PSYCHOLOGICAL AND LEGAL DIMENSIONS OF MENTAL HEALTH

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Abstract

Mental health plays a crucial role along with physical health in the development of an individual. The WHO constitution shows that Mental Health is of the most extreme significance to have a quality life. Notwithstanding, there are people with mental inabilities who in specific conditions can't settle on choices all alone. The psychological sickness keeps going long and essentially affects the existence of the person, which at times continues disintegrating with an expansion on schedule and age. The Mental Healthcare Act, 2017 marks a paradigm shift in India's approach to mental illness, particularly in cases of suicide, depression, and anxiety. By decriminalizing suicide attempts under Section 115, the Act reframes such behavior as severe stress requiring care, moving away from the punitive stance in Gian Kaur v. State of Punjab (1996). It aligns with psychological theories on stress, vulnerability, and stigma, aiming to reduce barriers to treatment and encourage help-seeking. However, infrastructural gaps, stigma, and professional shortages hinder its implementation, limiting its impact despite its progressive, rights-based aspirations.

Furthermore, the data suggest that more than 300 million individuals experience the ill effects of depression which is identical to 4.4 per cent of the absolute population of the world. As per a report led by the National Institute of Mental Health and Neurosciences, 1 of every 40 and 1 out of 20 individuals are experiencing past and current scenes of depression in India. Thus, considering these data, the article attempts to elucidate mental health in simple terms. It also puts forth how the ancient philosophies consider it. Further, taking into account the contemporary scenario, it talks about the Mental Healthcare Act, 1987 and the irregularities that popped out of it with time.

Keyword: Mental Health, Mental Healthcare Act 2017, Mentally Ill, Disabilities, Advanced Directives, Implementation Mechanisms

1.INTRODUCTION

"Just because no one else can heal or do your inner work for you, doesn't mean you can, should, or need to do it alone."
— Lisa Olivera

The times we are going through – the ongoing pandemic scenario made it important to again ponder over the issues and challenges posed by stress and anxiety on the mental health of an individual. The Constitution of the World Health Organization (hereinafter WHO) defines 'Health' as '*a state of complete physical, mental, spiritual and social well-being and not merely the absence of disease or infirmity*.'[1] WHO sees that mental wellbeing and prosperity are basic for assisting individuals with becoming creative and dynamic citizens in addition experience a meaningful and quality life.[2]

The definition provided by WHO depicts that Mental Health is of outrageous importance to have a quality life, nonetheless, there are individuals with mental insufficiencies who under specific conditions, do not have the capacity to settle on choices all alone. The psychological sickness continues to go and altogether affects the life (presence) of the person, which

[1] CONSTI. The World Health Organisation. Preamble (1946).

[2] *Ibid.*

sometimes goes on with crumbling the expansion of time and age.

In Indian philosophy, mental health is primarily seen side by side with spiritual practices. In a recent scenario, mental health is considered as a tripartite system comprised of cognition, conation, and effect. The Gita was the first philosophy to disclose these three parts of mental health as dhyana, karma, and ichcha.[3] The mind is an unsettling battlefield that gives rise to enormous emotions by controlling all bodily functions. Gita is a reply to all those questions that the mind of one can possess. The Gita in just one image of a chariot (as a body) with five horses (of sensation) reined (mind) by charioteer (intellect) and a passenger sitting at the back (soul), provides the solution to all mental problems by showing that utmost importance should be given to the mental well-being.[4]

Further, a study led by the National Care of Medical Health (NCMH) revealed in WHO advances that at least 6.5 per cent of the Indian population encounters different genuine mental disorders, with no recognisable rural-urban contrasts. There are diverse successful medicines, therapies and other treatments accessible to help the patients, however, the number of mental health workers like psychologists, psychiatrists, and doctors required is extremely less in number. As per a 2014 report, it was pretty much as low as 'one in 100,000 people.'[5] Moreover, in recent times, as a consequence of COVID-19, the psychological well-being of individuals is getting exacerbated, day by day. As per a recent 2020 study, 43 per cent of Indians are suffering from 'clinical depression.'[6]

The Mental Healthcare Act, 1987 provisions are coming up short in adapting to such situations. In addition, India in like manner needs to address the worldwide responsibilities towards mentally ill people that it had due to the Convention on Rights of Persons with Disabilities, signed in 2007. Accordingly, the government enacted a new Mental Healthcare Act, 2017 (hereinafter MHA or the Act) to determine the unaddressed issues of earlier legislation and offer effect to the provisions of the Convention signed.

