

A CRITICAL AND COMPARATIVE ANALYSIS OF MENTAL HEALTHCARE ACT, 2017

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Abstract

The term 'mental health' has been defined by Merriam Webster as "the condition of being sound mentally and emotionally that is characterized by the absence of mental illness and by adequate adjustment especially as reflected in feeling comfortable about oneself, positive feelings about others, and the ability to meet the demands of daily life"². The authors through this paper have tried to analyze the history of developments in the sphere of mental health with respect to the recent, Mental Healthcare Act, 2017 in India.

Keywords- Mental Health, mental illness, Mental Healthcare Act, life.

Introduction

India ranks 2nd largest country with respect to the global population. Thus, challenges experienced in delivering of the proper healthcare services to 1.3 billion people of India becomes quite a herculean task. As per a report published in 2019 by World Economic Forum, India ranks at 150th place globally in terms of healthcare.³ And it still continues to underperform when compared to other countries on the same plane.

Particularly, when it comes to mental healthcare in India, the picture is really pitiful and depressing at the same point, as only about 1% of the total healthcare budget is devoted to mental health in India.

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² *Definition of Mental Health*, MERRIAM-WEBSTER (May 14, 2020, 2:15 PM), <https://www.merriam-webster.com/dictionary/mental%20health>.

³ Medical Dialogues Bureau, *India Slips To 150th Rank In Healthcare*, MEDICAL DIALOGUES (May 14, 2020, 2:20 PM), <https://medicaldialogues.in/india-slips-to-150th-rank-in-healthcare-world-economic-forum>.

History of Legislations relating to Mental Healthcare in India

The history clearly states that there was a prevailing notion regarding the mentally ill persons, that they were considered an outcaste in the society or in some conditions, they were even subjected to inhumane tortures. But this notion has undergone through a considerable change in recent times.

The Mental Healthcare Act, 2017 replaces the existing act of 1987. It has now widened the scope of mental healthcare in India with some tremendous alterations in the legislation.

Critical Analysis of the Mental Healthcare Act, 2017

The foremost visible change that we can perceive is in its definition of the mental disorder. The word, 'Mental Retardation' have been dropped off. The definition, now primarily focuses on the person's inability to develop its mind to the full potential.

Secondly, it ensures the basic right to avail best of the medical facilities without any discrimination and gives them the right to pave the way for the manner of their treatment.

The Act further states that every district must acquire affordable and easy to access mental healthcare services. The Act, moreover decriminalizes suicide⁴, as the presumption is made that whoever commits such an act would be considered to be under severe stress.

It also paves the way for mental health insurance too as it is the in case of the physical illnesses. The said act also proposes for the formation of Mental Health Review Boards and Commissions in order to take effective and speedy actions.

Now, coming to the shortcomings of this Act, firstly, it does not provide any clause for the advance directive to minors and secondly, it has no provision relating to the sharing of funds between the Centre and the states.

International approach towards providing Mental Health care

Mental and neurological disorders are affecting the people's lives. Worldwide, at this moment around 450 million people are anguishing from ill health because of mental disorders.⁵ An

⁴ The Indian Penal Code, 1860, No. 45, Acts of Parliament, 1860.

estimation of the study of 2017, 792 million people lived with a mental disorder which is globally more than one in ten people.⁶ Concentration on mental health is an important area of worry whether it is a student or an employee it is necessary to take care of their mental health. Indeed, mental health is the need of an hour, people who are working overtime and the intimate pressure on the employees puts them on high risk of mental disorder and to free our society from stigmatization it is important for everyone to aim at the very grass root levels of these diseases and importantly generate the awareness among the people is necessary.

The steps of the government are also considerable in the de – stigmatization process. For instance, the “Total Wellness Program” has been employed by a telecommunication firm in Finland which targets at promoting better health conditions and the rehabilitation of the employees. Also, the Indian government included mental health into the National Youth Policy 2017 and made the Mental Healthcare act, 2017 into which it emphasis not only physical but equally on mental health. ‘Mental Health Review Commission’, established under the Mental Healthcare Act, 2017 is an endeavor to simplify mental healthcare delivery.

However, due to the lack of attention given to the employees and children, mental disability is increasing and leading worldwide. Poor mental health causes defection and further the issues like bullying, harassment, unhealthy workplace, consumption of drugs, alcohol, etc. plays unfortunate roles in mental disorders.

Conclusion

Mental Healthcare act regards to provide services to the person who suffers from mental illness. It decriminalizes suicide and prohibits electro convulsive therapy. It is, however, out of bounds for minors. If some of the past years’ reports are seen, suicides are committed by students of schools and colleges. The former is higher in number, maybe due to peer pressure, or academics.

⁵ *Mental disorders affect one in four people*, WORLD HEALTH ORGANIZATION (May 14, 2020, 2:30 PM), https://www.who.int/whr/2001/media_centre/press_release/en.

⁶ Hannah Ritchie and Max Roser, *Mental Health*, OUR WORLD IN DATA (May 14, 2020, 2:34 PM), <https://ourworldindata.org/mental-health>

Mental childcare homes need to be cautious while giving treatment; advance directive should be provided to the children, or to their guardians. The challenge needs to be met.

We hope the recently made law will be implemented properly to meet the obligations of the Mental Healthcare Act, 2017.