



## Law and mental health in India: Challenges in implementation of MHCA, 2017

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### Abstract

Mental health is a critical aspect of human well-being, yet it remains deeply neglected in India. The enactment of the Mental Healthcare Act, 2017 (MHCA) was a landmark development aimed at safeguarding the rights of individuals with mental illness and ensuring access to mental healthcare services. The Act aligns Indian law with international standards, particularly the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD), to which India is a signatory. Despite its progressive intent, the implementation of MHCA, 2017 has faced numerous challenges. These include lack of mental health infrastructure, insufficient funding, inadequate awareness, shortage of trained professionals, and continued stigma surrounding mental illness. This paper explores these challenges in detail and analyses the importance of mental health laws in a country like India, where mental illness is still perceived through a lens of superstition and neglect. It also discusses the role of the judiciary in protecting the rights of persons with mental illness and examines relevant government policies aimed at implementation. Ultimately, the paper argues for urgent multi-sectoral reforms, increased investment in mental health services, and societal sensitization to make the MHCA truly effective. Without such efforts, the rights granted under the MHCA will remain largely aspirational rather than practically enforceable.

**Keywords:** Mental Healthcare Act, 2017, Mental Health Rights, Implementation Challenges, Indian Judiciary, Health Policy

### Introduction

Mental health is a foundational component of an individual's overall well-being, influencing thoughts, behaviors, relationships, productivity, and the capacity to cope with life's challenges. Unlike physical health, which has long been a central focus of public health policies, mental health often remains shrouded in silence, stigma, and systemic neglect. In India, this neglect is historically rooted in a combination of cultural beliefs, superstitions, lack of awareness, and inadequate state intervention. For decades, mental health has been viewed not as a public health priority but rather as a personal or moral failing, often hidden away from public discourse. Against this backdrop, the enactment of the Mental Healthcare Act, 2017 (MHCA) marked a watershed moment in Indian legal and healthcare history, signaling a paradigm shift in how mental health is approached from a legal, medical, and human rights perspective.

The MHCA, 2017 replaced the archaic Mental Health Act, 1987, which was criticized for being custodial and paternalistic in nature. The older law treated persons with mental illness (PWMI) more as subjects of treatment and control than as rights-bearing individuals. In contrast, the 2017 Act embraces a rights-based approach, in line with India's international obligations, especially under the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD), ratified by India in 2007. The MHCA aims to ensure that persons with mental illness are treated with dignity, autonomy, equality, and without discrimination. It grants them the right to access mental healthcare, the right to community living, the right to protection from inhuman treatment, and the right to legal aid, among others. Importantly, the Act decriminalizes suicide and recognizes the right of individuals to make advance directives concerning their treatment.

Despite the MHCA's progressive intent and detailed provisions, its implementation on the ground has faced

numerous challenges. India's mental health infrastructure remains grossly inadequate. The National Mental Health Survey (NMHS) 2015–16 revealed that nearly 150 million Indians need active mental health interventions, but less than 10% receive them. The mental health workforce in India is critically short, with an estimated 0.3 psychiatrists per 100,000 people, far below the WHO's recommended standard. Similarly, psychologists, psychiatric nurses, and social workers are in equally short supply. This shortage of trained personnel directly undermines the MHCA's vision of universal mental healthcare access. Another key challenge is the absence of mental health services in rural and semi-urban areas, where the majority of the Indian population resides. Even in urban centers, mental health services are often expensive, inaccessible, or attached to tertiary care hospitals, creating logistical and financial barriers for common citizens. The public healthcare system lacks the infrastructure and trained personnel to support mental health interventions at the primary and secondary levels. The MHCA's mandate for mental health services at district levels remains largely unmet in many states due to lack of political will, budgetary allocations, and trained human resources.

