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RIGHT TO MENTAL HEALTH IN INDIA

Mr. Arinjay[1],Dr. Lakshmi Priya Vinjamuri[2]

Law College Dehradun, Uttaranchal University, Dehradun.

ABSTRACT :

There is an inextricable connection between mental health and human dignity as well as overall well-being. As a result of recent shifts in judicial activism, constitutional interpretation, legislative policy, and international obligations, India's right to mental health has recently begun to be accepted more and more. This is despite the fact that it has traditionally been overlooked. A person has the right to live with dignity, equality, nondiscrimination, autonomy, and access to the assistance they require in order to participate in society. This right encompasses all essential rights. This goes beyond the provision of mental health services that are readily available. India must overcome significant institutional, legal, and societal challenges in order to realise this right. This is due to the fact that a sizeable section of the country's population is affected by mental illnesses. The development, scope, and enforcement of India's right to mental health are all topics that are discussed in this article. Additionally, the essay delves into the constitutional basis of this right, as well as international commitments, legal safeguards, implementation strategies, and contemporary concerns.

Keywords : Mental Health, World Health Organisation(WHO), UNCRPD, NIMHANS, MHCA.

INTRODUCTION

The concept of mental health comprises not only social and psychological well-being but also emotional well-being, all of which have an influence on the thoughts, feelings, and behaviours of individuals. Individuals' responses to stress, interactions with other people, and decision-making processes are also impacted by this factor. The World Health Organisation (WHO) defines mental health as "a condition of well-being in which an individual appreciates his or her own abilities, can cope with usual stressors of life, can work successfully, and is able to contribute to his or her community." Mental health is associated with the ability to work productively and to contribute to one's community. Despite the fact that this definition encompasses mental health in its entirety, the Indian legal and medical institutions have long ignored mental health. The legacy of law that was passed during the colonial era, particularly the Indian Lunacy Act of 1912, exhibited an institutionalised and correctional approach in which individuals who suffered from mental illness were regarded more as threats than as individuals who were entitled to certain rights.

A shift in perspective occurred as a result of the passage of the "Mental Healthcare Act, 2017 (MHCA)", which rendered the obsolete "Mental Health Act of 1987". "The Mental Health Care Act of 2017" was enacted in order to bring Indian law into conformity with "the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD)", to which India is a signatory. Reinterpreting mental health services through the prism of rights, the Act states that everyone has the right to obtain mental healthcare and treatment from services that are managed or funded by the government, free from discrimination, and it does so by reinterpreting mental health services. Most importantly, the Act recognises mental health as a justiciable right that can be enforced against the state, so confirming that it is an essential component of the right to life as outlined in Article 21 of the Indian Constitution.

RIGHT TO HEALTH AND INDIAN CONSTITUTION

"The judicial system has taken a broad interpretation of Article 21, extending its scope to encompass not only the right to life and personal liberty, but also the right to privacy, health, and dignity. Within the context of the case *Francis Coralie Mullin v. Administrator, Union Territory of Delhi*[1], the Supreme Court of the United States determined that the right to human dignity, together with all of the rights that are connected with it, is a component of the right to life." Similarly, in the case of *Parmanand Katara v. Union of India*[2], the Supreme Court of India emphasised that safeguarding human life is not only an essential but also a constitutional obligation. Because of these verdicts, it is now feasible to have a more comprehensive concept of health rights, which includes mental health. To be more specific, in the case of *Sheela Barse v. Union of India*[3], which was about the treatment of mentally ill convicts, the Supreme Court of India acknowledged the brutal conditions of detention and demanded that those with mental illness be provided with humane treatment as well as adequate healthcare facilities.

According to Section 18 of the "Mental Health Care Act of 2017", "every person has the right to get mental health care that is of high quality and reasonably priced, and that is also free from discrimination on the basis of gender, sex, caste, religion, culture, language, disability, or any other

[1] AIR 1981 SC 746

[2] 1989 SCR (3) 997

[3] 1993 (4) SCC 204

characteristic."[4] In addition, the Act ensures that individuals have the right to information, the right to discretion, the right to legal aid, the right to access medical records, and the right to be protected from cruel, inhuman, and humiliating treatment. In addition, it introduces the concepts of an advance directive and a chosen representative, which empower individuals to make well-informed decisions on their care and representation in advance, while still honouring the patient's autonomy and capacity. The protection of these rights ensures that mental health care is not only medically responsible, but also morally, legally, and socially responsible.

