
BRIDGING THE GAP: LEGAL FRAMEWORKS FOR ADDRESSING MENTAL HEALTH CHALLENGES IN INDIA

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ABSTRACT

Recently, there has been a lot of discussion about mental health, which has highlighted the global challenges that people face. Although there has been a decrease in stigma and an increase in awareness, the legislative framework must still address mental health. The importance of legal measures in mental health initiatives cannot be overstated, as they provide a systematic approach to safeguarding the rights, welfare, and dignity of individuals grappling with mental health disorders. This paper examines the relationship between mental health and the law concentrating on the legal framework created to address mental health issues in modern societies. This paper aims to shed light on the challenges of navigating legal frameworks in the context of mental illness through a thorough analysis of the interface between mental health and the criminal justice system, as well as access to mental health services. This paper presents reformative approaches that prioritise individuals, rights, fair access to care, and the de-stigmatization of mental illness in society. This paper contributes to the ongoing discussion on fostering a more inclusive and effective response to mental health challenges within the legal framework by identifying gaps, challenges, and potential solutions within the current legal system. *Keywords:* Mental Health; Law; Justice.

1. INTRODUCTION

Physical and mental well-being are both included in the notion of health. Although they complement each other, mental and physical health are not always seen this way. Physical health is always given higher priority in the body. Only physical health is eligible for primary healthcare. Individuals with mental health problems are denied their rights, marginalised, criticised and kept apart from society at large. From a human perspective, mental health is important as it forms the foundation of a person's personality. It is also important for a person's well-being. Stated differently, it is possible to argue that mental and physical well-being are inextricably linked, interdependent, and cannot be separated. Our emotional, psychological and social well-being are all parts of our mental health. It has an impact on our thoughts, emotions, perceptions and reaction patterns. It also helps us decide how we react to stress, how we interact with others and society, and how we manage our lives. Major aspects of life include mental health. It has an impact on a person's ability, ability to reason and make decisions, behaviour and thinking.

2. IMPACT OF MENTAL HEALTH IN CRIME

The term health disorder can have several meanings but generally refers to a unique category of people who suffer from a mental illness. The Mental Health Act 1983 established categories of mental disorders in England and Wales: intellectual disability, mental illness, psychotic disorder and other mental disabilities. Mental health experts claim that mental illness is the result of brain damage that affects a person's ability to determine what is good or bad behaviour, as well as their ability to carry out activities properly. Their mental abilities may change, which can lead to criminal activity and involvement in risky situations. Mental illness and mental condition are very different. Mental illness is characterised by a person's brain being either incomplete or not fully developed, while mental disease is characterised by a person's mind being weakened as a result of brain damage. It is extremely difficult to characterise mental illness accurately because it has been found that the behaviour of two people suffering from the same illness, but mentally ill will nevertheless differ. In addition, it has been of a mentally healthy person, and that of a mentally ill person constantly diverge. Due to their mental illness, mentally ill people are unable to fully understand The difference between good and harmful actions. Mentally, ill people commit crimes, whether intentionally or unintentionally, and they are not aware of the consequences of their actions. People with mental illness perceive

themselves as something different than people with mental health. Numerous studies have shown that people with mental illness, commit suicide, among other crimes. According to the studies, suicide raises many questions. For example in the past, there have been cases where a person killed his entire family and then committed suicide, but it is still unknown. What the cause of the crime was or how the perpetrator was doing mentally. Since their previous strategy assumed that most people fake mental illness to avoid being held accountable for their actions, the criminal justice system's attitude towards mental health has evolved. The criminal justice system's approach has proven ineffective and has led to numerous problems. The criminal justice system's view of mental illness has changed in recent times due to progress and cases like that of Mahindra K. C. It is safe to say that due to the change in perspective, The criminal justice system in India will have a more positive view on mental illness in future. Since crimes related to mental health problems are such a sensitive issue, it is crucial that they are taken seriously by the criminal justice system. The critical step in this process is changing the outdated mindset with which we have approached mental health issues so far.

