

THE MENTAL HEALTHCARE ACT, 2017: A PARADIGM SHIFT IN SUICIDE DECRIMINALIZATION AND HUMAN RIGHTS IN INDIA

Author's Name: Dr. Parul Pareek¹

Affiliation

1. Associate Advocate; Independent Researcher; Former Assistant Professor, School of Law, Mody University of Science & Technology, Lakshargarh, Sikar, Rajasthan, India.

Corresponding Author Name and Email ID: Dr. Parul Pareek,

dr.parulpareek@gmail.com

ABSTRACT

The Mental Healthcare Act, 2017, signifies a transformative change in India's strategy towards mental health and suicide prevention, moving away from punitive measures to embrace a more empathetic approach to care. By decriminalising attempted suicide under Section 115 and adopting a rights-based approach to mental health care, the Act brings India in line with international human rights standards. This paper examines the development of laws regarding suicide in India, the implications for human rights associated with the criminalisation of suicide, and the effects of the legislation on individuals facing mental health challenges. This analysis delves into the obstacles of implementation, societal attitudes, and the wider consequences for the mental health landscape in India. Ultimately, the study highlights the importance of combining human rights principles with mental health policy to create a more inclusive and supportive framework for mental health care.

Keywords: Mental Healthcare Act, 2017; Suicide decriminalization; Human rights; Mental health in India; Section 115; Policy analysis; Suicide prevention.

INTRODUCTION

Mental health issues and suicide are pressing concerns across the globe, with India contributing a significant share to the global suicide statistics. According to various reports, India consistently ranks among the highest in terms of suicide rates, with millions of individuals facing mental health challenges each year. For many decades, mental health problems were not properly recognized or understood, and the issue of suicide was primarily treated as a criminal offense under Section 309 of the Indian Penal Code (IPC). Under this law, individuals who attempted suicide could face imprisonment or fines, effectively punishing those already struggling with severe mental distress. This punitive approach not only ignored the complexities of mental health but also contributed to the stigma surrounding it, making it harder for individuals to seek the help and care they desperately needed.

The criminalization of suicide had profound consequences. It dissuaded people from reaching out for mental health support due to the fear of legal repercussions, leading to a further sense of isolation and hopelessness. This created a vicious cycle where individuals experiencing mental health crises often felt trapped, ashamed, and unsupported. In response to the growing awareness of mental health issues and the need for a more humane and compassionate approach, the Indian government passed the Mental Healthcare Act, 2017, which marked a monumental shift in the country's approach to mental health and suicide prevention.

The Mental Healthcare Act, 2017 took a significant step by decriminalizing suicide, acknowledging that individuals who attempt suicide are likely to be facing "severe stress." Rather than treating such individuals as criminals, the Act mandates that the state provide care, treatment, and rehabilitation to those who attempt suicide, reflecting a compassionate, rights-based approach. This shift is in line with global human rights standards, which emphasize the dignity and well-being of individuals, even in times of crisis. By focusing on care rather than punishment, the Act encourages a more supportive response to mental health issues, seeking to remove the stigma and ensure that individuals in need receive proper medical attention and psychological support.

This paper critically examines the significance of the Mental Healthcare Act, 2017, in decriminalizing suicide and integrating human rights principles into mental health policy. It explores the challenges and barriers to effective implementation, the changing societal perceptions of mental health, and the broader implications of the Act on India's mental health landscape. By offering a comprehensive analysis, this paper aims to contribute to the ongoing conversation about the importance of integrating human rights with mental health care in India, and how this integration can create a more inclusive, empathetic, and supportive framework for individuals in crisis.

HISTORICAL CONTEXT: SUICIDE AND THE LAW IN INDIA

For many years, India's approach to suicide was based on Section 309 of the Indian Penal Code (IPC), which made attempts to take one's own life a criminal offence. This provision, rooted in colonial-era legislation, perpetuated the damaging notion that suicide represented a moral failing instead of a manifestation of psychological distress. By classifying suicide attempts as offences, the legal system imposed additional hardships on individuals who are already grappling with significant emotional distress. Individuals who have endured suicide attempts frequently discover themselves ensnared in a legal framework that punishes rather than provides assistance. This not only exposed individuals to the risk of imprisonment or fines but also fostered a broader societal stigma that regarded mental health challenges as disgraceful and deserving of punishment. Moreover, the legal repercussions surrounding suicide have established considerable obstacles to obtaining sufficient mental health support. Individuals who have survived suicide attempts often face hesitance from healthcare providers, who may be concerned about potential legal consequences when offering treatment to these patients. Consequently, numerous individuals facing crises found themselves deprived of adequate care and support, which only intensified their psychological suffering.