The constitutional framework of India serves to increase the effectiveness of these statutory provisions. Article 14 guarantees equality before the law and equal treatment under the law, in contrast to Article 15, which prohibits discrimination on a variety of reasons. People with mental illness who are institutionalised against their will may have limitations placed on their personal liberties, which are protected by Article 19 of the Constitution. According to Article 41 of the Directive Principles of State Policy, the state is obligated to take the necessary steps to ensure that individuals have the right to employment, education, and public assistance in the event that they are unable to work due to conditions such as unemployment, old age, disease, or disability. It is clear from the cumulative reading of these laws that there is a dedication to the maintenance and improvement of mental health.

ROLE OF INTERNATIONAL LEGAL FRAMEWORKS

Foreign obligations have a substantial impact on the development of India's framework for mental health care. In 2007, India gave its approval to the "United Nations Convention on the Rights of Persons with Disabilities (UNCRPD)", which mandates that state parties accept the rights of individuals with disabilities, including those with psychological disorders, on an equal basis with other people. Among the rights that are protected by the Convention are the freedom from torture and cruel treatment, the right to healthcare, the right to live freely, and the right to exercise one's legal capacity. These responsibilities are intended to be met by the Mental Health Care Act of 2017, which was passed in India. In addition, the right to the highest attainable degree of physical and mental health is safeguarded by international agreements such as the "International Covenant on Economic, Social, and Cultural Rights (ICESCR)", to which India is a signatory too.

RIGHT TO MENTAL HEALTH AND CONSTITUTION

"It is still challenging to realise the right to mental health in India, despite the fact that forward-thinking legal reforms have been implemented. "National Institute of Mental Health and Neurosciences (NIMHANS)" conducted the National Mental Health Survey 2015–16, which found that about 14% of Indians suffer from a mental illness. Nevertheless, between seventy and eighty percent of persons who are affected do not receive any therapy for their condition." The term "treatment gap" refers to a number of factors that contribute to its existence. These factors include a lack of awareness, societal stigma, a lack of resources for mental health, a lack of competent professionals, and poor policy execution. "The National Mental Health Programme (NMHP)", which was established in 1982 and restructured in 2003, was made with the intention of addressing these issues; nevertheless, it has only achieved a moderate level of success due to a lack of finance and coordination between the federal government and state governments throughout its existence.

Another significant issue that has to be addressed is the condition of both mental health facilities and correctional centres. "The National Human Rights Commission (NHRC)" and other organisations, such as Human Rights Watch, have brought to light a number of serious violations of patient rights that have occurred in mental health facilities. These violations include the use of physical restraints, the use of compulsory confinement, poor hygiene, and a shortage of staff. In their investigation titled "Treated Worse than Animals," which was published in 2016, Human Rights Watch discovered abuses that were committed against women and girls in India who had a psychosocial or intellectual handicap. The organisation also urged for major reforms.

In particular, through the use of Public Interest Litigations (PILs), the judicial system has been instrumental in the protection of mental health rights through its significant role. In the case of *Gaurav Kumar Bansal v. Union of India*[5], the Supreme Court of India took ad hoc consideration of the circumstances surrounding patients who had recovered from mental illness but continued to reside in institutions due to the lack of adequate community-based rehabilitation. For the purpose of ensuring that supported living facilities, community care centres, and halfway homes be built, the Court issued an order to all of the states and union territories. By combining social inclusion, community living, and mental health, this ruling highlights how important it is to mix these three dimensions.

Despite this, the implementation of the Mental Health Care Act of 2017 continues to face challenges. In spite of the fact that the Act mandates that several states establish State Mental Health Authorities or Mental Health Review Boards, many of them have not yet done so. In addition to this, there is not sufficient funding allocated for mental health. According to the National Health Profile 2019, the amount of money from India's overall health budget that was allocated to mental health was less than one percent. The ambitious objectives of the Mental Health Care Act of 2017 are still difficult to achieve in the absence of adequate funding.