2.1 The Indian society's perspective on mental health

About 25% of all mental illnesses manifest by age 14. Substance abuse claims the lives of about 30,000 people worldwide each year, out of about 1 billion people who suffer from mental illness. Suicide statistics show that at least one suicide occurs every 40 seconds. Numerous researchers have found that if a person's mental health is not functioning well, he or she is not healthy. A person's ability to cope with daily challenges and be productive at work is referred to as mental health. A disturbed mental health condition may indicate a problem with the way that person's mind functions. Then combined, they are referred to as mental health problems. People with mental health problems may find it challenging to participate in daily family activities and maintain a social life. Conversely, a mentally stable person is less likely to have a nervous breakdown and may be more productive at work. People with a healthy mental health professional can better manage their stress and worries. Therefore, we can define our psychological, social, and emotional well-being as our overall mental health, our ability to successfully manage our day to day lives is greatly Influenced by our mental health. Mental health problems and illnesses include anxiety, depression, post-traumatic stress disorder (PTSD), and many more. Our social environment has become more virtual lately, which has led to a rise in mental health problems. For example, one should avoid comparing themselves to others as this is unhealthy. This can cause a person to have low self-esteem and confidence,

which can lead to worry and anxiety. If left untreated, these conditions can develop into serious mental illnesses that completely ruin the person's mental health.

Many Indians are unaware of mental health issues, and those who do know, do not take mental health seriously enough. The people and the government have been working to raise public awareness about the value of mental health. The MANAS (Mental Health and Normalcy Augmentation System) application is one of the platforms that the government has launched as part of its awareness efforts. This software uses teleconsultation and other methods to help Indians improve their mental health. The App will also include resources to monitor one's health status and store personal data that could be useful for future consultations. Promoting mental health among people between the ages of 15 to 35 is the main mission of Manas. This software aims to build a new, happier India by promoting a society that is well, both physically and emotionally. Apart from the MANAS application, the government has also provided us with a law that addresses mental health issues. The name of the bill is the Mental Health Act, of 2017. Suicide attempts were illegal under section 309 of the Indian penal code, but this 2017 law decriminalised this rule. The general consensus that someone who attempts suicide must be mentally ill or extremely unhappy led to the decriminalisation of suicide attempts. If we punish that person, our actions will only make them more depressed and ultimately lead to a nervous breakdown. Torturing someone who is experiencing this kind of mental anguish would be inappropriate. After the mental healthcare bill, 2013 was introduced in the Raj Sabha in 2013. It was finally passed and came into force in 2017. The previous mental health act, 1987 was replaced by this 2017 law.

Psychologists and social scientists have long been concerned about the declining mental health of the average Indian. But in an era of lightning-fast technological advancements and intense job competition, this has been one of the least discussed topics. On the other hand, there are still not enough psychiatrists, which makes it difficult to address the problem effectively. In India, mental health is not given much attention and is considered a taboo subject. Many people do not care enough about the mental health of their acquaintances or even family members. They believe that things will improve on their own with time and without any help. Consequently, people are afraid of being judged or condescendingly treated by society, which makes them unwilling to talk about the problems. The stigma associated with mental illness is that it makes a person "crazy" or "insane". This is the main reason behind patients' reluctance to visit psychiatrists. Moreover, the stigma discourages people from talking about mental health

publicly, which makes it difficult to get therapy or help for it. Lack of willpower and self-control is also believed to contribute to mental health problems.

