

# A BRIEF SUMMARY OF GOVERNMENT POLICIES & ACTS FOR MENTAL HEALTH CARE IN INDIA

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## Abstract

*India has more than 70 million mental health patients and less than 4000 psychiatrist are there and they are concentrated in only in cities. There are 9.5-102 persons affected in 1000 of population. About 800,000 people commit suicide worldwide every year, of these 135,000 (17%) are residents of India, a nation with 17.5% of world population. So there is a need for looking towards mental health. From depend on these facts it's very clear that whatever policies made by Indian government is not enough and sufficient for mental health sufferers and their caregivers. India now leads the way globally in revising mental health legislation in line with international human rights standards. It is hoped that on this occasion that the desired mental health service will be realised through appropriate legislation and implementation. The WHO is encouraging countries to update their mental health legislation in line with international guidelines and hopes that 50% of countries will achieve this by 2020. With so many countries needing to revise their laws concerning mental health, India's proposed revision and its implementation will be highly relevant to many other countries, especially those who have also ratified the UN-Convention on the Rights of Persons with Disabilities (UN-CRPD).*

**Keywords:** UN-CRPD, Mental Health Legislation, Stigma.

*A person who is mentally healthy is physically, socially and emotionally healthy and creates well being around him. In fact relationships have emerged as a very significant parameter of mental health as also evident from the object relation and attachment perspectives. Mental health legislation is an essential part of delivering high quality mental health care and is especially necessary to protect the rights of individuals receiving such care. So it is necessary to discuss briefly Mental Health Care Acts in India.*

Necessary for protecting the rights of people with mental disorders, a vulnerable section of society. To address the stigma, discrimination and marginalization in all societies and increased likelihood of human rights violations. Provide a legal framework for addressing critical issues such as: Community integration of persons with mental disorders Provision of high quality care, improvement of access to care Protection of civil rights, promotion of rights to housing, education and employment (**WHO Resource Book on Mental Health, Human Rights and Legislation, 2005**). People who are different have been labeled and discriminated against for their mental states. From “moron” and “idiot” to “psycho” and “crazy,” people with mental illnesses have been deemed socially undesirable and have therefore been stigmatized (**Rose, Thornicroft, Pinfold, & Kassam, 2007**).

Stigma surrounding mental illness refers to the view that people who are mentally ill are different, have undesirable characteristics, or deserve to be punished because of their mental illness. Goffman (1963), as well as Corrigan and Penn (1999), have shown that people who have been diagnosed with a mental illness face many challenges due to public reactions to the stigma that surround mental illness. Many mentally ill people cannot find work or adequate housing because employers and landlords focus mainly on negative stereotypes (**Flanagan, & Davidson, 2009; Corrigan, 2004**).

Stigma can also lead to the criminalization of those with mental illness. More and more people with severe mental illness are being sent to prison, possibly due to lack of resources in public mental health (**James & Glaze, 2006**). In addition, individuals are more likely to call police responders in the case of a mental health crisis rather than seeking the help of mental health professionals (**Corrigan, 2004**). Because many police officers are not trained to handle mental health crises, some individuals with mental illness report a low frequency of positive interactions with police officers in which they experience kindness or sympathy (**Dickerson, Sommerville, Origoni, Ringel, & Parente, 2002**). The fact that people turn to police demonstrates the public distaste for the mentally ill who disturb the peace, thus reinforcing stereotypes of those who are misunderstood. In addition, these stereotypes and police involvement can lead the public to agree with harsh punishments, such as incarcerating those who are mentally ill in either prisons or hospitals.