As time progressed, the comprehension of mental health matters within the legal framework and society at large started to transform, with the courts significantly influencing the discourse surrounding the criminalisation of suicide. In significant cases such as *Gian Kaur vs. State of Punjab* (1996), the Supreme Court of India affirmed the criminalisation of suicide while also acknowledging the necessity for a more empathetic perspective on mental health issues. The court's recognition of the psychological elements linked to suicide sought to bring a more compassionate perspective to the matter; however, the overarching legal structure has persisted without alteration for years, providing scant opportunity for a transformation in the treatment of mental health issues.

This situation started to evolve as community advocacy, coupled with heightened global awareness of human rights, drew more focus to the necessity for reform. With the rise in global mental health awareness, it became evident that treating suicide as a criminal act was no longer relevant and was ultimately harmful. International standards on human rights have progressively highlighted the significance of empathy and support, as opposed to retribution, in addressing mental health concerns. The combination of these shifts and increasing public pressure led to the passage of the Mental Healthcare Act, 2017. The legislation removed the criminal penalties associated with suicide, emphasising the importance of care and rehabilitation over punishment. It recognises that those who

attempt suicide frequently endure significant psychological suffering. By aligning with global human rights standards, the Act represented a notable shift from previous practices and established a foundation for a more empathetic and supportive framework for mental health care in India.

KEY PROVISIONS OF THE MENTAL HEALTHCARE ACT, 2017

The Mental Healthcare Act, 2017 introduced important reforms to India's mental health framework, featuring several crucial provisions designed to enhance care, uphold individual rights, and reduce the incidence of suicide.

1. Decriminalization of Attempted Suicide (Section 115): The decriminalisation of attempted suicide (Section 115) represents a significant shift under the Act. According to Section 115, the Act recognises that those who make attempts on their own lives are often undergoing significant mental anguish. In the past, attempts at taking one's own life were classified as criminal offences under Section 309 of the Indian Penal Code (IPC), leading to penalties such as imprisonment or fines for those involved. The Mental Healthcare Act emphasises the importance of care over punishment. The state is obligated to provide treatment, rehabilitation, and support for individuals facing crises, highlighting the importance of mental health care and recovery over criminal responsibility. This demonstrates a more empathetic and insightful perspective, acknowledging the mental health aspects that contribute to suicidal actions.

2. Rights -Based Approach: The Act incorporates a rights-based framework to mental health care, ensuring that people with mental illness are entitled to essential rights:

- **Right to access mental health care:** The Act guarantees that all individuals, regardless of their social or economic background, have the right to accessible, affordable, and non-discriminatory mental health services.
- **Right to dignity:** It mandates that individuals with mental illness be treated with dignity, ensuring that they are not subjected to degrading or inhuman treatment in healthcare settings.
- **Right to informed consent:** The Act empowers individuals with the autonomy to make informed decisions about their treatment. They have the right to accept or refuse treatment, giving them control over their mental health care decisions.

3. Advance Directives: The Act also introduces the concept of advance directives, allowing individuals to specify their preferred treatment options in advance. In the event that a person is unable to make decisions during a mental health crisis, they can appoint a representative to make decisions on their behalf. This ensures that individuals retain control over their treatment, even if they are incapacitated,

and reinforces the principle of autonomy in mental health care.

4. Focus on Suicide Prevention: A key focus of the Mental Healthcare Act is suicide prevention. The legislation requires the formulation of strategies and initiatives designed to lower the incidence of suicide. These initiatives aim to recognise individuals in jeopardy at an early stage, deliver prompt assistance, and ensure continuous support. The Act emphasises prevention, aiming to tackle both the immediate threat of suicide and the ongoing mental health requirements of individuals, thereby fostering a nurturing atmosphere for those in danger.

Together, these provisions aim to transform the mental health care system in India, prioritizing care, dignity, autonomy, and prevention over criminalization and punishment.

HUMAN RIGHTS AND SUICIDE DECRIMINALIZATION

Shifting the Narrative: For decades, individuals who attempted suicide were treated as criminals under Section 309 of the Indian Penal Code, a law that reflected a punitive approach to a deeply complex issue. This perspective failed to consider the fundamental mental health challenges that frequently compel individuals to resort to such extreme measures. By categorising suicide as a criminal offence, society not only penalises individuals who are already grappling with emotional or psychological turmoil but also infringes upon their essential human rights, such as the right to life, dignity, and health.