3. MENTAL HEALTH IN THE CONTEXT OF INDIAN LEGAL SYSTEM

The term 'Indian legal system' refers to the framework that governs how the legal system in India functions and monitors its activities. India is a nation deeply rooted in both philosophy and religion. In the early era of Arthshastra and Manusmriti, which span from 400 BC to 100 AD, these were the laws used to govern the nation. Tolerance was the Ideology as spouse by Manu, the author of the Manusmriti in his writings. Manu was the founder of the Manusmriti. During the period when Islam was the dominant religion in India, a new law known as Sharia was enacted. This law remained exclusive to the Muslim population throughout its existence. After the arrival of British colonialists in India and the subsequent incorporation of the country into their empire, the previous customs were abolished and the nation was then governed under the common law of Britain. Due to this, we can claim that the majority of the laws currently in force in the Indian judicial system were imported from Britain. The majority of the laws in force in India are derived from the English common law system. The majority of the laws in Britain are governed by acts of parliament, presidents, and customs. This is due to the fact that the United Kingdom does not have a single codified book that sourced as a constitution. With this in mind, it is reasonable to claim that the laws enacted in India to protect those suffering from mental illness are derived from British laws. When we talk about the law, there is a very strong correlation between the treatment of the mentally ill and the concept of mental illness. One of the main roles of a psychiatrist is to accurately diagnose a patient suffering from mental illness and then proceed with the treatment, keeping the patient's welfare in mind. On the other hand, the main concern of the court is the welfare of the society and it is the sole responsibility of the court to determine whether the mentally ill person is a threat to the society or not. Before the year 1980, the laws and regulations made for mentally ill people considered the matters solely in terms of society. However, after the year 1980, the laws made provisions regarding the rights of persons suffering from mental illness.

3.1 The Constitution of India

Article 21 of the Indian Constitution grants the right to life as well as freedom to engage in personal activities. This article states that every human being has the right to life as well as the right to personal liberty, all of which are guaranteed. Apart from the right to life and personal

liberty, there are other rights that fall under the category. These rights include the right to read and write, the freedom to express oneself through gestures and facial expressions, the right to move freely and the right to socialise with other people in the society. As per the provisions of section 16 of the Representation of the People Act, 1915, a person who is deemed to be mentally, incapable shall be disqualified from being registered on the electoral roll on the basis of a notification by a sufficiently competent court. If a competent court finds a person to be mentally incapable of functioning normally, such person shall be disqualified from holding any public office specified in the constitution. The office of president, vice president, members of Parliament and state and assemblies are the principal public offices referred to in this section.

3.2 Laws for people with mental illness in the Indian legal system

Even before the country gained independence, the legal system in India developed written rules that dealt with mental health issues and the rights of people suffering from mental illness. Such provisions are as follows :

1. The Lunacy (District Courts) Act, 1858
2. The Lunacy (Supreme Courts) Act,1858 and its amendment
3. Indian Lunatic Asylum Act, 1858
4. The Military Lunatic Act, 1877

All the above laws have provided us with the processes that govern the establishment of lunatics, asylum, and administration of people suffering from mental illness. The first law that provided protection and made people aware of the rights of the insane was the Indian lunacy statute, 1912, which was originally passed in 1912. During this time, United asylums were known as mental hospitals. They were created in 1922 after the passage of the lunacy act, of 1912. The administration of these asylums was the responsibility of a central body, which was also responsible for monitoring and regulation. This act enabled us to have a clear protocol on the certificates as well as the instructions for admitting a patient to the asylum.

For the first time in India, the lunacy act, of 1912 included a clause allowing mentally ill patients to get themselves admitted to the institution and to prevent any harm being caused to the society by mentally ill persons. Psychiatrist working full-time in these institutions were

employed for the entire period of their employment. In addition, the act laid down the processes to be followed by someone mentally in person to quote and investigate a matter. The universal declaration of human rights was ratified by the United Nations general assembly after the end of World War II. The Mental Health Bill, of 1950 was a new bill drafted by the Indian Psychiatrist Society to replace the Indian Unity Act, of 1912, which had become obsolete over the years due to its lack of relevance.