Mental disorders contribute not only to significant morbidity and disability but also add economic burden to the country ( **Math SB, Gowda GS, Basavaraju V, Manjunatha N, Kumar CN, Enara A, et al.,2019**). Limited access to mental health services, shortage of mental health specialists, lack of awareness on mental health, stigma, lower literacy, and poverty coupled with the unwillingness or inability of families to care for their mentally ill members, appear to be the main contributory factors to mental health burden (**Goel DS,2011; Isaac M.,2012; Mishra N, Nagpal SS, Chadda RK, Sood M. ,2011; Van Ginneken N, Jain S, Patel V, Berridge V. ,2014**) Moreover, widely prevalent religious beliefs associated with mental illness pose significant obstacles in seeking appropriate mental health care services.( Lahariya C, Singhal S, Gupta S, Mishra A.,2010)

## MENTAL HEALTH CARE ACTS IN INDIA

*“To provide for mental health care and services for persons with mental illness and to protect, promote and fulfil the rights of such persons during delivery of mental health care and services and for matters connected therewith or incidental thereto”.*

India spends 0.06% of its health budget on mental healthcare. Most developed nations spend above 4% of their budgets on mental-health research, infrastructure, frameworks and talent pool, according to this 2011 World Health Organization (WHO) report.

The **World health report (2001) on Mental Health, New understanding, New hope**, a first of its World Health organization study on mental health resources have collected information from 185 countries covering 99.3% of the world’s population. Analysis have revealed as follow

- About 25% of countries have no legislation on mental health.
- About 41 % of countries do not have a mental health policy.
- About 28 % have no separate budget for mental health.
- The annual prevalence of mentally ill with schizophrenia is the number of cases both old and new recorded in one year, being between two and four per thousand persons. The lifetime risk of developing illness is between seven and nine per one thousand schizophrenic cases is the single largest cause of readmission to the mental hospital.
- About 37 % of countries do not have mental health community care facilities.
- More than 25 % of countries do not have access to basic mentally ill person’s medications at the primary care level.
- More than 27 % of countries do not have a system of collecting and reporting mental health information.
- Around 65% of the beds for the mental health care are spread in mental hospitals.
- About 70 percent of the world's population has access to less than one psychiatrist per 10,000 people.

## Law of India: Constitution towards mental health

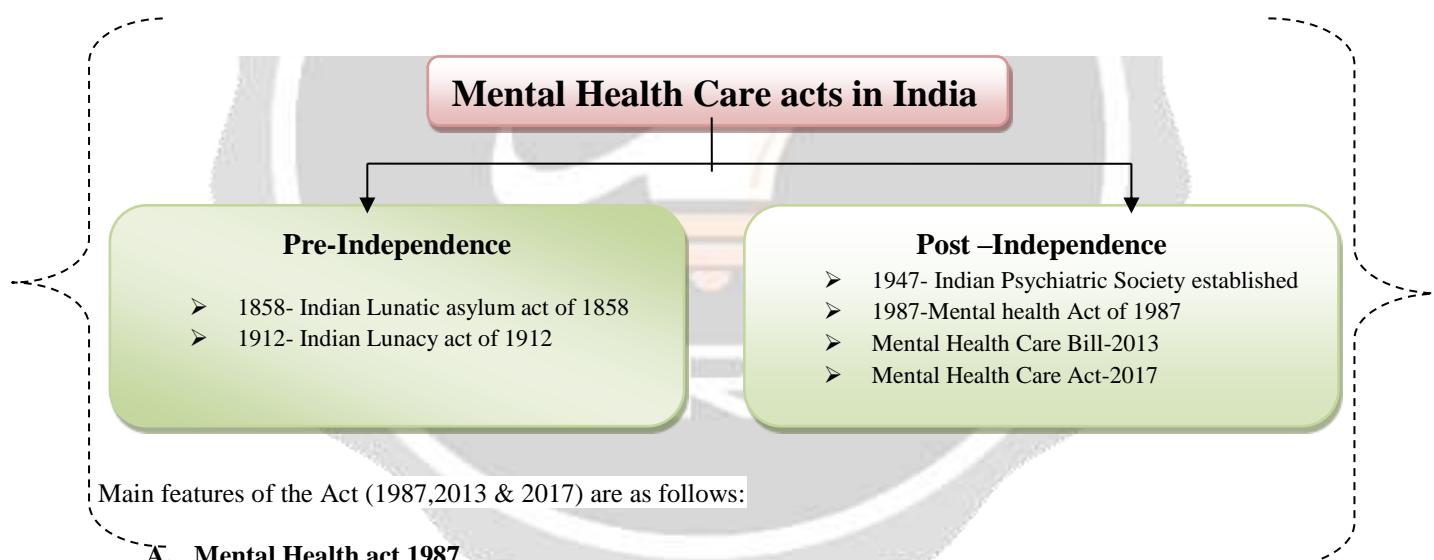
The constitution of India provides under Article 21 that no person shall be deprived of his life or personal liberty except according to procedures established by law. It has been held that right to life and personal liberty under this article includes **“facilities for reading, writing and expressing oneself in diverse forms, freely moving about and mixing and comingling with fellow human beings.”** (Singh MP. Shukla's VN,1994)