The Mental Healthcare Act, 2017, which decriminalizes suicide, marks a profound shift in how India addresses suicide and mental health. This change aligns India with international human rights standards, including the **United Nations Convention on the Rights of Persons with Disabilities (UNCRPD)**, which stresses the importance of dignity, non-discrimination, and the right to health. The UNCRPD recognizes that people with mental health conditions deserve the same rights and care as individuals facing physical health challenges. By decriminalizing suicide, the Mental Healthcare Act upholds these principles, acknowledging that individuals in distress require treatment, not punishment.

Compassion Over Punishment: The shift in the narrative from criminalizing suicide to viewing it as a mental health crisis represents a transformative change in India's approach to mental health. The Act reframes suicide as an urgent mental health issue that requires compassionate care, rather than a criminal behaviour that warrants punishment. This perspective recognizes that many individuals who attempt suicide do so under extreme emotional or psychological strain and are in need of support, not legal consequences.

By eliminating the criminal penalty, the Act diminishes the stigma associated with suicide, fostering a

more supportive atmosphere for those facing crises. Individuals who might have previously been apprehensive about potential legal consequences are now increasingly inclined to pursue assistance and utilise mental health resources. This promotes proactive measures, which could ultimately preserve lives. It fosters a more constructive and transparent conversation about mental health, encouraging individuals experiencing emotional challenges to seek the support they require without the worry of being judged or penalised.

The change fosters a more compassionate ecosystem for mental health care, where the focus is on healing rather than condemning. By treating suicide as a result of mental health challenges, the Act not only protects the dignity of individuals but also sets the foundation for a society that prioritizes mental health care and empathy over criminalization. This shift is crucial in reducing the stigma associated with mental illness and creating an environment where people feel supported rather than criminalized for seeking help.

IMPLEMENTATION CHALLENGES

The Mental Healthcare Act, 2017, marks a notable advancement in India's strategy regarding mental health; however, various challenges in its implementation impede its complete effectiveness.

1. **Infrastructure Deficits:** India's mental health care infrastructure is vastly inadequate, with a severe shortage of mental health professionals and facilities. The country has fewer than 0.75 psychiatrists per 100,000 people, far below the global standard. This shortage means that even though the Act promises universal access to mental health care, many individuals—especially those in rural or underserved areas—are unable to access the services they need. The lack of trained professionals and mental health care centers makes it difficult to meet the demand for services, limiting the Act's impact on improving mental health care nationwide.
2. **Lack of Awareness:** Many individuals, particularly in rural and marginalized communities, remain unaware of their rights under the Mental Healthcare Act. This lack of awareness is a significant barrier to the effective use of the provisions of the Act. People may not understand that they are entitled to mental health care, dignity, and autonomy in treatment decisions. Without adequate awareness, individuals who could benefit from the Act's protections and services are unable to take advantage of them, leading to continued neglect and underutilization of available mental health resources.
3. **Stigma and Cultural Barriers:** Despite the progressive nature of the Act, deep-rooted stigma surrounding mental health remains a significant obstacle. In many parts of India, mental health issues are still viewed with suspicion, shame, or as a social taboo. Cultural barriers and misconceptions about mental illness prevent many people from seeking help, even when services are available. This stigma

can be particularly pronounced in rural and conservative areas, where seeking mental health care may be seen as a sign of weakness or failure, discouraging individuals from pursuing treatment. Overcoming this stigma is crucial to ensure that the Act's provisions are fully embraced and utilized.

4. **Inconsistent Implementation:** A significant challenge to the success of the Act lies in the varying levels of implementation across different states. The availability of mental health services and awareness campaigns across India is inconsistent, resulting in unequal access to care. Certain states have advanced in developing mental health care systems and initiatives, whereas others are still falling short. This difference in execution leads to disparities in access to mental health services, indicating that individuals in specific regions might not obtain the same level of care or support as those in more advanced areas.

In summary, while the Mental Healthcare Act, 2017, offers a transformative approach to mental health care, its success depends on addressing these critical challenges—improving infrastructure, raising awareness, reducing stigma, and ensuring consistent implementation across the country. Only then can the Act truly live up to its potential in improving mental health care for all.