3.3 Mental Health Act, 1987

The Mental Health Act, of 1987 was a significant act as it not only defined the term mental illness, but also laid down rules for the appointment of mental health authorities. These guidelines were designed to ensure the institution such as nursing homes, and mental institutions were effectively regulated. This act proposed a new approach to treating people with mental illness, which was to provide them with care rather than different them to a particular place or taking them into custody. The central mental health authority was set up under the rules laid down in this act to supervise and regulate mental institutions at the central level. In addition, the health authority was set up to supervise them at the state level. In addition, the role of these bodies was to provide advice to both the states and the central government on mental health issues. The act contained measures to manage and protect everything belonging to persons with mental illness. The act also served to provide police officers and judges with rules to deal with cases involving individuals suffering from mental illness and the procedure to be followed to prevent the brutal treatment that these individuals have to endure. Another element of the act specified the punishments that should be imposed on those who violate any of the provisions of the act. The Mental Health Act, of 1987 was criticised from the beginning, even though it contained many important provisions. The main reason and criticism was that it merely provided the procedures to accommodate and protect people with mental illness But did not address their rights, or all the types of care they should receive. This was the main criticism. The methods and rules that this act provides are so difficult that the government was unable to put these theories into practice in the real world. Due to this act, the government was unable to put the rules created into effect. Due to the fact that this act was not subjected to thorough scrutiny by a court, its constitutional legitimacy was also questioned. This was because it was considered a violation of Article 21.

3.4 United Nations Convention on the Rights of Persons with Disabilities, 2006

The month of December 2006, March, the beginning of the implementation of the United Nations Convention on the Rights of Persons with Disabilities. In 2008, the Indian Parliament gave its assent to this convention. Countries that have adopted and ratified the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD) R required, to amend their national legislation to comply with the guidelines of the convention. As a direct result of this, all Indian legislation related to mental health has been reviewed. Previously, mental disorders were viewed from a social perspective, and the primary concern in treating the mentally ill was to ensure the welfare of society. In the convention, the issue of human rights takes over an issue of social concern, which was the focus earlier. The assumption that there would be legal status and equality served as the basis for this transformation. Persons with disabilities have the right to legal capacity and equal treatment at all stages of life as per Article 2 of the UN Convention on the Rights of Persons with Disabilities.

As per the provisions of Article 3 of the convention, it is the responsibility of the state to ensure that persons with disabilities are provided with support to exercise their right to legal competence. Article 4 lists preventive measures that could be used to protect persons with disabilities from ill-treatment by the justice system. This convention lacks a cause prohibiting force fabrication and also does not contain any provision allowing for required mental healthcare. None of these provisions are included in this convention.

The process of amending the Mental Health Act, of 1987 began, which eventually led to the introduction of a bill in Parliament in 2011, which was called the Mental Healthcare Bill. In addition, the Persons with disability act, of 1995 was amended and a new bill was proposed in its place. 2011 was the year when the bill was called the Rights of Persons with Disabilities Act. Subsequently, the 1987 act was replaced by the Mental Health Act 2017, while the Rights of Persons with Disabilities Act of 2016, replaced the 1995 Act.

3.5 Mental Healthcare Act, of 2017

In 2017, the government managed to pass the Mental Healthcare Act. When this act was passed, it was seen as a step towards meeting the demands of the millions of Indians suffering from mental illness and seeking help. One of the main objectives of the act is to ensure that the rights of those suffering from mental illness are protected and enforced, as well as to place the onus

on the state to provide affordable mental healthcare to the patients. Due to a number of shortcomings, The Mental Healthcare Act, 1987 was later replaced by the Act, 2017, which includes:

Since the definition of mental illness provided in the 1987 act was limited to mental disorders only, the width of the term was extremely limited. When the 1987 act was drafted, the World Health Organization (WHO) recommendations for people suffering from mental illness were not taken into account. The 1987 act focused more on issuing authorisations to the authorities than on the discussion of the rights of persons suffering from mental illness. On 7 July 2018, the Mental Healthcare Act of 2017 came into force. The preamble to this act states that persons suffering from mental illness are entitled to services and healthcare-related to their mental health. In addition, it provides an overview of the rights that the act grants to persons suffering from mental illness.

4. ACCESS TO MENTAL HEALTH CARE

4.1 Lack of mental health professionals

In India, the number of available mental health professionals, such as psychiatrists, psychologist, and psychiatric nurses is insufficient to meet the ever-increasing need for mental health care. Rural communities, which have limited access to mental health specialists, are severely affected by the shortage of mental health professionals. These inequalities in the distribution of services pose a significant barrier to individuals, seeking timely and appropriate mental healthcare.