Further complicating implementation are deep-rooted societal stigmas and myths surrounding mental illness. In many Indian communities, mental illness is still seen as a curse, spiritual possession, or weakness of character. Families often avoid seeking treatment for fear of social ostracism or the perceived shame associated with a diagnosis. This leads to significant underreporting and untreated mental disorders. Even where awareness exists, there remains a lack of understanding of legal rights under the MHCA, both among the general public and healthcare providers. Consequently, the mechanisms laid out in the Act—such as advance directives, mental health review boards, and the rights to informed consent—are rarely implemented in practice. Additionally, the administrative

machinery for implementing the MHCA remains underdeveloped. State Mental Health Authorities (SMHAs) and Central Mental Health Authority (CMHA) are crucial for monitoring and coordinating services, yet many of these bodies were either formed late or remain inactive due to bureaucratic delays, lack of funding, or jurisdictional confusion. Similarly, Mental Health Review Boards, which are meant to adjudicate disputes, ensure rights compliance, and provide grievance redressal, are functional only in a limited number of districts.

The financial commitment to mental health from the government also remains insufficient. Mental health receives less than 1% of the total health budget in India, which is grossly inadequate considering the scale of the mental health burden. Although schemes like the National Mental Health Programme (NMHP) and District Mental Health Programme (DMHP) were designed to improve access, they have suffered from fragmented implementation and lack of integration with the MHCA's objectives. Without sufficient funding, it becomes difficult to operationalize the legal promises enshrined in the MHCA.

Legal awareness among medical professionals is another weak link in the implementation chain. Doctors, nurses, and other caregivers often lack adequate training in the rights-based provisions of the MHCA. Many practitioners still operate within a medical model that emphasizes treatment and control rather than patient autonomy. As a result, patients are often denied rights to informed consent, confidentiality, and participation in their treatment planning—core tenets of the new legislation. In this context, the role of the judiciary has become increasingly important. Courts in India have intervened in several cases to protect the rights of persons with mental illness, emphasizing humane treatment and the need for timely medical intervention. Judicial pronouncements have reinforced the state's duty to ensure mental health services are made available, especially in prisons, state homes, and custodial institutions. The judiciary has also highlighted the need for destigmatization and inclusion of mental health in the broader public health discourse. However, litigation alone cannot be a substitute for policy-driven systemic reform.

This paper, therefore, seeks to examine in depth the challenges in the implementation of the Mental Healthcare Act, 2017, while highlighting its significance in the Indian context. The paper will analyze the existing gaps in policy, infrastructure, and awareness that obstruct the MHCA's objectives. It will also discuss government initiatives, judicial perspectives, and possible reforms to bridge the implementation gap. Mental health should not be treated as a secondary or luxury concern. Instead, it is a public health imperative and a matter of human rights. A nation cannot aspire toward inclusive development without addressing the mental well-being of its people.

### **Importance of Mental Health Law in India**

Mental health law plays a pivotal role in ensuring the protection, dignity, and empowerment of individuals suffering from mental illness—a group that remains one of the most marginalized and vulnerable in Indian society. In a country where mental health has long been overshadowed by cultural taboos, superstition, and social stigma, the establishment of a clear and progressive legal framework is essential to promote awareness, eliminate discrimination, and guarantee access to quality mental healthcare services.

The enactment of the Mental Healthcare Act, 2017 (MHCA) was a historic step in this direction, representing a shift from a custodial approach to one rooted in human rights, autonomy, and dignity.

India is home to a large population suffering from various mental disorders, including depression, anxiety, bipolar disorder, schizophrenia, and substance use disorders. According to the National Mental Health Survey (2015–16), nearly 150 million people in India require mental healthcare services, yet only a small percentage receives adequate treatment. This treatment gap is further worsened by the absence of awareness, fear of ostracization, and limited access to mental health infrastructure. In such a scenario, a robust mental health law becomes not just desirable but indispensable. The MHCA, 2017 addresses this need by providing individuals with mental illness legal rights and protections similar to those available to any other citizen.