2. COVID-19 & ITS EFFECT ON THE MENTAL HEALTH OF THE PEOPLE

During the coronavirus lockdown, the suicide rates,[7] domestic violence cases,[8] et al. rose steadily. The sole reason behind this increase in crime rate was the mental health issues that individuals encountered as a result of the Covid-19 pandemic. The pandemic forced everyone to share the same space and confined them in a 'hostile' home environment, which resulted in anxiety, stress, lack of motivation, and similar situations. Moreover, the problem further got aggravated with the lack of communication and interaction with friends and teachers. This can also be counted as one of the major reasons behind the increase in the suicide rate among students. Although there was an online medium to contact friends and teachers, yet the medium is not that comfortable during the initial days as well as even today meeting someone offline has a major psychological impact than online.

Studies reported that adolescents faced acute and chronic stress due to home confinement, having no access to sports/games/entertainment mechanisms except online mode, disruption of daily routine, excessive parental control and no access to friends, peer groups and teachers during the Covid-19 pandemic.[9] Further, the Covid-19 gave a push to Online mode as a result of which everything in the meantime migrated from offline to online. However, this further exacerbated

[3] Abhyankar, Ravi. Psychiatric thoughts in ancient India, MENS SANA MONOGRAPHS vol. 13, 1: 59-69 (2015).
[4] The meaning of the Chariot and charioteers in the Bhagavad Gita, Lallous' Lab (November 12, 2017), http://lallouslab.net/2017/11/12/the-meaning-of-the-chariot-and-charioteers-in-the-bhagavad-gita/.
[5] Kabir Garg, et al., Number of psychiatrists in India: Baby steps forward, but a long way to go, Indian Journal of Psychiatry, vol. 61,1: 104-105 (2019).
[6] 43% Indians suffering from depression: Study, The Times of India (Accessed on: July 28, 2020, 05:50 PM), available at: https://timesofindia.indiatimes.com/india/43-indians-suffering-from-depression study/articleshow/77220895.cms.
[7] Madhumitha Nanditale Sripad, et al. Suicide in the context of COVID-19 diagnosis in India: Insights and implications from online print media reports. Psychiatry Research, vol. 298: 113799 (2021).
[8] Nature-Wise Report of the Complaints Received by NCW in the Year: 2020, National Commission for Women, Government of India (2020), available at: https://164.100.58.238/frmReportNature.aspx?Year=2020.
[9] Suravi Patra & Binod Kumar Patro, COVID-19 and adolescent mental health in India, The Lancet Psychiatry, vol. 07, 12: 1015 (2020).

the scenario as individuals started excessively using social media increasing their screen time.[10] There are a plethora of well-documented studies that showcase that excessive use of social media and/or the internet results in an increased level of psychological arousal causing an arbitrary release of hormones that further lead to little sleep, limited physical activity, depression, anxiety, stress, bad family/social relationships and other such mental problems.[11]

Thus, this showcased the importance of mental health in day to day life of an individual. This makes it necessary to deliberate, discuss and analyse the Mental Health regime followed by India so as to decipher its lacunas and make it more compassionate towards mentally ill individuals.

3. LACUNAS IN THE MENTAL HEALTHCARE ACT, 1987

MHA 1987 came into power in 1993, supplanting the Indian Lunacy Act, 1912. It was divided into ten chapters consisting of 98 sections. The Act was not sufficient to cope up with the conditions. As a consequence, it faced severe criticism, since its inception.[12]

The rights of patients with mental illness to access medical healthcare were undermined in the Act. Moreover, it does not provide any proper equilibrium between the rights of the family and the state. With the inadequacy of resources for mental illness in the country, the sole weight for the treatment fell on the shoulders of the family of the patient. Definition of 'mental illness' does not contain mental retardation,[13] thus, large numbers of individuals with mental retardation requiring psychiatric intervention got no assistance under the provisions of the MHA 1987. The MHA 1987 also not include any provision for the emergency crisis intervention to help families caring for a mentally ill family member. Enrolment of strolling mentally ill patients also needed to be smoothened out. Under the act, the police personnel needed to be made more sharpened and responsible for working with confirmations of such patients to the hospital.