In addition to this, the COVID-19 pandemic has made India's mental health crisis more visible and has made it worse. Because of the psychological toll that loneliness, unemployment, loss, and uncertainty have on people, there has been a rise in the number of people experiencing mental health problems across all age groups. However, because the healthcare response was primarily focused on physical health, the majority of the requirements pertaining to mental health were not accommodated. In the case known as *In Re: Mental Health Issues*[6] during COVID-19, the Supreme Court acknowledged the stress that was brought on by the epidemic and required further funding, telecounseling services, and outreach programmes in order to address the mental health implications.

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[4] Mental Health Care Act of 2017, s. 18.

[5] Gaurav Kumar Bansal vs Union Of India on 24 March, 2022

[6] (2002) 3 SCC 156

ROLE OF JUDICIARY

The Indian judiciary has played a pivotal role in reinforcing the right to mental health by interpreting constitutional guarantees and ensuring enforcement of statutory protections through progressive jurisprudence. "While the right to health, including mental health, is not explicitly enumerated in the Constitution, it has been read into Article 21, which guarantees the right to life and personal liberty. In *Sheela Barse v. Union of India*[7], the Supreme Court acknowledged the inhumane conditions faced by inmates with mental illness in jails and directed the state to provide legal and psychiatric assistance, recognizing that mental health care is an inseparable part of dignified life." Similarly, in *Upendra Baxi v. State of Uttar Pradesh*[8], the Apex Court took suo motu cognizance of the deplorable state of inmates in the Agra Mental Asylum, emphasizing the need to ensure humane treatment and rehabilitation of persons with mental illness. These decisions laid the foundation for judicial activism in securing mental health rights.

In *Rama Murthy v. State of Karnataka*[9], "the Supreme Court identified the lack of mental health facilities in prisons as a violation of fundamental rights and called for urgent reforms in prison healthcare, especially for mentally ill prisoners." More recently, in *Gaurav Kumar Bansal v. Union of India*[10], the Supreme Court issued directions to state governments for the implementation of Section 19 of the Mental Healthcare Act, 2017, which mandates that individuals with mental illness should not be kept in custodial institutions merely due to lack of community or family support. This landmark case exposed the prolonged and illegal detention of mentally ill persons in shelter homes, underscoring the state's failure to implement the right to community living. The Court's intervention led to a series of compliance orders and monitoring mechanisms to protect the rights of persons with psychosocial disabilities.

"In *Justice K.S. Puttaswamy v. Union of India*[11], the Supreme Court declared the right to privacy as a fundamental right under Article 21 and emphasized that medical confidentiality and autonomy are critical aspects of privacy, which have direct relevance in mental health jurisprudence." This decision reinforced the confidentiality provisions under Sections 22 and 23 of the Mental Healthcare Act, 2017, particularly protecting mentally ill individuals from intrusive and unauthorized disclosures. The Court has also stressed the importance of consent and capacity, recognizing that treatment without informed consent constitutes a violation of personal liberty.

The judiciary has consistently emphasized the need for implementation of statutory rights provided under "the Mental Healthcare Act, 2017". In *Court on its Own Motion v. State of NCT of Delhi,*[12] the Delhi High Court took cognizance of the lack of mental health facilities during the COVID-19 pandemic and directed the state to ensure the availability of mental health services, helplines, and counseling mechanisms in accordance with the MHCA, 2017. In this context, the judiciary not only acted as a guardian of constitutional rights but also ensured that legislative mandates were not rendered illusory.

Additionally, the judiciary has taken a pro-rights approach in custodial and forensic mental health issues. In *Reena Banerjee v. Government of NCT of Delhi*[13], the Delhi High Court ordered compensation for wrongful confinement of a mentally ill woman and highlighted the importance of periodic review by Mental Health Review Boards. This reaffirmed judicial commitment to the protection of rights and liberties of persons with mental illness, particularly in cases involving involuntary institutionalization. Through such decisions, Indian courts have also underscored the need for legal aid, rehabilitation, and community-based care as core aspects of mental health justice.