One of the most progressive features of the MHCA is the decriminalization of suicide, recognizing that people who attempt suicide are not criminals but victims of psychological distress who need help and support. This is a compassionate and humanitarian stance that aligns with global mental health best practices. The Act also empowers individuals through advance directives, allowing them to specify the nature of treatment they wish to receive in the future when they might be unable to make decisions. This promotes patient autonomy and informed consent, two crucial elements of ethical healthcare. Another significant contribution of the MHCA is the establishment of Mental Health Review Boards, quasi-judicial bodies meant to protect the rights of persons with mental illness by ensuring their treatment is carried out in accordance with the law. These boards serve as forums for grievance redressal and oversight, thus acting as watchdogs against any form of abuse or violation of rights in mental healthcare institutions. The Act further ensures the right to access mental healthcare services from government-funded or recognized institutions, making it legally obligatory for the state to provide treatment and rehabilitation services without discrimination. In a society where, mental illness is often associated with shame, legal provisions like those in the MHCA serve to change public perception. By legally acknowledging mental health as a component of overall health and embedding rights-based protections into law, India has taken a critical step toward inclusivity and justice. However, the true impact of such a law will only be realized when it is fully implemented across all regions, adequately funded, and supported by strong political will and societal sensitization. Until then, its potential remains aspirational. Nonetheless, its existence as a legal mandate offers hope and direction for future reform and progress in mental healthcare.

### **Current Scenario in India**

Despite the progressive enactment of the Mental Healthcare Act (MHCA), 2017, which was hailed as a landmark step towards the protection of the rights of persons with mental illness, the state of mental healthcare in India continues to be grossly inadequate, fragmented, and unevenly distributed. The Act laid down a comprehensive legal framework that ensures access to mental healthcare, protects the dignity and autonomy of patients, and obligates the state to provide mental health services at affordable costs. However, the ground reality paints a contrasting picture. According to the National Mental Health Survey (NMHS)

2015-16, nearly 150 million Indians are in need of mental healthcare services, yet only 10 to 15 percent of them are able to access adequate treatment. This massive treatment gap underscores the poor implementation of the MHCA and the systemic challenges plaguing the mental healthcare sector in India. One of the foremost issues is the acute shortage of mental health professionals. India has a very low number of psychiatrists (approximately 0.3 per 100,000 population), psychologists, psychiatric nurses, and social workers, which is far below the standards prescribed by the World Health Organization. This shortage is particularly severe in government-run healthcare institutions, where mental health services are either absent or extremely limited. Many public hospitals do not have designated psychiatric wards, and even when they exist, they are often under-resourced and overburdened. The private sector, though slightly better equipped, is concentrated in urban areas and is often unaffordable for the majority of the population.

Urban areas, despite being relatively better off in terms of infrastructure and specialists, still struggle with issues of accessibility, affordability, and awareness. In contrast, the rural population, which constitutes more than 65% of India's total, faces even greater hurdles. The absence of mental health facilities in rural and remote areas, coupled with poor transportation and lack of trained personnel at primary healthcare centers, makes it nearly impossible for rural patients to access timely and appropriate care. Social stigma and ignorance further aggravate the problem. Mental illness is often associated with superstition, shame, or divine punishment in many parts of India, leading families to hide afflicted individuals rather than seek help. Moreover, the implementation mechanisms mandated by the MHCA—such as the establishment of Mental Health Authorities and Mental Health Review Boards—remain inactive or dysfunctional in several states due to administrative apathy, lack of funding, and poor coordination. Without these regulatory bodies, there is no proper oversight or redressal system to ensure the enforcement of patient rights or monitor service delivery. Budgetary allocations for mental health continue to remain less than 1% of the total health budget, which is grossly inadequate to meet the rising burden of mental illness in the country. In conclusion, while the MHCA, 2017 is a forward-looking and rights-based law, the current scenario reveals a glaring gap between legislative intent and practical implementation. Bridging this gap requires increased investment, trained manpower, awareness campaigns, better infrastructure, and a concerted effort to de-stigmatize mental health at every level of society.

### **Government Policies and Initiatives**

To support the implementation of the Mental Healthcare Act (MHCA), 2017, the Government of India has introduced several policies and initiatives aimed at improving mental health services and integrating them into the broader healthcare framework. Among the most notable efforts is the expansion of the National Mental Health Programme (NMHP), which was initially launched in 1982 to address the growing mental health burden in the country. Under the NMHP, the government rolled out the District Mental Health Programme (DMHP), which aims to provide community-based mental health services at the district level, especially in underserved rural and semi-urban areas. The

DMHP has been instrumental in establishing mental health units in district hospitals, training primary care physicians, and promoting awareness about mental health through school and workplace programs. Additionally, the Indian government has taken steps to mainstream mental health into national health policies, such as the National Health Policy 2017, which explicitly acknowledges the importance of mental health and pledges to provide accessible and affordable services. Further, mental health services have been included under Ayushman Bharat – Pradhan Mantri Jan Arogya Yojana (PM-JAY) which provides financial protection to economically weaker sections of the population for accessing secondary and tertiary healthcare. The inclusion of mental health under such schemes represents significant policy advancement in recognizing mental illness as a public health issue on par with physical ailments.