The serious loophole of the act was the assessment process for mentally retarded persons by the medical officers in the custodial care centres. The process was peremptory and unreasonable, which keeps the mentally ill persons into closed wards, amounting to the violation of the fundamental right to life and liberty of those persons.[14] Moreover, if this was not enshrined in the Act and made as a 'procedure established by law,' then it would have been considered as 'wrongful confinement,' punishable under Section 340, Section 342, Section 343, and Section 344 of Indian Penal Code (IPC).[15] Hence, the need of the hour was to have simple, fair, and effective legislation with easy access to medical facilities for patients suffering from mental illness. Consequently, to remove such intricacies, the government came up with the Mental Health Care Bill 2013 (enacted as MHA 2017).[16]

4.THE MENTAL HEALTHCARE ACT, 2017

"It is during the darkest moments that we must focus to see the light." – Aristotle

In a unanimous decision, the Lok Sabha, after due deliberation over the Mental Healthcare Bill 2013, passed the bill on March 27, 2017, which further got carried out on April 07, 2017, subsequent to getting the consent of the President of India.[17] As referenced above, the Mental Healthcare Act (MHA), 1987 contained a limited meaning of 'mental illness.' MHA, 2017 described it in a more extensive way as "*a significant*

[10] Jaffar Abbas, Dake Wang et al., The Role of Social Media in the Advent of COVID-19 Pandemic: Crisis Management, Mental Health Challenges and Implications, Risk Management and Healthcare Policy, vol. 14, 1917-32 (2021).

[11] Seyyed Salman Alavi, Mohammad Reza Maracy, et al., The effect of psychiatric symptoms on the internet addiction disorder in Isfahan's University students, Journal of research in medical sciences: the official journal of Isfahan University of Medical Sciences, vol. 16, 06: 793-800 (2011).

[12] Suresh Bada Math, Pratima Murthy & Channapatna R. Chandrashekar, Mental Health Act (1987): Need for a Paradigm Shift from Custodial to Community Care, The Indian Journal of Medical Research, vol. 133, 3: 246-9 (2011).

[13] The Mental Healthcare Act, 1987 § 2(l).

[14] INDIA CONSTI. art. 21.

[15] Indian Penal Code, 1860 §§ 340, 342, 343, 344.

[16] The Mental Healthcare Bill, Ministry of Law and Justice, Government of India (2013).

[17] The Mental Healthcare Bill, 2013, PRS Legislative Research, available at: https://prsindia.org/billtrack/the-mental-health-care-bill-2013, (Accessed on June 10, 2021).

disorder of thinking, mood, perception, orientation or memory that grossly impairs judgment, behaviour, ability to perceive reality or capacity to satisfy the conventional needs of life, psychological circumstances related to the abuse of alcohol and drugs, but does not include mental retardation which is a condition of captured or incomplete development of mind of a person, particularly characterized by sub- normality of intelligence."[18]

The MHA, 2017 defines itself as an "Act to accommodate for mental healthcare and services for individuals with mental illness and to ensure, advance and fulfil the rights of such persons during delivery of mental healthcare and services and for issues connected therewith or incidental thereto."[19]

The definition seems apt when we give a cursory glance to the Act as, under Chapter V, it provides various rights that were not available before to the mentally ill persons. The Act renders the right to access mental healthcare services to every mentally ill person.[20] Moreover, the MHA does not leave this right ambiguous as under Section 18(2), it further defines the right as "*it shall mean mental health services of moderate expense, of good quality, accessible in adequate amount, accessible geographically, without segregation based on gender, sexual orientation, religion, culture, caste, social or political convictions, class, disability or any other basis and provided in a way that is worthy to persons with mental illness and their families and guardians.*"[21]

It additionally puts the right as an obligation to the appropriate government that such administrations must be helpful, affordable, available, and of good quality. This Act likewise endeavours to give mentally obstructed individuals protection from inhumane treatment by cherishing the right to free legal aid as well as the right to complain in the case of deficiencies in provisions.[22]

