'S BLOG (Aug. 5, 2025, 9:34 PM), available at <https://timesofindia.indiatimes.com/readersblog/eccentricdimensionist/our-journey-to-mental-healthcare-act-2017-24432/>.

²²Mental Healthcare Act, 2017, No. 10, Acts of Parliament, 2017 (India).

²³*Supra* note 12.

²⁴Rakesh K. Chadda, *Influence of the new mental health legislation in India*, 17(1) *BJPsych International*, 20, 20 (2020).

²⁵Sajmin Rahman, *The Mental Health Care Act, 2017: A Critical Analysis of Legal Provisions, Implementation, and Challenges*, 1(1) *Int. J. on Shodh Setu*, 1, 2 (2025).

prove that he is insane unless a court of competent jurisdiction declares so.²⁶ Every person is capable of making decisions about his/her own mental health and treatment thereof.²⁷ This Act also provides the concept of advanced directives by which the person who is an adult has a right to specify in writing the treatment he wants to receive or not, the individuals he would like to appoint as his nominated representatives.²⁸ The medical officer has an obligation to follow advance directives.²⁹ Every person has equal right to access mental healthcare facilities provided by the appropriate government without any discrimination based on race, caste, gender, religion, social and political beliefs and disability and the facilities include serious mental healthcare services, sheltered and supported accommodation, provisions to support family members of mentally ill person, community based rehabilitation institutions and provisions for child and old persons mental health services.³⁰ The government should also integrate mental healthcare services into general healthcare services at every level of healthcare and also include the same in every government run health programmes, treatment should be provided in a manner that the person can live with the family members in a community and that the services should be accessible economically and near their place of living.³¹ The persons with mental illness have a right to dignity and to be free from cruel and inhumane treatment.³² There is also a provision that provide that the medical professionals shall keep all the healthcare information confidential having only certain exceptions in case of public safety, to protect any person from any harm and under the order of any authority or court.³³ This Act also for the first time provides for the establishment of Mental Health Review Boards by State Authority in a single district or for a group of districts.³⁴ The Board has power to alter and modify advance directives, make provisions for nominate representatives and to adjudicate the complaints of people applying before it for the same.³⁵ It also states that the persons attempting suicides shall be presumed to be under severe stress and they will not be punished for that unless proved otherwise and the Government has a duty to provide treatment and rehabilitation to them so that similar things don't happen in the future.³⁶ The current Act is trying to establish a string healthcare system for the people and trying to implement the same in a fruitful manner.

JUDICIAL INTERPRETATION OF MENTAL HEALTH RIGHTS

The Indian legal system has repeatedly affirmed that people with mental health complications have the same rights as everyone else, that their right to mental health is a component of their right to health, that they are included in the broad human right to life, and that they are granted a place under Article 21 of the Indian Constitution, which deals with the fundamental rights to life and personal liberty.

²⁶*Supra* note 15 § 3.

²⁷*Id.* § 4.

²⁸*Id.* § 5.

²⁹*Id.* § 10.

³⁰*Id.* § 14.

³¹*Id.*

³²*Id.* § 20.

³³*Id.* § 23.

³⁴*Id.* § 73.

³⁵*Id.* § 82.

³⁶*Id.* § 115.

In the case of *Sheela Barse v. Union of India*³⁷ a writ petition was presented for the people being jailed in Calcutta naming them as lunatics but in many cases they were not even suffering from any mental illness and were going through some temporary mental stress or mental disturbances and they are being deprived of their liberty because of that as all of this was indicated by a write-up titled 'jailing the mentally ill' by a social activist Sheela Barse. The Court came to the conclusion that there was no permanent psychiatrist staff in any jail, there is lack of specialized mental health treatment in many districts of West Bengal, there is lack of supervision in caring for the mentally ill person, there are no nurses or social workers to look after them, the treatment facilities as well as the drugs are limited. So, there is need to set up managing bodies for the mental hospitals of West Bengal and to formulate schemes related to them and the schemes should be implemented to improve and transform the custodian institutions to provide proper living conditions and treatment. The court also issued directions that the detention of non-criminal mentally ill person is unconstitutional and illegal and it should be stopped immediately, the magistrate should get the mentally ill person examined by a medical professional as soon as he is presented before him, the Government of West Bengal should make arrangements for implementing these directions to upgrade the mental hospitals and to integrate mental healthcare in primary healthcare treatments.

In the case of *Rakesh Chandra Narayan v. State of Bihar*³⁸ relating to the conditions of mental hospitals in Ranchi the Court while applying Article 32 held that it is the duty of states to provide medical assistance to every citizen and to maintain the standards of hospitals. The state of Bihar has been lethargic in improving the conditions and there is need to need to change the current set-up and a patient-oriented approach need to be taken. The court constituted committee for the management of mental hospitals and distribution of financial assistance.

In the case of *In reDeath of 25 Chained Inmates in Asylum Fire in Tamil Nadu v. Union of India*³⁹, the Court used the terms "mentally ill person," "psychiatric hospitals," and "nursing home" for the first time. It said that one of the goals of the 1987 Mental Healthcare Act was to treat and care for mentally ill people, and that central and state authorities should be established to oversee psychiatric hospitals, manage mental health services, and advise the government on mental health-related issues. The Court gave instructions for the Act's effective application.