Another positive development is the increased digital health push by the government, such as the National Tele-Mental Health Programme, which aims to offer remote psychological counseling and support through digital platforms. The COVID-19 pandemic accelerated the demand for such services and highlighted the potential of telemedicine in bridging the rural-urban divide in mental health access. Moreover, government institutions like the National Institute of Mental Health and Neurosciences (NIMHANS) have been pivotal in developing training modules for mental health professionals and conducting research to inform policy. Despite these commendable steps, the implementation of these policies is often undermined by several persistent challenges. One of the most glaring issues is the chronic underfunding of the mental health sector, with mental health receiving less than 1% of India's total health budget. This limited financial allocation severely hampers the capacity to develop infrastructure, recruit and train mental health professionals, and run long-term awareness and de-stigmatization campaigns. Furthermore, inter-sectoral coordination among central and state governments, local bodies, and non-governmental organizations remains weak, leading to duplication of efforts and gaps in service delivery.

Many programs suffer from poor execution and monitoring, especially in rural and remote areas where the need is greatest. There is a lack of standardized evaluation frameworks to measure the effectiveness of existing programs. Also, many states have been slow in establishing Mental Health Authorities and Mental Health Review Boards as mandated by the MHCA, thereby delaying the protection of patients' rights. In conclusion, while government policies and initiatives have laid a promising foundation for mental health reform in India, much remains to be done. There is a pressing need for increased investment, policy coordination, digital innovation, and capacity building to ensure the effective implementation of MHCA, 2017 and bridge the gap between policy and practice in the realm of mental healthcare.

### **Judicial View and Role of Courts**

The Indian judiciary has played a pivotal role in advancing the cause of mental health rights and strengthening the legal framework provided under the Mental Healthcare Act (MHCA), 2017. Through various landmark judgments, courts in India have emphasized the importance of treating individuals with mental illness with dignity, equality, and

compassion. In a country where social stigma, lack of awareness, and administrative apathy often undermine the rights of persons with mental illness (PWMI), the judiciary has emerged as a vital guardian of constitutional and human rights, reinforcing both national laws and international commitments under the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD).

One of the significant cases in this area is *Shikha Nischal v. NCT of Delhi* (2017), in which the Delhi High Court ruled in favor of a woman who had been denied appropriate mental healthcare. The court held that access to mental health treatment is a fundamental right and must be provided without any discrimination. The judgment underscored that public healthcare institutions are obligated to ensure the mental well-being of individuals and to uphold the principles enshrined in the MHCA, particularly the right to treatment, non-discrimination, and dignity. This case set a precedent for prioritizing mental healthcare within the public health framework and highlighted the judiciary's active role in implementing the MHCA's provisions. Another landmark judgment is *Gian Kaur v. State of Punjab* (1996), where the Supreme Court addressed the broader scope of the right to life under Article 21 of the Constitution of India. The Court emphasized that the right to life does not merely signify survival or existence but includes the right to live with dignity, which inherently encompasses mental health and emotional well-being. This interpretation laid a strong constitutional foundation for subsequent judgments concerning mental health rights and the humane treatment of vulnerable individuals.

The judiciary has also taken a strong stand on the treatment of mentally ill persons in custodial and institutional settings. In multiple cases, including those involving prisoners, under-trial detainees, and individuals in shelter homes, the courts have directed state authorities to ensure that such persons are not subjected to inhuman, degrading, or discriminatory treatment. For instance, the Supreme Court has, on several occasions, reprimanded state governments for their failure to provide adequate mental health services in prisons and for neglecting the psychological needs of inmates. These judicial interventions have brought attention to the dire conditions in custodial institutions and have called for systemic reforms. Furthermore, the courts have frequently emphasized the need for the State Mental Health Authorities (SMHAs) and Mental Health Review Boards (MHRBs) to be made functional, as mandated under the MHCA, 2017. The judiciary's insistence on setting up these regulatory bodies has been instrumental in pressuring governments to act on their obligations.

