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## Dire need of Structural Reforms in Law and Policy for Mental Health in India

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*Suicide is one of the major social, economic, and health issues in India. Recent data and statistics show concerning upward trends in increasing number of the pattern of suicidal deaths... The major cause of these suicides is mental health and well-being. Therefore there's an urgent need to bring structural reforms in laws and policies which facilitate the process of rehabilitation, counselling, and treatment of patients suffering from mental health. As per the reports of the World's Health Organization, about 15% of the total of all diseases consists of mental illness. World Health Organization has also in its report stated that India has one of the largest populations suffering from mental health illnesses such as anxiety, depression, bipolar, to severe conditions like schizophrenia.*

**Keywords:** *law, policy, mental health.*

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### INTRODUCTION

In order to deal with issues related to mental health, we need structural and robust policy directed with an intention to create substantial changes within the society. In India, even though we have ratified the United Nations Convention on the rights of persons with Disability in 2007, our legislators and policymakers didn't take enough measures to make a

robust policy. The pre-existing Mental Healthcare Act, 1987<sup>1</sup> was not adequate to protect the rights of persons with mental illness. However, an attempt to make a few progressive steps was made in 2017 by amending the Act of 1987. One of the main features of this Act was a positive and sincere attempt made to decriminalize the act of committing suicide under section 309 of the Indian Penal Code, but this amendment failed to serve its purpose as it created in a very ambiguous manner where an attempt to suicide remained a criminal offense.

### **WHY MENTAL HEALTHCARE ACT FAILED?**

The central mental health team has been constituted to assist and execute the program to carry on the National Mental health survey in 2014-16. It proved to be a stepping stone, which later helped to formulate National Mental Health Policy in 2014. This policy led to the formation of the National Mental Healthcare Act, 2017 which replaced the Act of 1987. Even though the new act tried to add positive features but it did invite a lot of criticism on grounds that the Act did not implement a National Mental Health Policy across all states and also that the Act ignores the presence of mental health illness programs in the country. As of now, the Mental Health Care Bill 2016 is still pending in Lok Sabha. Similarly, the Rights of Persons with Disability Bill, which was intended to replace the Act of 1995, was introduced in parliament, still waiting for ratification.<sup>2</sup>

### **REFORMS THAT WE NEED IN POLICY AND LAWS**

The first and foremost reform that we need is decriminalization of section 309 of IPC, which has provisions to imprison a person for a period of one year to a person who attempts suicide. Mental health is one of the major reasons for suicides in India. Thus it's important that anybody who attempts suicide should be sent to counselling so that he/she can be rehabilitated into society again, rather than sent to jails which will add more mental agony to the person. National Human Rights Commission should expand its area covering the issues of atrocities against the persons suffering from mental illness under its ambit and hence take the

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<sup>1</sup> Mental Healthcare Act, 2017

<sup>2</sup> Pratima Murthy, B.C. Malathesh et.al., 'Mental health and the law: An overview and need to develop and strengthen the discipline of forensic psychiatry in India' (2016) 58 (2) Indian Journal of Psychiatry, 181-186 <<https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5282613/>> accessed 20 January 2022

charge of their rehabilitation into the mainstream society. The need of the hour is to carry out massive awareness programs at the national level. Bringing awareness in society can prove to be one of the most efficient methods to decrease suicides rates. Government must take affirmative steps to consolidate the statistics on the number of mental health professionals. Currently, the data regarding the number of mental health professionals in the country including psychiatrists working in the government or private sector is not maintained centrally. Without having data, it will be next to impossible to frame a reformatory policy or legislation on mental health.

Urgent need for reforms for prisoners suffering from mental health issues is the need of the hour. Mental health is one of the most ignored aspects when it comes to prisoners which are not usually covered in their routine medical check-ups. Even though most prisons offer resources to address basic physical health problems, mental health care in jails in India is in a really primitive state. A visiting psychiatrist is provided in several prisons, but not a full-time psychiatrist. Regular assessments for mental disorders or drug abuse are uncommon, and a psychiatrist is usually only brought in if there are any indicators of mental illness in a detainee or offender. Another important worry is that regular mental stability evaluations of prisoners sentenced to death are not carried out.<sup>3</sup>

As statistics clearly point out to the fact that the majority of people who commit suicide are in their teenage, therefore affirmative steps should be taken by the government, which can provide awareness about mental and also regular counseling should take place in schools and colleges. Providing guaranteed paid sick leave to employees suffering from mental health will not only prove beneficial to people suffering from mental health but will also help in normalising the issue of mental health in society. The Netherlands is a shining example of how sanctioning mental health in public office can prove beneficial to the employee. In times of covid, when working from home became a norm, almost all the sectors imposed stringent leave policy. Lockdown has already taken a toll on people's mental health and these strict and stringent leave policy make situations even worse. According to a recent global survey of over

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<sup>3</sup> Lakshmi Vijayakumar, 'Indian Research on Suicide' (2010) 52 (1) Indian Journal of Psychiatry, 291-296  
<<https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3146189/>> accessed 20 January 2022

2,700 workers, 75 percent felt more socially isolated as a result of coronavirus, with 67 percent undergoing higher levels of stress, 57 percent feeling more nervous, and 53 percent coping with greater emotional fatigue. Furthermore, with several workers working 2-3 hours per day longer than before March 11, as well as external stresses such as caring for sick loved ones.<sup>4</sup>

## **CHALLENGES IN FRAMING ROBUST POLICY FOR MENTAL HEALTH CARE IN INDIA**

The major challenge when it comes to implementing any policy on the ground level is its sustainability and dimensions of effect which could be generated by the policy. In almost all health schemes of the government, the issue of mental health is always been ignored. When the government of India launched the much-celebrated Ayushman Bharat Yojna (pan India health insurance scheme), it didn't cover mental health illness. There are only 47 mental health hospitals with around only 50,000 beds available in the entire country. Half of the problem can be solved by availing psychiatric medical support in community-based health care. Therefore, just making a separate policy for mental health will not work until and unless mental health is covered in other health schemes of the government.