Thus, the Indian judiciary has emerged as a crucial institutional actor in the realization of the right to mental health. By interpreting constitutional provisions progressively and ensuring the enforcement of the Mental Healthcare Act, 2017, courts have not only expanded the scope of fundamental rights but have also imposed accountability on the state apparatus for neglect and apathy in mental health governance. Moving forward, continuous judicial oversight, especially through Public Interest Litigations (PILs), remains vital to address systemic gaps and ensure that mental health rights are respected, protected, and fulfilled across India.

INSTITUTIONAL MECHANISM IN INDIA

Despite the existence of numerous structural obstacles, the enforcement of the right to mental health in India continues to be a challenge. One of the most obvious problems is the significant shortage of specialists working in the field of mental health. "The World Health Organization's Mental Health Atlas 2020" reports that India has a significantly lower number of psychiatrists per 100,000 people than the average for the rest of the world. However, due to a shortage of experienced psychiatrists, clinical psychologists, psychiatric social workers, and psychiatric nurses, these rights continue to be aspirational rather than practical. "The Mental Healthcare Act of 2017" attempts to provide a full variety of mental health treatments; however, these rights remain aspirational rather than realistic. "The District Mental Health Programme (DMHP)", which was developed with the intention of incorporating mental health into primary care, is confronted with challenges such as inconsistent funding, inadequate personnel, and inadequate outreach in remote areas.

In addition, a number of states have failed to put into effect the "State Mental Health Authorities (SMHAs)" and "Mental Health Review Boards (MHRBs)", which were established with the purpose of protecting the rights of patients and supervising standards. The absence of these mechanisms renders useless the mechanisms that are designed to evaluate claims of rights violations, determine whether or not forced admissions are legitimate, and

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[7] *Supra* note 3.

[8] AIRONLINE 1981 SC 25

[9] AIR 1997 SUPREME COURT 1739

[10] Gaurav Kumar Bansal vs Union Of India on 24 March, 2022

[11] AIR 2018 SC (SUPP) 1841

[12] Court On Its Own Motion vs State Of Nct Of Delhi on 2 July, 2024

[13] 2017 (2) ADR 596

protect patient autonomy. pair of cubes Clearly, the absence of these formal bodies is in violation of the "Mental Health Care Act of 2017", which undermines the ability of patients to have their rights enforced.

ROLE OF EDUCATION

Access to rights is made more difficult by the existence of connections between caste, poverty, gender, and mental health. It is becoming increasingly common for society, families, and healthcare organisations to engage in discriminatory practices against women who suffer from mental diseases. According to research, women are more likely to be subjected to forceful treatment, compulsory institutionalisation, and abandonment by their families. Furthermore, persons who belong to Scheduled Tribes, Scheduled Castes, and minority communities frequently face limited access to mental health services. This is a result of socioeconomic inequality. The legal system needs to adopt an intersectional approach in order to meet the challenge of addressing these overlapping vulnerabilities and guaranteeing that all individuals have equal access to their mental health rights.

Over the past few years, there has been a significant advancement in the acceptance of community-based mental healthcare as a rights-oriented alternative to institutionalisation. "Section 19 of the Mental Health Care Act of 2017 states that people who suffer from mental diseases have the right to live in the community and that they cannot be excluded only because of their condition. Article 19 of the "United Nations Convention on the Rights of Persons with Disabilities (UNCRPD)" protects the rights of people with disabilities to live in society and have the same choices as other people." The Banyan Model and the community mental health projects that are offered by SCARF India have provided evidence that decentralised, inclusive, and participatory care techniques are effective. It is necessary to strengthen such programmes by utilising national financial and policy frameworks, while at the same time ensuring that they are primarily locally.

It is impossible to exaggerate the role of education and awareness in the process of promoting rights related to mental health. Access to mental health care is significantly hindered by social stigma, which is one of the most major hurdles. According to the National Mental Health Survey (NMHS) conducted in 2015–2016, the major reasons persons did not seek treatment were a lack of knowledge, fear of being discriminated against, and perceived social stigma. It is of the utmost importance to raise awareness at the federal, state, and local levels, particularly among young people, educators, businesses, and law enforcement organisations. The introduction of the Mental Health and Wellbeing Curriculum by the CBSE and other boards is a start in the right direction; nevertheless, these measures need to be carried out on a consistent basis and their efficacy needs to be reviewed.