The MHA gives different rights which were not before accessible to mentally ill persons through 1987 law like under Section 20 of the Act, it lays down the right to live in a safe and hygienic environment, not getting subjected to shaving off their head if not compulsory, wear their own clothes, have adequate sanitary conditions, etc.[23]

Chapter III of the Act gives arrangements to "Advance Directives," through which an individual or the representative of that individual can make a development directive towards the way he/she needs to be dealt with or not wants to be treated during the treatment methodology.[24]

The Act further gives the option to get to access medical records, the right to confidentiality, the right to equality and no segregation, the right to information, and others.[25] Furthermore, taking a step of paramount importance, the Act decriminalizes the attempt to suicide by mentally ill persons, which is considered a crime and dealt with under Section 309 of the Indian Penal Code (IPC).[26] The Act empowers a commitment on the state to restore mentally ill individuals who attempt to do accordingly and ensure that he/she probably won't endeavour in the future again.[27]

The act likewise keeps up with that electroconvulsive theory (ECT) shall not be administered to minors. Besides, it expresses that the ECT ought not to be utilized without the utilization of muscle relaxants and sedation on others.[28] The Act has additionally established a central authority along with state authorities in every state. All mental wellness institutes, as well as practitioners (mental health nurses, clinical psychologists, and psychiatric social workers), need to enlist themselves with these authorities.[29] Further, Section 100 of the Act provides a position to the police officers that they can take any mental person under protection if they found them meandering or in danger. The person taken under assurance should not be confined or kept in lockup. He ought to be subjected to assessment under a medical officer, and afterwards based on the report of that assessment either conceded to any medical establishment or his/her residence or an establishment of destitute persons.[30]

[18] The Mental Healthcare Act, 2017 § 2(s).
[19] The Mental Healthcare Act, 2017.
[20] The Mental Healthcare Act, 2017 § 18.
[21] The Mental Healthcare Act, 2017 § 18(2).
[22] The Mental Healthcare Act, 2017 §§ 27, 28.
[23] Raghav Tankha, Peace of Mind: An Examination of The Mental Healthcare Act Of 2017, Live Law (September 11, 2020, 04:39 AM), available at: https://www.livelaw.in/know-the-law/peace-of-mind-an-examination-of-the- mental-healthcare-act-of-2017-162746.
[24] The Mental Healthcare Act, 2017§ 5.
[25] The Mental Healthcare Act, 2017 §§ 21, 22, 23, 24, 25.
[26] Indian Penal Code, 1860 § 309.
[27] The Mental Healthcare Act, 2017 §§ 29, 115.
[28] The Mental Healthcare Act, 2017 § 95.
[29] The Mental Healthcare Act, 2017 §§ 65, 66.
[30] The Mental Healthcare Act, 2017 § 100.

The Act also imposes stringent penalties if someone commits any offence or acts in a contrary manner to the act. The act states that if someone establishes or maintains any mental health establishment without registering it to the state authorities, then he/she shall be liable to pay at least five thousand rupees, which may extend to fifty thousand rupees for the first time. Further, for the second contravention, he/she would have to pay a penalty of fifty thousand to two lakh rupees, which increases with every subsequent violation.[31] The seriousness of the Act, to deal with any sort of violation, can be clearly determined from Section 107(4), which lays down that "*if an individual fails to pay the amount of penalty, the State Authority might advance the order to the Collector of the district in which such individual possesses any property or lives or carries on his business or profession or where the mental health establishment is situated, and the Collector shall recover from such people or mental health establishment the amount indicated thereunder as if it were an arrear of land revenue.*"[32]

Further, for the individuals violating the provisions, the Act states that if someone contravenes the sections, then he/she will be awarded a punishment of up to six months or ten thousand rupees or both. Repeat offenders can attract something very similar for up to two years or a fine between fifty thousand to five lakhs or both.[33] The Act specifically lays down the provisions for the companies acting contrary to the legislation to be made liable and punished accordingly.[34]

Thus, the provisions mentioned clearly depict a holistic approach taken by the government in formulating the legislation. The much-awaited Act came as a beacon of hope for mentally disabled persons in a similar manner as denoted by Aristotle (mentioned above). However, the implementation of this Act would be a herculean task as merely putting forth the sections is just a quarter of the work. The government has also not released any implementation guidelines for the states and districts, thus, leaving a void for the state governments to fill themselves in the best suitable way they can. However, even after four years of the enactment hardly all provisions of the Act are implemented in its true spirit, which is discussed later succinctly in the analysis part of the article.

5. PSYCHOLOGICAL DIMENSIONS: SUICIDE, DEPRESSION, AND ANXIETY UNDER THE MENTAL HEALTHCARE ACT, 2017

The **Mental Healthcare Act, 2017 (MHCA)** marks a watershed moment in India's legal and psychological approach to mental illness. Unlike earlier frameworks that conflated mental health crises with moral weakness or criminality, the Act recognizes conditions such as **suicidal ideation, depression, and anxiety** as serious health concerns that require treatment, dignity, and rights-based protection. This shift reflects a broader integration of **psychological science with law**, aiming to move beyond punitive responses toward therapeutic interventions.

1. Decriminalization of Suicide: A Paradigm Shift

Section 115 of **the MHCA** is particularly significant, as it decriminalizes attempted suicide by presuming that any individual who attempts to take their life is under "severe stress." This directly challenges the earlier position under **Section 226 of the Bhartiya Nyay Sanhita, 2023**, which criminalized suicide attempts. The punitive stance had been upheld in *Gian Kaur v. State of Punjab* (1996)[35], where the Supreme Court rejected the argument that the "right to die" was a fundamental right under Article 21. However, the legal narrative evolved with *Common Cause v. Union of India* (2018)[36], where the Court recognized the **right to die with dignity** in the context of passive euthanasia. Together, these decisions illustrate a gradual but significant shift toward **compassion and autonomy in mental health jurisprudence**.

Psychologically, this decriminalization is crucial. Earlier, individuals who attempted suicide often faced not only social stigma but also criminal prosecution, further deepening their psychological trauma. With the 2017 Act, the emphasis has moved to **care rather than punishment**, thereby reducing barriers to disclosure and help-seeking. Research shows that when suicide is

[31] The Mental Healthcare Act, 2017 § 107.
[32] The Mental Healthcare Act, 2017 § 107(4).
[33] The Mental Healthcare Act, 2017 § 108.
[34] The Mental Healthcare Act, 2017 § 109.
[35] *Gian Kaur v. State of Punjab*, (1996) 2 SCC 648.
[36] *Common Cause v. Union of India*, (2018) 5 SCC 1.

decriminalized, there is a measurable increase in willingness to seek counseling and psychiatric care.[37]

2. Depression and Anxiety: Recognizing Hidden Epidemics

Depression and anxiety are among the most prevalent mental health disorders globally, and India is no exception. The **World Health Organization** estimated that nearly 56 million Indians suffer from depression and 38 million from anxiety disorders.[38] These conditions are strongly correlated with suicidal ideation, substance abuse, and social withdrawal. By mandating access to affordable and quality care, the MHCA attempts to reduce the treatment gap—estimated at over **70–80% for common mental disorders** in India.[39]

From a psychological perspective, the Act aligns with the **stress-vulnerability model**, which posits that individuals with biological predispositions or psychosocial vulnerabilities may experience mental disorders when exposed to significant stressors. Depression and anxiety, when untreated, often escalate into suicidal behavior. By ensuring legal recognition of mental illness and affirming the right to treatment, the Act provides a framework for early intervention and psychological support.

3. Stigma and Help-Seeking Behavior

One of the greatest barriers to effective mental health care in India has been **stigma**. Drawing on **Erving Goffman's stigma theory (1963)[40]**, mental illness has long been perceived as a mark of personal failure or weakness, leading to shame and concealment. This stigma was reinforced by the criminalization of suicide, which suggested that mental suffering was not only deviant but also punishable.

The MHCA, however, seeks to dismantle this stigma by framing mental illness within a rights-based discourse. Section 18 of the Act guarantees every person the right to access mental health care without discrimination, while Section 21 affirms the right to live with dignity. Psychologists note that such legal recognition has symbolic value—it reframes mental illness as part of **public health** rather than **personal failing**.[41] Importantly, the Act also legitimizes the role of **psychological counseling, community-based interventions, and psychiatric treatment** in recovery.

4. Challenges in Implementation: The Psychological Reality

Despite these progressive aspirations, significant challenges remain in translating the law into practice. India continues to face a severe shortage of trained professionals—estimates suggest fewer than **1 psychiatrist per 100,000 population**.[42] This creates a psychological gap: while the law guarantees access, the reality is that individuals with depression, anxiety, and suicidal ideation often remain untreated.

Moreover, cultural attitudes toward mental illness, especially in rural areas, continue to hinder the uptake of services. The **health-seeking behavior model** illustrates that individuals are more likely to seek medical assistance when barriers such as cost, stigma, and accessibility are reduced. However, for many Indians, these barriers remain firmly in place despite the MHCA's promises.

5. Integrating Law, Psychology, and Public Health

Ultimately, the MHCA, 2017 represents a step toward harmonizing **legal reform with psychological insight**. By decriminalizing suicide, ensuring the right to mental health care, and addressing depression and anxiety as legitimate health concerns, it lays the groundwork for a compassionate system. Yet, as mental health professionals emphasize, true progress depends on **integrating psychological interventions, awareness campaigns, and infrastructural support** into the law's implementation.

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[37] Kumar, S., & Mohan, A. (2019). Suicide in India: Decriminalization and the Mental Healthcare Act, 2017. *Indian Journal of Psychiatry, 61*(6), 617–620.

[38] World Health Organization. (2023). *Depression and other common mental disorders: Global health estimates*. Geneva: WHO.

[39] Patel, V., Xiao, S., Chen, H., Hanna, F., Jotheeswaran, A. T., Luo, D., ... & Saxena, S. (2018). The magnitude of and health system responses to the mental health treatment gap in adults in India and China. *The Lancet, 388*(10063), 3074–3084.

[40] Goffman, E. (1963). *Stigma: Notes on the management of spoiled identity*. Englewood Cliffs, NJ: Prentice-Hall.

[41] Rao, T. S. S., & Avasthi, A. (2017). Role of the Mental Healthcare Act, 2017 in reducing stigma and improving access to mental health services. *Indian Journal of Social Psychiatry, 33*(3), 173–176.

[42] Gururaj, G., Varghese, M., Benegal, V., Rao, G. N., Pathak, K., Singh, L. K., ... & NMHS Collaborators Group. (2016). *National Mental Health Survey of India, 2015–16: Prevalence, patterns and outcomes*. NIMHANS Publication.

As India continues to grapple with rising mental health issues, the Act's real success will be measured not merely by its legal text but by its ability to **normalize psychological suffering, reduce stigma, and make timely care accessible to all**. The aspiration is clear: to transform mental health from a hidden crisis into a public priority, where individuals experiencing depression, anxiety, or suicidal ideation are met with empathy, care, and dignity.

6. ANALYSIS OF THE ACT

The provisions of the Act show that it is outlined with the end goal of giving all-encompassing advancement to deranged people. In any case, the execution is a difficult task, which government needs to act in a genuine way. Albeit the Act contains different arrangements identified with the framework, the mental infrastructure in India isn't sufficient. As stated by WHO that India, India has a huge shortage of psychiatrists and psychologists in contrast to the number of people suffering from mental health issues. It further says that in India, there are only 0.3 psychiatrists, 0.12 nurses, 0.07 psychologists, and 0.07 social workers available (per 100,000 population), while anything above three psychiatrists and psychologists per 100,000 population is the advantageous number.[43]

About 7.5 per cent of Indians experience the ill effects of some psychological issue. Also, the WHO predicts that roughly 20 per cent of India will suffer from mental illnesses by end of 2020. As indicated by the numbers, around 56 million Indians experience the ill effects of clinical depression, and another 38 million Indians suffer from anxiety disorders.[44] Further, the Lancet contemplates suggesting that the contribution of India to worldwide suicide deaths increased from 25.3 per cent in 1990 to 36.6 per cent in 2016 among women and from 18.7 per cent to 24.3 per cent among men.

Accordingly, to curb such data, the provisions of MHA might play a crucial role if exposed to viable execution. The Act provides that every district and sub-district should have to constitute and avail the services to mentally ill persons. As already stated, the infrastructure is not of that level, and further, this provision might overburden the state's depository. Thus, it's the obligation of the central government to work with the states in establishing the same instead of leaving it in their hands or even if the government has left it on the states to implement the Act in a true sense with an intention that they might come up with much better plans, then it should at least keep a check on their working and provide them adequate required assistance time to time.

Mentally ill persons likewise face segregation in India. A study directed with the example of five metropolitan cities of India revealed that there is a critical presence of perceived shame of mental illness with more significant levels of disgrace among female members.[45] Further, mentally disabled people were also considered as 'lunatics' by society regardless of the problems from which they were suffering, which makes people shameful and introverted.[46] To curb such discrimination and stigmatization associated with it, the Act incorporates the provision to create awareness about psychological well-being and illness, which is a much-appreciated provision.[47] The state governments can also take the assistance of district legal services authorities (DLSA), Accredited Social Health Activist (ASHA) workers, municipal corporations, panchayats, and other local bodies that can work door-to-door at ground level in raising awareness about the rights of mentally disabled persons and facilities that government provides to them.

The 2017 MHA formulates various provisions, but it fails to provide any guidelines or rules to implement them effectively. The Act delineates the duties to be rendered

[43] Anisha Bhatia, World Mental Health Day 2020: In Numbers, The Burden of Mental Disorders in India, NDTV India (October 09, 2020, 08:30 PM), available at: https://swachhindia.ndtv.com/world-mental-health-day-2020- in-numbers-the-burden-of-mental-disorders-in-india-51627/.

[44] *Id.*

[45] Kerem Boge, Aron Zieger, Aditya Mungee, et al., Perceived stigmatization and discrimination of people with mental illness: A survey-based study of the general population in five metropolitan cities in India, INDIAN Journal of Psychiatry 60:24-31 (2018).

[46] Ramon Llamba, What India must do to solve its mental health crisis? The Economic Times (February 26, 2020, 01:10 PM), available at: https://health.economictimes.indiatimes.com/news/industry/what-india-must-do-to- solve-its-mental-health-crisis/74314862.

[47] The Mental Healthcare Act, 2017 § 30.

by the state within a specific time limit, but it does not provide what would be the consequences of any state government failing to perform those duties within provided stipulated time. For instance, Section 45 provides a span of nine months for the re-establishment of a new State Mental Health Authority as per the new law and rules, but what if the government does not work within that period, as demonstrated above how the Delhi government failed in doing so?

Furthermore, the Act lays down the duties of the police officers under Section 100 for the protection of mentally disabled persons, but it does not provide any cushion to the problem that if those police officers neglect or omit their duty or contravene with the procedure laid down, then what would be the remedy for those helpless persons. The government should at least lay down a procedure to duly investigate the complaints filed against police officials or any such authority that might act contrary to the provision of law. Thus, merely writing down and enacting the provisions won't serve the purpose unless checks and balances are duly maintained among the authorities.

7. CONCLUSION

The article endeavoured to delineate the lacunas present in the implementation mechanism of the Act and put forth some recommendations and suggestions necessary to be given due consideration for the effective implementation of the Act. Among various realms of health, mental health has been given the least consideration in India. Worldwide, around 8 lakh people die each year as a result of mental health issues, and nearly 264 million people of all ages still continue to suffer the same.[48] India, with the highest number of people suffering from mental health issues, serves as a home for at least 57 million mentally ill people, according to WHO.[49] The laziness in the functioning of government-backed with other external factors such as COVID-19 (+lockdown), etc., exacerbates the situation leaving mentally ill persons at the mercy of society, which presumes them as 'lunatics' or makes their fun instead of realising their pain.

Awareness campaigns to raise Mental Health Literacy are need of the hour, which has already been enshrined as a provision under the Act. The long-desired bill came into force in 2017 after its first introduction in 2013; let us hope the effective implementation of the Act, along with the deletion of its shortcomings, might not take such a long time as already four years have passed. Thus, ending the article with an optimistic note, the authors would like to quote Noam Shpancer, an Israeli professor of psychology –

"Mental health…is not a destination, but a process. It's about how you drive, not where you're going."

[48] Mind over matter: India's mental health policy, The Hindu (November 30, 2020, 04:29 PM), available at: https://www.thehindu.com/brandhub/mind-over-matter-indias-mental-health-policy/article33212760.ece.

[49] *Id.*