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The Intersection of Mental Health Disabilities and Society: A Critical Analysis of Policy Reforms in India

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ABSTRACT

This research paper thoroughly examines the interaction between mental health disabilities and the Indian Society. It comprehensively explores legal approaches and policy reforms designed to safeguard the rights and well-being of individuals with mental health disabilities within the Indian Society. Drawing from various fields, including law, psychology, sociology, and public policy, the study offers a holistic perspective on this complex issue. It highlights the overrepresentation of individuals with mental health disabilities in the Indian Society, citing societal stigma, limited mental health service access, and structural inequalities as key factors. Moreover, it has been seen that individuals with mental health disabilities are disproportionately represented within the Indian Society compared to the general population. These disparities are apparent at multiple stages of the criminal justice process, from arrest and pre-trial detention to sentencing and incarceration. It comprehensively explores legal approaches and policy reforms aimed at safeguarding the rights of individuals with mental health disabilities within the Indian Society. It emphasises the overrepresentation of such individuals within the system, attributing this to societal stigma, limited access to mental health services, and structural inequalities. The research evaluates the effectiveness of existing interventions, such as diversion programs and mental health courts, and critically assesses the impact of legal precedents and legislative changes. This paper identifies potential deficiencies in current legal and policy frameworks and examines unintended consequences and ethical dilemmas in the treatment of cases involving mental health disabilities. Ultimately, it strives to contribute to a more equitable and compassionate Indian Society.

KEYWORDS

Mentally Unstable, Disability, Indian Society

INTRODUCTION

In recent years, the Indian Society has grappled with the formidable challenges presented by individuals living with mental health disabilities. This nexus between mental health and the Indian Society has become a multifaceted concern that transcends geographical boundaries, significantly impacting a substantial portion of the Indian population¹. The complexity of this issue necessitates an in-depth investigation into the legal strategies and policy reforms that aim to mitigate the myriad problems arising at the intersection of mental health and the Indian Society².

The overall representation of individuals with mental health disabilities in the Indian Society is a stark and concerning reality. Statistical data reveals the pervasive overrepresentation of individuals grappling with mental health disabilities within the Indian Society, indicating a critical problem that requires immediate attention. These disparities are apparent at various stages of the criminal justice process, from initial arrests and pre-trial detention to sentencing and incarceration. It is a stark reality of individuals with mental health disabilities being disproportionately represented in the Indian Society when compared to the general population³.

EXPLORATION OF CAUSAL FACTORS

To comprehend the reasons behind this overrepresentation, it is essential to explore the causal factors contributing to this phenomenon. Several interrelated factors can be identified:

- **Societal Stigmatization:** The persistent stigmatisation of mental health disabilities engenders prejudicial attitudes, stereotypical beliefs, and misconceptions, influencing interactions with law enforcement. These negative stereotypes may lead to the misinterpretation of behaviour, potentially escalating incidents to arrests rather than appropriate mental health interventions⁴.

¹ S. Afrah Fathima, Muqaddam Aaqil Sheriff & V. Jananee, Analysis to Find Relationship Between Mental Trauma, Rape, and Suicide, in *Smart Trends in Computing and Communications* 471 (Tomonobu Senjyu, Chakchai So-In, & Amit Joshi eds., 2023).

² Coker, D. (2001) 'Crime control and feminist law reform in Domestic Violence Law: A critical review', *Buffalo Criminal Law Review*, 4(2), pp. 801-860. doi:10.1525/nclr.2001.4.2.801.

³ SG Kumar et al., Epidemiology of Mental Disability Using Indian Disability Evaluation Assessment Scale among General Population in an Urban Area of Puducherry, India, 64 *J Postgrad Med* 16 (2018),

⁴ Brendan D. Kelly, Multi-Level Protection of Rights: India's Mental Healthcare Act, 2017 and the United Nations' Convention on the Rights of Persons with Disabilities (Articles 12 and 14), 91 *International Journal of Law and Psychiatry* 101937 (2023),

- **Limited Access to Mental Health Services:** Limited access to mental health services is a significant issue, primarily due to inadequate funding, a shortage of mental health professionals, and insufficient awareness of available resources. This treatment gap leads to delayed intervention and care, often resulting in encounters with law enforcement during crises.
- **Being imprisoned:** Overcrowded prisons, limited personal space, lack of privacy, and high levels of noise and tension can lead to stress, anxiety, and feelings of being trapped, which can negatively impact mental well-being.
- **Violence and safety concerns:** The constant fear of physical harm or victimisation can contribute to anxiety, post-traumatic stress disorder (PTSD), and other mental health issues.

STATISTICAL DATA

Mental health is a crucial aspect of overall well-being, encompassing more than the absence of mental illnesses. In India, it presents a significant burden with considerable economic costs. The Mental Health Policy of 2014 and the Mental Healthcare Act of 2017 provide a rights-based framework for delivering mental health services, aligning with international standards. Efforts like the National Mental Health Programme and Health and Wellness Centres aim to provide care at the primary healthcare level. Multiple factors, including individual attributes and social, cultural, economic, and genetic factors, influence mental health. Raising awareness and creating an enabling environment is essential⁵. Comprehensive strategies encompassing promotion, prevention, treatment, and recovery are crucial for addressing mental health, emphasising the availability of cost-effective treatment at the primary healthcare level.

The World Health Organization (WHO) estimates that in India, the burden of mental health issues is measured at 2443 disability-adjusted life years (DALYs) per 100,000 population, with an age-adjusted suicide rate of 21.1 % per 1,00,000 population. The economic loss attributable to mental health conditions from 2012 to 2030 is estimated at USD 1.03 trillion⁶.

⁵ Mental health, <https://www.who.int/india/health-topics/mental-health> (last visited Oct 15, 2023).

⁶ Mental health, <https://www.who.int/india/health-topics/mental-health> (last visited Oct 17, 2023)

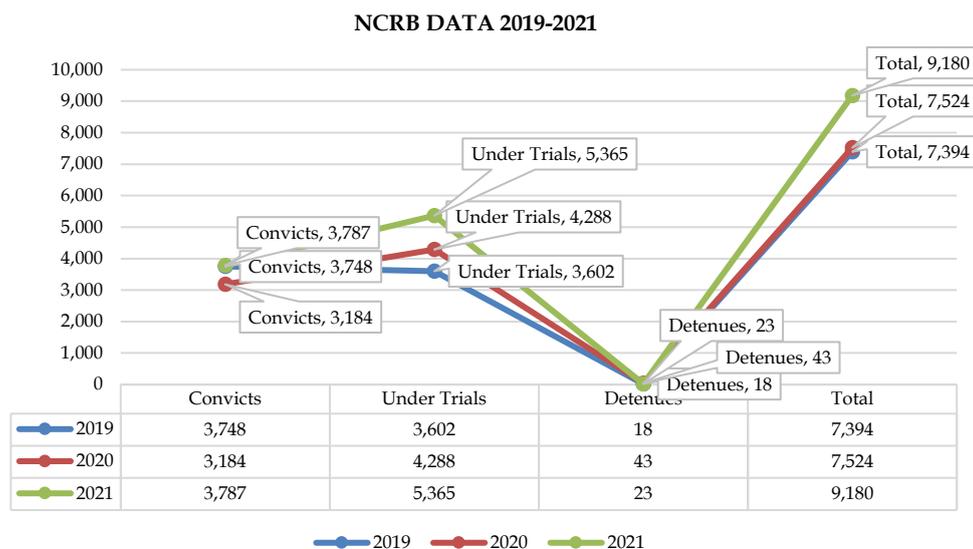


Fig 1.1

Moreover, as per the data from NCRB, it can be deduced that in December 2021, there were 9,180 individuals among the 5,54,034 inmates 41.3% (3,787) were convicted offenders, 58.4% (5,365) were undertrials, 0.3% (23) were detenues, incarcerated in various Indian jails who were identified as mentally ill. This constituted 1.7 % of the total inmate population, as per data provided by the National Crime Records Bureau (NCRB)⁷. In the previous year, 7,524 inmates were identified as mentally ill, comprising 1.5% of the 4,88,000 inmates as of December 2020. As per the *fig. 1.1*, which shows the data of Mentally Disable convicts, Undertrial and detenues that it can be inferred, that 2021 represented an increase from the previous years, with 7,524 mentally ill inmates out of a total of 4,88,511 in 2020 and 7,394 mentally ill inmates out of a total of 4,78,600 in 2019. Moreover the incidence of incarcerated individuals with mental health issues in the state has been consistently increasing⁸. This information emerged from the release of the '*Prison Statistics India 2020*' report⁹ by the National Crime Records Bureau (NCRB) on Monday. In 2020, Odisha had 696 mentally ill inmates, ranking second only to Uttar

⁷ 22% rise in number of mentally ill jail inmates: NCRB, The Times of India, Sep. 11, 2022, <https://timesofindia.indiatimes.com/india/22-rise-in-number-of-mentally-ill-jail-inmates-ncrb/articleshow/94124324.cms> (last visited Oct 17, 2023).

⁸ Odisha 2nd only to UP in number of prisoners with mental illness: NCRB, The Times of India, Dec. 27, 2021, <https://timesofindia.indiatimes.com/city/bhubaneswar/odisha-2nd-only-to-up-in-number-of-prisoners-with-mental-illness-ncrb/articleshow/88529902.cms> (last visited Oct 17, 2023).

⁹ Table 2.1 - 2020 - National Crime Records Bureau (no date) National Crimes Record Bureau. Available at: https://ncrb.gov.in/sites/default/files/psi_table_and_chapter_report/Table-2.1-2020.pdf (Accessed: 07 October 2023).

Pradesh, which had 1,507 incarcerated individuals with mental illnesses during the same period.

LEGAL APPROACHES AND INTERVENTIONS TOWARDS MENTAL HEALTH DISABILITIES AND CRIMINAL JUSTICE

India has made significant strides in developing legal approaches and interventions to address the complex intersection of mental health disabilities and the Indian Society¹⁰. These approaches and interventions aim to protect the rights and well-being of individuals with mental health disabilities while ensuring the overall integrity of the criminal justice process. Here are key aspects of legal approaches and interventions in India:

1. Mental Healthcare Act, 2017:

The Mental Healthcare Act 2017 stands as a seminal piece of legislation in India's efforts to reform the treatment of individuals with mental health disabilities within the Indian Society.

Key provisions include:

- **Decriminalisation of Suicide:** The Act decriminalises suicide, recognising it as a manifestation of mental distress and emphasising the need for mental health support and care¹¹.
- **Right to Access Mental Healthcare:** It establishes the right to access mental healthcare and treatment, underscoring the importance of mental health services for all, including those in the Indian Society.
- **Advance Directives:** The Act allows individuals to create advance directives specifying their treatment preferences, providing autonomy in decision-making even when mental capacity is compromised.
- **Mental Health Review Boards:** These boards are responsible for overseeing admissions, treatment, and discharges of individuals

¹⁰ Richard M. Duffy & Brendan D. Kelly, India's Mental Healthcare Act, 2017: Content, Context, Controversy, 62 International Journal of Law and Psychiatry 169 (2019),

¹¹ Saumya Kalia, Explained | Does India's Mental Healthcare Act, 2017 Protect Patients' Rights and Dignity in Institutions?, The Hindu, Feb. 16, 2023, <https://www.thehindu.com/sci-tech/health/explained-does-indias-mental-healthcare-act-2017-protect-patients-rights-and-dignity-in-institutions/article66503295.ece> (last visited Oct 17, 2023).

with mental health disabilities, including those within the Indian Society, ensuring their rights are protected¹².

2. Rights of Persons with Disabilities Act, 2016:

The Rights of Persons with Disabilities Act, 2016 is another significant piece of legislation that addresses the rights and protection of individuals with mental health disabilities¹³. Key provisions include:

- **Non-Discrimination:** The Act prohibits discrimination on the basis of disability and emphasizes equal opportunities, including within the Indian Society.
- **Access to Justice:** It recognizes the right of individuals with disabilities to access justice on an equal basis with others, ensuring that legal proceedings are accessible and accommodating¹⁴.

3. Police Training and Sensitization:

Efforts are ongoing to train law enforcement personnel in recognising and responding to individuals in crisis due to mental health issues. Crisis Intervention Teams (CIT) and specialised training programs aim to equip police officers with de-escalation techniques, diverting individuals away from incarceration when appropriate¹⁵.

4. Mental Health Professionals in the Indian Society:

Integrating mental health professionals within the Indian Society has been a key strategy. These professionals assist in mental health assessments, provide expert testimony, and contribute to decisions regarding treatment and rehabilitation¹⁶.

5. Legal Aid and Advocacy:

Legal aid organisations and advocacy groups play a crucial role in

¹² S. Ramlall, The Mental Health Care Act No 17 – South Africa. Trials and Triumphs: 2002-2012, 15 African Journal of Psychiatry 407 (2012)

¹³ Mr. Ajit Kumar Singh & Ms. Rachana Maurya, What We Can Get With Rights of Persons with Disabilities Act, 2016? , 6 The International Journal of Indian Psychology 164 (2018),

<https://ijip.in/wp-content/uploads/2019/03/18.01.215.20180603.pdf>.

¹⁴ Dr. P. Srinivasa Rao, RIGHTS OF PERSON WITH DISABILITY IN INDIA A STUDY, 10 International Journal of Marketing and Human Resource Management 12 (2019).

¹⁵ Major problems of prison system in India, The Times of India, <https://timesofindia.indiatimes.com/readersblog/shubham-kashyap/major-problems-of-prison-system-in-india-40079/> (last visited Oct 17, 2023)

¹⁶ Jaydip Sarkar, A New Mental Health Act for India : An Ethics Based Approach, 46 Indian J Psychiatry 104 (2004),

representing individuals with mental health disabilities within the Indian Society. They ensure that their rights are protected, advocate for fair treatment, and challenge any violations.

DIVERSION PROGRAMS AND ALTERNATIVE SENTENCING

Diversion programs and alternative sentencing strategies play a pivotal role in addressing the intersection of mental health disabilities and the Indian Society in India. These initiatives are designed to divert individuals away from traditional criminal justice processing and incarceration, instead focusing on rehabilitation, treatment, and support¹⁷. Here's an overview of their significance and implementation in the Indian context:

Benefits of Diversion Programs:

- **Reduced Recidivism:** Diversion programs have the potential to significantly reduce recidivism rates among individuals with mental health disabilities by addressing the underlying causes of their criminal behaviour.
- **Access to Treatment:** These programs ensure that individuals receive timely and appropriate mental health treatment, which may not have been available in traditional correctional settings¹⁸.
- **Decongestion of Prisons:** By diverting individuals with mental health disabilities away from prisons, these programs help alleviate prison overcrowding and reduce the strain on correctional facilities¹⁹.
- **Cost Savings:** Diversion programs can be more cost-effective than incarceration, as they focus on rehabilitation rather than long-term confinement.

INITIATIVES BY STATE GOVERNMENT IN INDIA

Apart from Delhi, numerous other states have implemented initiatives to assist inmates in addressing their mental health concerns. In Tamil Nadu, inmates have access to prison library resources and consultation with government hospital psychiatrists. Some states, such as Delhi and Tamil Nadu, offer yoga and meditation programs to promote prisoners' mental well-being, as reported by the National Crime Records Bureau (NCRB).

¹⁷ Adv.Sanjay Saraf, *Exploring Prisoners in India - Rights, Conditions, and the Quest for Justice*, 11 International Journal of Creative Research Thoughts 332 (2023).

¹⁸ Henry J. Steadman & Michelle Naples, *Assessing the Effectiveness of Jail Diversion Programs for Persons with Serious Mental Illness and Co-Occurring Substance Use Disorders*, 23 Behav Sci Law 163 (2005).

¹⁹ *Diversion: Where Public Safety and Mental Health Converge* | Laurier Online, (2022), <https://online.wlu.ca/news/diversion-where-public-safety-and-mental-health-converge> (last visited Oct 17, 2023)

In Uttar Pradesh, the Saharanpur district jail provides training to enhance the mental and economic well-being of inmates in various vocational fields. Gujarat has a year-round schedule of spiritual programs conducted by various NGOs and religious organisations²⁰.

LANDMARK DECISIONS

Over the years, several landmark legal decisions have significantly influenced the legal landscape concerning mental health disabilities and their intersection with the Indian Society. These decisions have established important precedents and principles. Below are a few pivotal cases that have had a substantial impact:

1. In this landmark judgment²¹, the Supreme Court recognized the right to speedy trial as a fundamental right under Article 21 of the Indian Constitution. The judgment emphasised the importance of addressing delays in criminal proceedings, which can disproportionately affect individuals with mental health disabilities.
2. This case²² highlighted the inhumane conditions prevailing in mental health institutions in India. The Supreme Court issued several directions to protect the rights and dignity of individuals with mental health disabilities, emphasizing the need for humane treatment and care.
3. In this case²³, the Supreme Court emphasized that the right to a fair trial includes the right to a fair investigation. The judgment is relevant in situations where individuals with mental health disabilities are involved in criminal cases and underscores the importance of a fair and impartial investigative process.
4. This case²⁴ dealt with the issue of custodial violence and the duty of the police to protect the rights and well-being of detainees. It underscores the importance of safeguarding the rights of individuals with mental health disabilities during detention and questioning by law enforcement.
5. This judgment²⁵ addressed the issue of overcrowding and inadequate conditions in mental health institutions in India. It emphasized the need for improving the infrastructure and care

²⁰ As Satyendar Jain gets medical bail, a look at the mental health landscape in India's prisons, cnbctv18.com (2023), <https://www.cnbctv18.com/healthcare/as-satyendar-jain-gets-medical-bail-a-look-at-now-prison-impacts-inmates-mental-health-16776231.htm> (last visited Oct 17, 2023).

²¹ Hussainara Khatoon v. Home Secretary, State of Bihar, 1979 AIR 1369

²² Sheela Barse v. Union Of India & Ors , JT 1988 (3) 15 (1988).

²³ Rajendra Prasad v. State Of Uttar Pradesh, 1979 AIR 916 (1979).

²⁴ Ranjit Singh vs. State of Punjab, (1998) 7 SCC 149 (1998).

²⁵ Shabnam Hashmi vs Union of India, AIR 2014 SC 1281.

provided to individuals with mental health disabilities in such institutions.

6. This case²⁶ highlighted the importance of considering the mental health status of an accused when determining culpability and sentencing. The judgment underscores the need for a nuanced approach to individuals with mental health disabilities in the Indian Society.

IDENTIFYING GAPS AND CHALLENGES

While India has made significant strides in addressing the rights and well-being of individuals with mental health disabilities, several limitations and challenges persist in the current legal approaches and policy reforms:

1. **Limited Access to Quality Mental Healthcare:** Despite legislative reforms emphasizing the right to access mental health care, there remains a substantial gap in the availability and accessibility of quality mental healthcare services, particularly in rural areas. Many individuals, especially those from marginalized communities, continue to face barriers in accessing timely and appropriate care²⁷.
2. **Stigmatisation and Discrimination:** Stigmatization and discrimination against individuals with mental health disabilities are deeply entrenched in Indian society. These attitudes persist despite legal reforms, and individuals may still face social ostracization, which can exacerbate their mental health issues.
3. **Resource Constraints:** The mental health sector in India suffers from resource constraints, including a shortage of mental health professionals, inadequate mental health infrastructure, and limited funding for mental health programs. This hampers the effective implementation of legislative reforms²⁸.
4. **Involuntary Admissions:** The Mental Healthcare Act, 2017, introduced safeguards against involuntary admissions to mental health institutions. However, challenges persist in ensuring that such admissions are genuinely voluntary and not influenced by

²⁶ Rajesh vs. State of Haryana, Criminal Appeal No. 93 of 2019 arising out of SLP (CRL.) No.8667 of 2016] (2019).

²⁷ Samiksha Pokhriyal et al., Application of Artificial Intelligence Based Techniques on Mentally Ill Prisoners, in 2023 International Conference on Advancement in Computation & Computer Technologies (InCACCT) 58 (2023), <https://ieeexplore.ieee.org/abstract/document/10141838> (last visited Oct 17, 2023).

²⁸ Jaya Parwani, Legal Aid in Indian Society, (2023), <https://papers.ssrn.com/abstract=4390677> (last visited Oct 11, 2023).

family members or others, raising concerns about the potential for coercion.

5. **Community-Based Care:** The shift toward community-based care and treatment, as mandated by the Mental Healthcare Act, is yet to be fully realized. In many cases, individuals with mental health disabilities still find themselves in institutional settings due to a lack of community-based services²⁹.

CONCLUSION

The intersection between mental health disabilities and the Indian Indian Society is a complex and pressing issue. This overrepresentation can be attributed to various factors, including societal stigmatisation, limited access to mental health services, and structural inequalities. These individuals often encounter misunderstanding and bias, resulting in their journey through a Indian Society that is ill-equipped to meet their unique needs.

In India, the burden of mental health issues is substantial, with a significant economic cost. The Mental Health Policy of 2014 and the Mental Healthcare Act of 2017 have introduced a rights-based framework to provide mental health services, aligning with international standards. National initiatives, such as the National Mental Health Programme and Health and Wellness Centres, aim to deliver primary healthcare-level mental health care.

India has made significant progress in implementing legal approaches and policy reforms. The Mental Healthcare Act, 2017, is a pivotal piece of legislation decriminalizing suicide and establishing the right to access mental healthcare. The Rights of Persons with Disabilities Act, 2016 prohibits discrimination and promotes equal opportunities within the Indian Society. Moreover, efforts to train law enforcement personnel in recognizing and responding to individuals in crisis, the integration of mental health professionals, and the role of legal aid and advocacy are enhancing the system's response to individuals with mental health disabilities.

However, challenges remain, including limited access to quality mental healthcare, deeply rooted stigmatisation and discrimination, resource constraints, involuntary admissions, and the need for the full realisation of community-based care. Addressing these challenges requires a collective effort to ensure that the rights and well-being of individuals

²⁹ Issues of Inmates Not Receiving Mental Health Treatment: A Prison-Based Counselor Perspective - ProQuest, <https://www.proquest.com/openview/162b48ad7fa2da0f14db39762f6a0d9d/1?pq-origsite=gscholar&cbl=18750&diss=y> (last visited Oct 17, 2023)

with mental health disabilities are upheld within the Indian Society. Legal and policy reforms must be rooted in fairness, justice, dignity, and respect for all individuals, fostering inclusivity and equity. India has the opportunity to take a leading role in ensuring a more compassionate, just, and humane Indian Society for all, including those with mental health disabilities.