SOCIETAL IMPACTS

The Mental Healthcare Act, 2017, has introduced important reforms in the perception of mental health issues, especially concerning suicide, within Indian society. Through the decriminalisation of suicide and the promotion of a rights-based approach, the Act is steadily transforming societal perspectives and cultivating a more inclusive and empathetic atmosphere for those confronting mental health issues.

Reducing Stigma: Historically, attempts at suicide were often perceived as a moral shortcoming or a criminal offence, which exacerbated the stigma associated with mental health challenges in India. The Mental Healthcare Act's decriminalisation of suicide is starting to change the conversation, presenting suicide as a consequence of mental distress instead of a criminal act. This change is crucial as it allows for the treatment of mental illness to be approached with the seriousness and empathy it warrants, rather than dismissing it as a mere character defect. Nonetheless, in spite of these advancements, the persistent societal stigma surrounding mental health continues to be deeply rooted, necessitating ongoing advocacy and education to thoroughly eradicate these antiquated views. Awareness initiatives, community involvement, and transparent discussions regarding mental health are essential for diminishing stigma and fostering acceptance.

Encouraging Help-Seeking Behaviour: One of the most significant societal impacts of the Act is the encouragement of help-seeking behaviour. Prior to its enactment, individuals who struggled with suicidal thoughts or mental health issues often refrained from seeking help due to fear of legal

consequences. The removal of legal repercussions for suicide attempts has helped alleviate this fear, creating an environment where people are more likely to reach out for support. This is particularly important because early intervention can prevent suicide attempts and improve mental health outcomes. As individuals begin to view mental health care as an accessible, non-judgmental resource, the Act has the potential to reduce suicide rates and improve overall mental well-being across the country.

Fostering Inclusion: The Act's rights-based framework promotes dignity and inclusion, ensuring that individuals with mental health conditions are treated with respect and compassion. By guaranteeing the right to access mental health care, the right to dignity, and the right to informed consent, the Act helps integrate people with mental illnesses into society as equal and valued members. This approach challenges the marginalization and isolation that many individuals with mental health issues face and promotes a more inclusive society where mental health is prioritized alongside physical health.

Overall, the Mental Healthcare Act, 2017, plays a crucial role in changing how society views and responds to mental health issues. By reducing stigma, encouraging help-seeking behaviour, and fostering inclusion, the Act is gradually paving the way for a more supportive and empathetic approach to mental health in India.

COMPARATIVE ANALYSIS: INDIA AND GLOBAL PRACTICES

India's decriminalization of suicide through the Mental Healthcare Act, 2017, reflects a growing global trend toward treating suicide as a public health issue rather than a criminal act. Countries such as the United Kingdom, Canada, and Australia have long embraced this approach, recognizing that suicide is often linked to underlying mental health conditions and should be addressed through care, support, and prevention, rather than punishment. In these countries, suicide is viewed as a symptom of a broader societal and health issue, prompting policies that prioritize mental health care and suicide prevention over legal consequences.

In contrast, India's approach to mental health, while aligning with this global trend of decriminalization, also stands out for its integration of human rights into mental health policy. The Mental Healthcare Act, 2017, goes beyond simply removing legal penalties for suicide attempts; it incorporates a rights-based framework that guarantees individuals with mental health issues the right to access care, the right to dignity, and the right to make informed decisions about their treatment. This focus on human rights is a significant aspect of the Act and distinguishes India's approach from that of many other countries, particularly in the Global South.

In many countries, mental health policies may focus on improving care and access but often do not incorporate a clear human rights-based approach. India's inclusion of human rights principles, such as the right to life, dignity, and non-discrimination, sets a new benchmark for how mental health policy can be shaped. This approach is especially important for countries in the Global South, where mental health issues are often stigmatized, underfunded, and neglected. By explicitly connecting mental health to human rights, India provides a model that could inspire other nations to prioritize both the care and the protection of individuals with mental health conditions.

While global trends have shifted toward recognizing mental health as a critical public health issue, India's emphasis on human rights alongside mental health care sets it apart as a leader in shaping inclusive, compassionate, and rights-driven mental health policy. This approach not only addresses the medical and psychological aspects of suicide and mental health but also emphasizes the importance of dignity, autonomy, and equality in care.

POLICY RECOMMENDATIONS

To ensure that the **Mental Healthcare Act, 2017**, achieves its full potential in transforming mental health care in India, several key measures need to be implemented:

1. **Expand Mental Health Infrastructure:** India's mental health infrastructure is currently inadequate to meet the needs of its population. There is a severe shortage of mental health facilities and professionals, with only a small number of psychiatrists and counsellors available to serve a vast population. To address this, there must be increased investment in building mental health facilities across urban and rural areas. Additionally, more training programs should be developed to increase the number of qualified professionals, such as psychiatrists, psychologists, and counsellors, ensuring they are distributed equitably across the country. Recruiting more professionals and improving existing infrastructure would help bridge the gap between demand and supply of mental health services, allowing for better access to care.
2. **Enhance Public Awareness:** Despite the progressive nature of the Mental Healthcare Act, many people, especially in rural or marginalized communities, are unaware of their rights under the Act. Public awareness campaigns are essential to educate individuals about their legal rights to access mental health care, dignity, and informed consent. These campaigns should aim to reduce stigma around mental health by presenting mental illness as a medical condition deserving of compassion and treatment, rather than as a moral failing. Awareness programs can also empower individuals to seek help for mental health issues without fear of legal repercussions or societal judgment, leading to earlier intervention and better outcomes.

3. **Strengthen Suicide Prevention Programs:** Although the Act requires suicide prevention initiatives, it is essential to create more thorough, evidence-supported approaches. This encompasses enhancing the recognition of individuals who may be at risk of self-harm, delivering prompt crisis assistance, and creating robust community support frameworks. Efforts to prevent suicide must engage educational institutions, professional environments, and local organisations in identifying early indicators of mental health issues and facilitating suitable treatment referrals. By enhancing these initiatives, India can establish a strong support system for vulnerable individuals, providing prompt assistance and averting avoidable tragedies.
4. **Monitor Implementation:** To ensure the Act's provisions are effectively implemented, mechanisms should be established to monitor and evaluate its progress at both the state and national levels. This can include regular assessments of the accessibility, quality, and effectiveness of mental health services, as well as feedback from individuals who use these services. Monitoring systems will help identify gaps in service delivery, track disparities in access, and ensure accountability for the successful execution of the Act's provisions. Regular evaluations can also inform policy adjustments, ensuring that mental health services continue to evolve to meet the growing needs of the population.

In conclusion, the Mental Healthcare Act, 2017, offers a promising framework for mental health reform in India. However, to fully realize its potential, efforts must be made to expand infrastructure, raise awareness, strengthen suicide prevention efforts, and ensure consistent and accountable implementation across the country. These measures will not only improve access to mental health care but also create a more supportive, inclusive, and compassionate society.

CONCLUSION

The Mental Healthcare Act, 2017, signifies a crucial shift in India's perspective on mental health, transitioning from punitive approaches to an emphasis on human rights and empathetic care. By decriminalising suicide and ensuring access to mental health services, the Act establishes a framework that has the potential to change the lives of individuals facing mental health crises and greatly alleviate the societal impact of mental health disorders.

Nonetheless, the effectiveness of this significant legislation hinges on addressing various obstacles. These encompass the enhancement of mental health infrastructure, increasing awareness regarding the provisions of the Act, tackling the ongoing stigma associated with mental health, and guaranteeing that implementation is uniform across all states. In the absence of coordinated initiatives to tackle these fundamental challenges, the legislation may fail to achieve its maximum effectiveness.

To genuinely realise its potential, it is crucial to cultivate an environment characterised by understanding, inclusivity, and regard for those experiencing mental health challenges. This necessitates a collaborative approach involving all segments of society, such as governmental bodies, healthcare professionals, educators, and the wider community. Only through comprehensive education and a shift in cultural perspectives can India establish a mental health framework that emphasises dignity, autonomy, and equitable access to care for everyone.

In conclusion, while the **Mental Healthcare Act, 2017**, represents a significant step forward in India's mental health policy, realizing its transformative potential will require sustained commitment to addressing the challenges in mental health infrastructure, awareness, and societal attitudes. When these efforts are made, the Act can truly safeguard the dignity and rights of all individuals, ensuring that mental health is treated with the respect and seriousness it deserves.

REFERENCES

1. Mental Healthcare Act, 2017. Ministry of Law and Justice, Government of India.
2. *Gian Kaur vs. State of Punjab*, Supreme Court of India, 1996.
3. National Mental Health Survey of India, 2016. National Institute of Mental Health and Neurosciences (NIMHANS).
4. World Health Organization. (2021). Suicide prevention.
5. United Nations. (2006). Convention on the Rights of Persons with Disabilities (UNCRPD).
6. Kumar, S., & Bhugra, D. (2020). *Mental health reforms in India: Opportunities and challenges*. Asian Journal of Psychiatry.