FINDINGS AND CONCLUSION

It is of the utmost importance, from the point of view of human rights, to acknowledge that mental health is a topic that raises concerns regarding civil liberties as well as therapeutic issues. "There is a connection between the right to privacy and the right to mental health, particularly in situations where medical data are shared, relatives are informed, or therapy is provided without the informed agreement of the patient. A decision was made by the Supreme Court of India in the case of *Justice K.S. Puttaswamy v. Union of India*[14]. The court ruled that the right to privacy is a basic right that is guaranteed by Article 21. This right encompasses secrecy, medical autonomy, and dignity." "The Mental Health Care Act of 2017 (MHCA)" asserts that individuals have the right to access their medical information and guarantees confidentiality in accordance with Sections 22 and 23. 30 % . Despite this, there is still a lack of compliance, and a significant number of healthcare personnel continue to violate confidentiality, particularly in societies where the decision-making process is mostly carried out by the family.

Within the framework of the criminal justice system, one's rights to mental health are frequently disregarded. Individuals who are suspected of committing crimes and who are suffering from mental illnesses are either detained without the opportunity to mount a defence or are designated as incompetent to stand trial without first receiving a complete medical assessment or obtaining legal representation. A rapid implementation of reforms was required as a result of the *Rama Murthy v. State of Karnataka* [15]case, which brought to light the awful conditions of inmates, particularly those who were suffering from mental illnesses. As a result of the lack of forensic psychiatric units and skilled professionals in jails, the rights of convicted and undertrial offenders to maintain their mental health continue to be violated.

When it comes to receiving legal assistance, people who suffer from mental illness confront substantial challenges. Access to free legal aid is required by Section 27 of the Mental Health Care Act of 2017, yet the vast majority of patients and carers are unaware of this provision. Help for the Judiciary Information and resources must be made available to state and district authorities in order for them to be able to provide appropriate help to those who suffer from mental illnesses, particularly in situations involving involuntary admission and violations of rights. To close this gap, it is absolutely necessary for non-governmental organisations (NGOs) and legal assistance clinics located within hospitals and shelters to take part.

Despite the fact that it has a legal and constitutional framework, India continues to struggle with difficulties in terms of implementation and monitoring initiatives. When it comes to monitoring the performance of SMHAs, MHRBs, and the enforcement of rights on a state-by-state basis, there is no centralised structure in place anywhere in the country. The implementation of accountability mechanisms, public disclosures, and annual reviews is an urgent requirement that must be met immediately. Furthermore, there is a need for a significant increase in the amount of money that is allocated to mental health considering that it now accounts for less than one percent of the overall budget for health care. Even the most cutting-edge rights-based legislation is rendered worthless in practice if it does not receive financial investment.

When it comes to democratising access to mental health care, technology and telemental health have the potential to considerably facilitate this process. To provide therapy, referrals to local institutions, and mental health services around the clock over toll-free telephones, the Tele-MANAS programme was launched in 2022 with the intention of providing these services. However, it is necessary to expand it through digital infrastructure, training, and privacy precautions, and it ought to be incorporated into the public health system. This is a supplement to the regulations that were established by the Mental Health California Act of 2017.

[14] *Supra* note 11.

[15] *Supra* note 9.

It is important to note that India's right to mental health is a complex and ever-evolving legal entitlement that is founded on international commitments, statutory mandates, and constitutional concepts. Compared to the previous jail system, the Mental Healthcare Act of 2017 places India on a progressive path towards a rights-based mental health framework. This is a significant break from the previous prison paradigm. In order to put legislation into effect, it is necessary to have effective implementation, enough financing, community-oriented alternatives, intersectional inclusion, and constant judicial scrutiny. In the process of India's transition into a democracy that is more welfare-oriented and inclusive, the full realisation of mental health rights ought to be seen as both a necessity for public health and a
fundamental human right.

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