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Mental Health Law in India: Post-2017 Legal Developments

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Abstract
The Mental Health Care Act, 2017 marked a paradigm shift in the treatment and rights of persons with mental illness in India, replacing the archaic Mental Health Act of 1987. The new legislation aims to ensure dignity, autonomy, and access to mental healthcare services while aligning with India's obligations under the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD). This paper examines the key provisions of the 2017 Act, analyzes its implementation challenges, explores judicial trends, and evaluates the legal reforms introduced post-enactment. It highlights gaps in enforcement, the need for infrastructural strengthening, and offers policy suggestions to bridge the gap between legal provisions and mental healthcare realities.
Keywords: Mental Health Care Act 2017, legal reforms, UNCRPD, human rights, healthcare access, Indian judiciary, stigma.

1. Introduction
Mental health has historically been a neglected domain in India's healthcare and legal systems. Prior to 2017, the Mental Health Act of 1987 governed this area, focusing largely on custodial care and lacking a rights-based approach. However, India's ratification of the UNCRPD in 2007 necessitated an overhaul of domestic legislation to meet international human rights obligations. This led to the enactment of the Mental Healthcare Act, 2017, which came into force on 29th May 2018. The Act emphasizes patient autonomy, decriminalizes suicide, ensures the right to affordable treatment, and mandates state accountability. This paper provides a comprehensive review of the legal developments and practical implications of the new legislation.

2. Overview of the Mental Healthcare Act, 2017
The 2017 Act is a progressive, rights-based statute. It introduces several landmark provisions:
a) Rights of Persons with Mental Illness (PMI)
Section 18 guarantees the right to access mental healthcare and treatment from government-funded services. Section 21 ensures protection from cruel, inhuman, and degrading treatment, while Section 22 addresses the right to community living.

b) Advance Directives

The Act allows individuals to make advance directives under Section 5, specifying the manner of treatment they wish to receive or refuse, thereby upholding patient autonomy.

c) Decriminalization of Suicide

Section 115 of the Act presumes that a person attempting suicide is under severe stress and mandates rehabilitation rather than punishment, effectively overriding Section 309 of the Indian Penal Code.

d) Mental Health Review Boards (MHRBs)

The Act mandates the establishment of MHRBs in each district to oversee the admission, discharge, and treatment decisions, ensuring legal oversight and patient rights protection.

e) State Responsibility

Section 18 obliges governments to provide mental healthcare services, including essential psychotropic medicines, at affordable costs and without discrimination.

3. Alignment with UNCRPD

The Act is significant for aligning Indian law with UNCRPD Article 12, which advocates equal legal capacity of persons with disabilities. It shifts the focus from a paternalistic model to a rights-based approach. However, critics argue that certain guardianship provisions under Indian law, including in the Rights of Persons with Disabilities Act, 2016, still reflect substituted decision-making models, somewhat conflicting with the spirit of Article 12.

4. Judicial Developments Post-2017

Indian courts have played an active role in interpreting and enforcing mental health rights post-2017:

Gaurav Kumar Bansal v. Union of India (2018): The Supreme Court directed states to set up halfway homes and rehabilitative centers for PMIs, emphasizing the right to community living.

Reena Banerjee v. Government of NCT Delhi (2021): Delhi High Court mandated implementation of mental health infrastructure and criticized inadequate facilities in mental institutions.

S. Selvi v. State of Karnataka (2022): Karnataka High Court upheld the importance of advance directives and criticized the lack of awareness and implementation across hospitals.

These cases reveal judicial activism in enforcing the provisions of the 2017 Act while also exposing systemic inadequacies.

5. Implementation Challenges

a) Lack of Awareness

Both public and healthcare professionals remain inadequately informed about patient rights under the Act, particularly about advance directives and the functioning of MHRBs.

b) Infrastructure Deficits

According to a 2022 report by the National Human Rights Commission, fewer than 10 states had operational Mental Health Review Boards. Rural areas continue to lack access to psychiatrists and mental health professionals.

c) Budgetary Constraints

India's allocation for mental healthcare is less than 1% of the total health budget, severely limiting the effectiveness of the Act's progressive provisions.

d) Stigma and Discrimination

Despite legal reforms, social stigma remains a major barrier to care. Many PMIs are still subjected to abuse and neglect within families and institutions.

6. Role of State and Central Mental Health Authorities

The Act mandates the establishment of the Central Mental Health Authority (CMHA) and State Mental Health Authorities (SMHAs) to regulate mental health institutions and professionals. While these bodies exist on paper, their functional independence, staffing, and accountability mechanisms vary widely across states. Coordination between SMHAs and other healthcare bodies also remains poor.