The Indian judiciary has been a strong ally in the promotion and protection of mental health rights, particularly in interpreting the MHCA, 2017 in a progressive and inclusive manner. Judicial activism in this domain has not only helped enforce the Act's provisions but has also contributed significantly to the broader discourse on mental health, dignity, and the rights of the marginalized.

### Conclusion

The Mental Healthcare Act, 2017 stands as a landmark piece of legislation in India's journey toward a more inclusive, rights-oriented, and humane mental health care system. It not only repealed the outdated Mental Health Act of 1987 but also aligned the legal framework with the principles of autonomy, dignity, non-discrimination, and

equality, as laid down in international human rights instruments, particularly the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD). The MHCA, 2017 has laid down a comprehensive and forward-looking legal framework that recognizes the rights of persons with mental illness (PWMI) and mandates the state to provide accessible, affordable, and quality mental healthcare. However, while the legislation is progressive in its vision, its promise remains largely unfulfilled in practice due to persistent implementation challenges.

Legislation alone cannot bring about meaningful change unless it is accompanied by concrete measures for effective execution. The current scenario reveals that India's mental health infrastructure is insufficient, with a wide treatment gap, lack of mental health professionals, and underdeveloped services, especially in rural areas. Government initiatives such as the National Mental Health Programme (NMHP) and the District Mental Health Programme (DMHP) have shown intent but suffer from chronic underfunding, poor coordination, and limited reach. With mental health consistently receiving less than 1% of the total health budget, it is evident that mental health has yet to become a true policy priority. For the MHCA, 2017 to realize its full potential, multi-sectoral and sustained efforts are essential. Funding must be significantly increased, and mental health services need to be integrated into primary healthcare delivery. Investment in training mental health professionals, enhancing infrastructure, and utilizing digital platforms for tele-mental health services is also crucial. Equally important is the need to combat stigma and raise awareness, not only among the general public but also within medical institutions, schools, workplaces, and law enforcement agencies. Mental health education must become an essential part of the school and college curricula to create a more informed and empathetic society.

The role of civil society organizations, NGOs, mental health advocates, legal professionals, and the judiciary cannot be overstated. These stakeholders have consistently filled gaps left by the state, raised awareness, provided care, and legally challenged inhumane practices. Judicial activism, through landmark rulings, has played an important part in interpreting and enforcing the MHCA's provisions and ensuring the rights of PWMI are upheld. In conclusion, while the Mental Healthcare Act, 2017 is a progressive step forward, its transformative potential will remain aspirational unless backed by a strong implementation strategy. A healthy society is not one that only treats physical ailments but one that recognizes and responds equally to the mental and emotional well-being of its citizens. India's vision for an inclusive and equitable future must place mental health at the core of its public health, legal, and social policies. Only then can the MHCA fulfill its goal of building a society where every individual lives with dignity, freedom, and the full realization of their mental health rights.

### References

1. The Mental Healthcare Act, 2017, Ministry of Law Justice, Government of India. Available at: <https://egazette.nic.in>
2. World Health Organization. Mental Health Atlas 2020. Geneva: WHO Press.
3. Duffy RM, Kelly BD. India's Mental Healthcare Act, 2017: A rights-based framework. *The Lancet Psychiatry*, 2019;6(1):20–22.

4. Murthy RS. National Mental Health Survey of India 2015–16. *Indian Journal of Psychiatry*,2017;59(1):21-26.
5. Pathare S, Shields LS. Implementing the Mental Healthcare Act, 2017: Progress challenges. *Indian Journal of Social Psychiatry*,2021;37(3):234–240.
6. Basu D, Avasthi A. Impact of Mental Healthcare Act, 2017 on mental health professionals service delivery. *Indian Journal of Psychological Medicine*,2018;40(3):191–196.
7. Government of India. National Mental Health Programme Guidelines. Ministry of Health Family Welfare, 2020.
8. The United Nations. Convention on the Rights of Persons with Disabilities (UNCRPD). New York: United Nations, 2006.