4.1 Lack of adequate resources and infrastructure

When it comes to providing comprehensive care, mental health facilities, especially in rural areas, often lack the necessary infrastructure, technology, and resources. There is a shortage of community-based Services, outpatient clinics, and hospitals specialised in mental health services. The distribution of mental health services is hampered by the lack of adequate infrastructure, which also limits the capacity to meet the diversity requirements of individuals suffering from mental illness.

4.2 Lack of awareness and stigma

The underutilisation of mental healthcare treatments in India is a result of a combination of factors, including a lack of understanding of mental disorders and whispered stigma surrounding these issues. Individuals seeking help face prejudice, socialisation, and stigmatisation due to the stigma associated with mental illness. Due to the stigma, people are discouraged from openly addressing their mental health issues and receiving timely treatment.

4.3 Lack of adequate integration in primary healthcare settings

In India, there is a lack of adequate integration of mental healthcare services into primary healthcare systems. The lack of integration results in a segmented approach to mental healthcare, making it more difficult to identify mental health problems early, intervene in a timely manner and provide continuity of care for people with mental health problems. The fact that mental health is not included in primary health care contributes to perpetrating the treatment gap by reinforcing the notion that mental health is separate from physical health.

5. RECOMMENDATIONS FOR A MORE EFFECTIVE MENTAL HEALTH SYSTEM

5.1 Increasing the number of mental health professionals

An approach that incorporates many strategies is necessary to address the lack of mental health practitioners. A solution that could be implemented is to expand the number of mental health professionals, including psychiatrists, psychologists, psychiatric nurses, and other specialists. This is something that may be accomplished through the implementation of extended training programs that bring in a greater number of people to the area and provide them with the information and abilities they need to practice effectively, there is also the possibility of providing professionals with scholarships and other incentives to encourage them to work with less fortunate where the scarcity is more severe. One way to enhance access to care is to increase the number of people working in the field of Mental health.

5.2 Enhancing training and capacity-building

To ensure high-quality mental healthcare, it is extremely important to provide the psychiatrist with training that is both comprehensive and specialised. Continuing professional development programs fall into this category. These programs ensure that professionals are always up to date

with evidence-based practice. By improving their knowledge and skills in recognising and treating mental illness, professional camps provide more effective interventions tailored to the specific needs of treatment recipients. A culturally sensitive approach should be at the heart of the training program. These programs should also address the unique needs of different communities.

5.3 Decentralising Mental Health Services

It is vital to develop mental healthcare services and facilities at the district and community levels in order to eliminate the disparity in mental healthcare that exists between urban and rural communities. In order to accomplish this, mental health, clinics, hospitals, and community-based services will need to be established in rural and extremely isolated places. It is possible to increase access to care and ensure that individuals receive timely interventions; this can be accomplished by putting mental health services close to the places where people live. At the same time, this helps alleviate the strain that is placed on psychiatric hospitals and tertiary care facilities.

5.4 Integrating mental health into primary healthcare

In light of the significance of early identification and treatment, it is of the utmost importance to incorporate mental health services into basic healthcare settings. As part of this integration, primary healthcare providers will receive training on how to recognise and treat prevalent mental health disorders. In addition to this, it involves the establishment of referral mechanisms among primary care and specialized mental health counseling services. By incorporating mental health into primary healthcare, individuals will be able to obtain timely assistance and treatment, and the stigma that is associated with seeking mental healthcare will be removed.

6. CONCLUSION

For the purpose of promoting early treatment and intervention of mental illness, legal frameworks are fundamentally important. It is possible for laws that place an emphasis on mental health screenings in healthcare settings, educational institutions, and workplaces to assist individuals in receiving the necessary assistance and diagnosis in a timely manner, thereby reducing the likelihood that mental health crises will become more severe. In conclusion, Edison's issues related to mental health through a legal framework are not only

necessary but also essential in order to safeguard the rights and provide for the well-being of individuals who are affected by mental illness. By enacting upholding laws that support access to quality care, protect against discrimination, and upholding human rights, societies have the ability to cultivate an environment in which individuals, regardless of their mental health status, are able to thrive and flourish. It is only through collaborative efforts to incorporate legal measures into mental health initiatives that we will be able to create communities that are truly inclusive and supportive of all individuals.

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