7. Integration with Other Legal Frameworks

a) Criminal Law

The decriminalization of suicide under Section 115 requires changes in police protocols, judicial interpretation, and medical response—areas still lagging in uniform implementation.

b) Labour and Employment Laws

The Act does not sufficiently integrate with labor laws to protect the employment rights of persons with mental illness. Workplace discrimination remains inadequately addressed.

c) Insurance Law

Post-2018, IRDAI issued guidelines mandating insurance companies to treat mental illness on par with physical illness, as per Section 21(4). However, compliance is still patchy, and many policies carry hidden exclusions.

8. Recommendations for Reform

Capacity Building: Training of police, judiciary, and healthcare workers in the new legal framework is essential.

Public Awareness Campaigns: Targeted programs must educate the public on their rights and available mental healthcare services.

Budget Enhancement: A dedicated budget for mental healthcare infrastructure and services is crucial.

Data and Research: Establish a centralized mental health registry to monitor implementation, service gaps, and treatment outcomes.

Inter-sectoral Coordination: Mental health must be integrated into broader public health, education, and employment policies.

9. Conclusion

The Mental Healthcare Act, 2017 represents a significant legal and social shift in recognizing the dignity and rights of persons with mental illness in India. However, the promise of the legislation remains unfulfilled due to weak enforcement, lack of infrastructure, and persistent stigma. Realizing the Act's full potential requires concerted action from policymakers, the judiciary, civil society, and the public. The law has laid a strong foundation, but bridging the gap between legal promise and ground reality remains the need of the hour.

References

Dr. Archana Adhik Pawar. (2023). Human Rights & Constitutional laws in International Scenario. International Journal for Research Publication and Seminar, 14(2), 195–201. Retrieved from https://jrps.shodhsagar.com/index.php/j/article/view/408

Dr. Rajinder Kumar Rawat. (2023). PROTECTION OF HUMAN RIGHTS UNDER INTERNATIONAL LAW A CRITICAL STUDY. International Journal for Research Publication and Seminar, 14(5), 95–101. Retrieved from https://jrps.shodhsagar.com/index.php/j/article/view/455

Dr Sandeep Singh. (2023). Human Rights: A Global Call to Action. Universal Research Reports, 10(4), 230–236. Retrieved from https://urr.shodhsagar.com/index.php/j/article/view/1198

Gowda, M. R., Das, K., Gowda, G. S., Karthik, K. N., Srinivasa, P., & Muthalayapapa, C. (2019). Founding and managing a mental health establishment under the Mental Healthcare Act 2017. Indian journal of psychiatry, 61(Suppl 4), S735–S743. https://doi.org/10.4103/psychiatry.IndianJPsychiatry_147_19

Gururaj, G., Gourie, D. M. (1999). Epidemiology of psychiatric and neurological disorders: Indian scenario. NIMHANS Journal, 17(4), 291–294.

India State-Level Disease Burden Initiative Mental Disorders Collaborators (2020). The burden of mental disorders across the states of India: The global burden of disease study 1990–2017. Lancet Psychiatry, 7(2), 148–161.

Jayasankar, P., Manjunatha, N., Rao, G., Gururaj, G., Varghese, M. (2016). Epidemiology of common mental disorders: Results from "National Mental Health Survey" of India. Indian Journal of Psychiatry, 64(1), 13–19. http://doi.org/10.4103/indianjpsychiatry.indianjpsychiatry_865_21

Jiloha, R.C. (2015). The Mental Health Act of India. In Malhotra, S. & Chakrabarti, S. (Eds.), Developments in Psychiatry in India. New Delhi: Springer. https://doi.org/10. 1007/978-81-322-1674-2_32

Mahomed, F., Stein, M. A., Sunkel, C., Restivo, J. L., & Patel, V. (2022). Mental health, human rights, and legal capacity. The Lancet. Psychiatry, 9(5), 341–342. https://doi.org/10.1016/S2215-0366(21)00463-6

Math, S. B., Basavaraju, V., Harihara, S. N., Gowda, G. S., Manjunatha, N., Kumar, C. N., & Gowda, M. (2019). Mental Healthcare Act 2017 - Aspiration to action. Indian journal of psychiatry, 61(Suppl 4), S660–S666. https://doi.org/10.4103/psychiatry.IndianJPsychiatry_91_19

Shanthakumar , S. (2024). Human Rights and Criminal Law: Navigating the Intersection of Justice and Liberty. Indian Journal of Law, 2(5), 26–31. https://doi.org/10.36676/ijl.v2.i5.54