According to the Representation of People Act, 1950 (sec 16), a person is disqualified for registration in an electoral roll if he is of unsound mind and stand so declared by a competent court. Therefore, the person so disqualified cannot hold public offices under the Constitution like President, Vice-President, Ministers or Member of Parliament and State Legislatures.

### History of Mental Health Care Acts in India:

**Bar Council of India**, stated that Indian Legal Systems refers to the system of law operative in India. In the ancient days, there was a distinct tradition of law, which had a historically independent school of legal theory and practice. Law as a matter of religious prescriptions and philosophical discourse has an illustrious history in India.

Mental health care acts in India was covered in two phases- pre-independence and post independence. British crown in 1858, a large number of laws were enacted in quick succession for controlling the care and treatment of mentally ill persons in British India. These Acts gave guidelines for establishment of mental asylums and procedure to admit mental patients. During the first decade of the 20<sup>th</sup> century, public awareness about the pitiable conditions of mental hospitals accentuated as a part of the growing political awareness and nationalistic views spearheaded by the Indian intelligentsia. As a result, the Indian Lunacy Act, 1912 was enacted. The 1912 Act guided the destiny of Psychiatry in India. Lunatic asylums (named mental hospitals in 1922) were now regulated and supervised by a central authority. Procedure of admission and certification in this respect was clearly defined. The provision of voluntary admission was introduced. Still, the main stress was on preventing the society from dangerousness of mentally ill and taking care that no sane person is admitted in these asylums. Psychiatrists were appointed as full time officers in these hospitals. Provisions of judicial inquisitions for mentally ill persons were also given in the Act. After the Second World War, Universal Declaration of Human Rights was adopted by the UN General Assembly. Indian Psychiatric Society submitted a draft Mental Health Bill in 1950 to replace the outmoded ILA-1912. Mental Health Act (MHA-1987) was finally enacted in 1987 after a long and protracted course. (Sharma & Varma ,1984; Somasundaram ,1987; Banerjee,2001)



#### A. Mental Health act 1987

- Purpose of MHA, 1987 Consolidate and amend law relating to treatment and care of mentally ill persons. For better provision with respect to property and affairs of mentally ill persons.
- Establishment of Mental health authorities at central and state levels.
- Establishment and maintenance of psychiatric hospitals and nursing homes
- Procedures of admission and detention of mentally ill.
- Inspection, discharge, leaves of absence and removal of mentally ill persons.
- Judicial Inquisition Property of mentally ill persons and its management.
- Maintenance of mentally ill persons in a psychiatric hospital.
- Protection of human rights of mentally ill persons.
- Penalties and procedures for infringement of guidelines of the act
- To protect the society from dangerous manifestations of mentally ill.

#### B. MENTAL HEALTH CARE BILL 2013

The Mental Health Care Bill, 2013 was introduced in the Rajya Sabha on August 19, 2013. The Bill repeals the Mental Health Act, 1987. Key features of the Bill are:

