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## **RIGHTS OF MENTALLY ILL PERSONS: NATIONAL AND INTERNATIONAL PERSPECTIVE**

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### **INTRODUCTION**

Every human being is endowed with the right to health at birth. It has something to do with the body, the mind, and the surroundings. Being a dynamic phenomenon, it fluctuates and changes within the multi-dimensional physical, mental, and social factors that contribute to its emergence. In truth, every society has its own conception of what constitutes "healthy" behaviour. Determining what constitutes good health might be challenging to do correctly. Health can mean different things to different people. The World Health Organization (WHO) has endeavoured to define health positively, describing it as a state of complete physical, mental, and social well-being, rather than simply the absence of disease or infirmity. In the eyes of the World Health Organization, health includes all aspects of one's physical, mental, and social well-being. Physical health relates to a person's ability to fulfil physiological functions, whereas mental health refers to a person's ability to function at his or her peak level of performance. In order to live in harmony with one's fellow men, it is necessary for an individual's personality and emotional attitudes to develop in a balanced manner. This is described as the balanced development of an individual's personality and emotional attitudes, respectively.

### **HUMAN RIGHT TO HEALTH AT THE INTERNATIONAL LEVEL**

Article 25 of the Universal Declaration of Human Rights states, "Everyone has the right to a standard of living adequate for the health and well-being of himself and his family, which includes food, clothing, housing, medical care, and other necessary social services, as well as the right to financial security in the event of unemployment, sickness, disability, widowhood, old age, or other calamity." A standard of living appropriate for the health and well-being of oneself and one's family is guaranteed to everyone. This includes the right to adequate food, clothing, shelter, and medical treatment. Each and every human being has the fundamental right to enjoy the "maximum attainable degree of health," as stated in the preamble of the World Health Organization constitution. International Agreement on Economic, