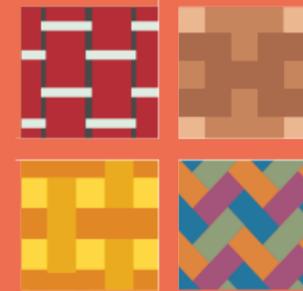




Hanns
Seidel
Stiftung



JUSTICE
adda



MENTAL HEALTH ACT, (2017)

KNOW
YOUR
LAWS

CONTEXT

The Mental Health Act was passed in 2017, replacing the previous 1987 Mental Health Act. This new Act aims to better recognise the rights and address the needs of people suffering from mental illness.

The 2017 Act also aligns India's obligations under the United Nations Convention on Rights of Persons with Disabilities and its Optional Protocol with domestic law.

OBJECTIVE OF THE LAW

Provide mental health care and services for persons with mental illness, protect and promote their rights and ensure a life of dignity, free from harassment and discrimination to the patients, their families and care-givers

Ensure that care, treatment and rehabilitation of the mentally ill is provided in the least restrictive and most conducive manner



Establish the institutional framework to regulate the mental health sector to guarantee access to quality mental health care and health insurance which is affordable and non-discriminatory to all

Promote equity, efficiency and active participation of all stakeholders in the decision making relating to the mental healthcare sector

KEY PROVISIONS

Sets out the process for determination of mental illness in a person and their capacity to make decisions on their treatment with informed consent

Outlines the process for admission, treatment, and subsequent discharge of mentally ill persons from mental healthcare facilities

Enables a mentally ill person to provide an advance directive on the manner they should be treated and appoint their nominated care giver

Mentally ill persons are guaranteed: right to community life; dignity; protection from cruel, inhuman and degrading treatment; equal and non-discriminatory treatment; confidentiality, information concerning treatment and access to basic medical records; legal aid; and recourse in the event of deficiencies in provision of care.

Assures treatment and care to homeless persons or those in the below poverty line (BPL) category, even if they do not possess a BPL card

Sets up mental health authorities to:

- (a) register, supervise, and maintain a register of mental health establishments and mental health professionals (clinical psychologists, mental health nurses, and psychiatric social workers);**
- (b) develop quality and service provision norms;**
- (c) train law enforcement officials and mental health professionals on the provisions of the act;**
- (d) receive complaints about deficiencies in provision of services; and**
- (e) advise the government on matters relating to mental health.**

Where a police officer finds a person wandering at large, he/she should take the person under protection, file an FIR, trace their family and inform them, arrange for medical examination within 24 hours and admit the person to a mental health establishment if required. If there is no mental illness, the person should be taken to their residence or to a government establishment for homeless persons.

Where a police officer suspects that a mentally ill person is being neglected or mistreated, he should immediately report this to a Magistrate who may order that the person is sent to a public mental health establishment for assessment and treatment as necessary

COMPLAINTS AND PENALTIES

The Act provides binding parameters for providing resettlement and rehabilitation of affected families. It enlists multiple options like employment, annuity payments, land for land and other benefits like transportation costs for displaced people. Additional benefits are prescribed for SC/ST families.

A mentally ill person or their nominee can complain of deficiencies in services by a mental healthcare professional or a mental health establishment to the Mental Health Review Board at the district level.

Any person who violates the Act is liable to be punished with imprisonment upto 6 months or fine of Rs. 10,000 or both.

Repeat offenders can face up to 2 years in jail or a fine of upto Rs. 5,00,000 or both.

Where the offender is a company, every person in-charge of, and responsible for the business, and the company itself are guilty. This includes negligent conduct by any director, manager, secretary or other officer of the company.

If a mental health establishment fails to comply with the orders of the Mental Health Authority or the Review Board, it could be subject to a penalty of up to Rs. 5,00,000 and its registration may also be cancelled.



ACTION POINTS

The Act pays due regard to alternate forms of medicine, including Ayurveda, Yoga and Naturopathy, Unani, Siddha and Homeopathy treatments under the scope of a ‘mental health establishment’.

it is a progressive law. A person who attempts to commit suicide is presumed to be under severe stress and should not be punished under the law. It imposes a duty on the State to provide care, treatment and rehabilitation to such person to reduce the risk of recurrence.



It imposes a strict ban on inhuman practices such as electro-convulsive therapy for minors or for adults without muscle relaxants and anaesthesia, sterilisation or forced confinement of mentally ill persons as punishment or for deterrence

It ushers the concept of patient-centric and capacity building care. The emphasis is on community-based rather than institutional solutions for healthcare