- The Bill ensures right of every person without discrimination to access affordable and good quality mental health services which are to be made available by the Government in sufficient quantity and easily accessible geographically.
- The Government has also been assigned duties to plan, design and implement programmes for promotion of mental health and prevention of mental illnesses and to create awareness about mental health, particularly programmes to reduce stigma which are to be adequately funded.
- The appropriate Government have also been assigned duties to take measures to address human resources requirement of mental health services by proper planning and the internationally accepted guidelines for number of mental health professionals on the basis of population are to be met within a period of ten years.
- Every mental health establishment has to be registered with the relevant Central or State Mental Health Authority.
- The Bill also specifies the process and procedure to be followed for admission, treatment and discharge of mentally ill individuals.
- The Mental Health Review Commission will be a quasi-judicial body that will periodically review the use of and the procedure for making advance directives and advise the government on protection of the rights of mentally ill persons.
- A person who attempts suicide shall be presumed to be suffering from mental illness at that time and will not be punished under the Indian Penal Code.
- Electro-convulsive therapy is allowed only with the use of muscle relaxants and anaesthesia.

### C. THE MENTAL HEALTHCARE ACT, 2017

In India the **Mental Health Care Act 2017** was passed on 7 April 2017. The law was described in its opening paragraph as "An Act to provide for mental healthcare and services for persons with mental illness and to protect, promote and fulfil the rights of such persons during delivery of mental healthcare and services and for matters connected therewith or incidental thereto."

It states that mental illness be determined "**In accordance with nationally and internationally accepted medical standards (including the latest edition of the International Classification of Disease of the World Health Organisation as may be notified by the Central Government**

- "An Act to provide for mental healthcare and services for persons with mental illness and to protect, promote and fulfil the rights of such persons during delivery of mental healthcare and services and for matters connected therewith or incidental thereto".
- "Mental health is a state of well being in which the individual realizes his or her own abilities, can cope with the normal stress of life, can work productively and fruitfully, and is able to make a contribution to his or her community" (WHO, 2001).
- "**care-giver**" means a person who resides with a person with mental illness and is responsible for providing care to that person and includes a relative or any other person who performs this function, either free or with remuneration;
- "**family**" means a group of persons related by blood, adoption or marriage;
- "**Mental healthcare**" includes analysis and diagnosis of a person's mental condition and treatment as well as care and rehabilitation of such person for his mental illness or suspected mental illness;
- "**mental illness**" means a substantial disorder of thinking, mood, perception, orientation or memory that grossly impairs judgment, behaviour, capacity to recognise reality or ability to meet the ordinary demands of life, mental conditions associated with the abuse of alcohol and drugs, but does not include mental retardation which is a condition of arrested or incomplete development of mind of a person, specially characterised by sub normality of intelligence;
- "**relative**" means any person related to the person with mental illness by blood, marriage or adoption.

It defines clearly the mental illness. It includes the POST GRADUATE AYUSH doctors as mental health professional. If patient is minor, his/ her parent or care giver will act as representative. It empowers the patient to choose his/her treatment and appoint a representative to take decision on behalf of patient. Every person except minor has right to take advance directive by writing. Mental illness and capacity to make mental healthcare and treatment decisions without any discrimination. It deals with the Advance directives. Overall, it is likely that India's new mental health legislation will impact on more individuals than any other piece of mental health legislation in the world. It is a carefully constructed document that addresses many of the needs of individuals with mental health problems. While clarification and change are certainly needed in

specific areas, other countries revising their legislation would undoubtedly benefit from studying India's constructive, pragmatic and enlightened approach to this matter.

## Conclusion

Mental health services in India is gearing up attention as far as policy and legislative provisions are concerned; however, programmatic gaps and slow implementation command strategic actions which will be helpful for achieving future goals in this area (Van Ginneken N, Jain S, Patel V, Berridge V. ,2014). Current policy included AYUSH doctors but did not included mental health nurse, psychologist as mental health professionals. "Harm" term is not defined clearly. Even during day to day life individual fight back to protest, that individual can not be considered as mentally ill person. This act mentioned establishing new improvised institutions without concerning about reforming already established institutions. The Provision of ECT is not scientific based. Most of the veterans in later stage are suffering from mental illness due to working under extreme stress for several years, so there should be a provision of appointment of a psychiatry professionals in army who will look after the mental health of army personnel. It has been found that most of the student age between 12- 19 are committing suicide due to pressure of study. There should be a qualified counsellor in every institution.

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