The case of *Accused X v. State of Maharashtra*⁴⁰ dealt with the issue that how the accused person suffering from any severe mental illness should be handled by the concerned authority by establishing a relationship between crime and mental illness and that executing a person with severe mental illness is violative of Article 21 of Indian Constitution. The Court held that the assessment of the mental illness of accused should be done thoroughly by the experienced medical professionals and the burden to prove such illness is on the accused. There is test of severity which implies that the illness should be so serious that the person is

³⁷Sheela Barse v. Union of India, Writ Petition (CrI.) No. 1237 of 1989.

³⁸Rakesh Chandra Narayan v. State of Bihar, 1989 AIR 348.

³⁹In reDeath of 25 Chained Inmates in Asylum Fire in Tamil Nadu v. Union of India, AIR2002SC979.

⁴⁰Accused X v. State of Maharashtra, AIR 2019 SC 3031.

unable to understand the nature and essence of the punishment being given to him. The Mental Healthcare Act 2017 was brought to help the people who are in need even the prisoners and it is the duty of State Governments under section 103 of the Act to establish a mental health facility wing in the prisons and if someone is considered entitled to this provision it should be provided to them.

The Supreme Court of India has issued some guidelines for student welfare in July 2025 and has stated that the right to mental health is an integral part of right to life under Article 21 of Indian Constitution. The case *Sukdeb Saha v. State of Andhra Pradesh*⁴¹ talks about the growing instances of student suicides which is a concerning matter. There are societal expectations on students these days which makes them stressed rather than doing their holistic development and cultivating in them autonomy and emotional well-being through education. The children are under relentless psychological pressure to perform well in their examinations and because of that they are suffering from anxieties rather than finding joy in learning. While using the power conferred by Article 32 of Indian Constitution to protect Fundamental Rights and treating the judgment as law under Article 141 of the Constitution the Supreme Court gave certain guidelines, such as, “all educational institutions with 100 or more enrolled students shall appoint/engage at least one qualified counsellor, psychologist, or social worker with demonstrable training in child and adolescent mental health, all educational institutions shall establish written protocols for immediate referral to mental health services, local hospitals, and suicide prevention helplines, all teaching and non-teaching staff shall undergo mandatory training at least twice a year, conducted by certified mental health professionals, on psychological first-aid, identification of warning signs, response to self-harm, and referral mechanisms and all educational Institutions shall regularly organise sensitization programmes (physical and/or online) for parents and guardians on student mental health among others.”⁴²

In a Public Interest Litigation filed in Punjab and Haryana High court for implementing National Mental Healthcare Act 2017, the Court stated that it is the duty of every magistrate, police officer and officer-in-charge of the agency having custody of the person to inform him that if he is suffering from any mental illness he has a right to get free legal aid under the Act Legal Services Authority Act 1987 and a proper orientation programme must be conducted by the judicial academy and legal services authority to make the officers aware about this duty.⁴³

CONCLUSION

Today everyone is in a race to become the best version of themselves and this race which includes the financial, physical, emotional, professional aspects of a person's life has taken a toll on most people's overall health and they are dealing with huge amount of stress which has a detrimental impact on the mental health of a person. The right to mental health needs to

⁴¹Sukdeb Saha v. State of Andhra Pradesh, 2025 SCC OnLine SC 1515.

⁴²*Id.*

⁴³Pushpanjali Trust v. State of Punjab, 2025 SCC OnLine P&H 4804.

be given priority and good quality mental healthcare services is the basic need of everyone. The laws should be such that it would not result in any kind of discrimination mostly which is based on economic condition because the mental health services in many small places are not available and where there is availability then it is most of the times an expensive facility. At the present time the legislation dealing with mental health in India is Mental Healthcare Act, 2017 which has made people aware about this concept but its implementation is also facing some hurdles such as there is shortage of experience medical professionals and inadequate and weak infrastructure and social stigma as there are many misconceptions surrounding this topic. There is fear in the mind of people that if they will raise their voice and reveal their mental health problems then society is going to judge and discriminate them instead of supporting and helping them out. In today's time many celebrities are becoming vocal about the mental problems that they are suffering from to make the society aware that it is very usual in this fast-paced life to suffer from these things. There is need of co-ordination between central and state government to implement proper rehabilitation programmes. The rehabilitation should be such as they are given full opportunity for the widening of their intellectual, emotional and social skills so that they are able to live in community freely and are competent to live and work with least professional help. Rather than focusing on secluding them and treating them as objects in hospitals they should be handled in a careful manner and proper counselling should be available to the people dealing with mental illness. The foremost duty is of the family members of people suffering from stress, anxiety and panic attack like conditions, dealing with suicidal thoughts to make them understand that is not something which cannot be cured and that they should talk about it openly. There is need of co-ordination between the judiciary and legislature and healthcare institution for better implementations of mental issues and health related rules and regulations and for effectively addressing the mental health grievances. The mental well-being and health institutions should be inspected a regular time interval and proper data should be maintained of every patient. Mental health has consistently been a taboo to talk about openly as instead of taking it seriously people always try to brush way or avoid the topic altogether. There is need to acknowledge the hardships faced by mentally ill persons and provide them proper support and care so that they can get out of this condition without feeling ashamed of it.