Before drafting the policy on mental health issues, it is quintessential to pinpoint the areas which are actually problematic. In our society, the very first issue is awareness, people even in urban areas are not very well aware of mental health illness, least to mention about the rural areas. The second major challenge is that people do not have access to health care services regarding mental health illness. Going for a counseling session or for psychiatric therapy is attached to social stigma. Another major issue that the government faces is the proper classification of different mental illnesses. For example, while drafting any scheme under mental illness one needs to have the proper classification, the reason for having such classification is that there is a spectrum of mental illness conditions ranging from insomnia, anxiety, depression, bipolar disorders to illnesses like schizophrenia.

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<sup>4</sup> Dr Zubair Ahmed, 'The Benefits of Employee Mental Health Breaks' (*Fleximize*)  
<<https://fleximize.com/articles/015116/mental-health-breaks-employees>> accessed 22 January 2022

The need of the hour is to review the budgetary allocation. Currently, India allocates 1.8% of its GDP in the health sector, out of which only 0.6% of the total health budget is allocated to mental health. Even these small shares of the budget are not allocated in mental health schemes for instance in the financial year 2019, the budget sanctioned for NMHP (National Mental Health Program) was brought down to 40 crores from 50 crores in the financial year 2018. While surprisingly, out of which only 5 crores were an actual fund that was sanctioned by the government. These figures show our insincerity towards such a sensitive issue of mental health. Indian Journal of Psychiatry suggests that we must allocate at least 5000 crores or at least 5% of India's health budget. Budgetary allocation on mental health is alarmingly less, to put that into perspective even Bangladesh spends more on mental well-being as compared to India. Not enough steps were taken by the government in the last decade even though a report by Lancet Journal in 2011 categorically stated that India has the highest suicides rate amongst youth. Therefore, a budgetary allocation must be increased as per the demand if we want to take reformative steps towards mental health.<sup>5</sup>

Not having a sufficient number of qualified mental health professional is another major challenge. According to a study conducted by Khurana & Sharma in 2016 it stated that we currently require 17250 Clinical psychologists to which there are only 898 of them available i.e. 5% (approx.) of the total requirement of Clinical psychologists. Therefore, steps must be taken in direction to promote mental health studies and ensure quality education. The investment in infrastructure and human resources can prove to be a game-changer in the field of mental well-being in the nation.<sup>6</sup>

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<sup>5</sup> 'Experts suggest ways in which budget should be allocated for mental health' (*The New Indian Express*, 31 January 2021) <<https://www.newindianexpress.com/thesundaystandard/2021/jan/31/experts-suggest-ways-in-which-budget-should-be-allocated-for-mental-health-2257274.html>> accessed 26 January 2022

<sup>6</sup> Arshad Mirza & Nirvikar Singh, 'Mental Health Policy in India: Seven Sets of Questions and Some Answers' (*SSRN Papers*, 20 September 2017) <[https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=3033286](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3033286)> accessed 25 January 2022

## CONCLUSION

To summarize our main objective should be Public Education, Early Detection, and Rehabilitation. Public Education and awareness with respect to mental health are very essential as we have already discussed. The stigma attached to mental health is quite evident in our society and awareness can help to eliminate social stigma to a certain extent. In India lack of awareness and education on common mental health issues such as anxiety, stress, depression, and suicidal risk tendencies. Early detection can only be followed up if the person was aware of his/her condition. Delayed detection often results in prolonged medication. The new legal and policy framework should focus more on information technology; ASHA is one of the aptest examples of how AI and apps can play a major role in educating and also spreading information on mental health illness. These platforms can also be conveniently used to provide counselling and therapy sessions in rural and remote areas. In India, it is paramount that such therapy sessions and counselling should be affordable or subsidised. Another issue is good coordination between the public and private health care service providers to ensure the proper functioning of the system.

NGOs have played a great role in spreading awareness about mental health, with proper funding and recognition these NGOs can work with even more efficiency. For example, Ashadeep Mission was formed in 1966 in North-East India to assist mentally ill people and provide them with rehabilitation, till now it has provided help to around 2000 people suffering from mental health illness, from rural areas in Guwahati. Any policy or legal framework will not be able to serve its purpose on the ground until and unless social stigma attached to mental health is not eliminated from society. The steps taken by the government via the mental health Act (2017) and Mental Health Policy (2016) despite their shortcomings, are worth appreciating. These policies might not prove to be ground-breaking reforms for mental well-being but they did invite and created a healthy atmosphere of nationwide debates on mental health.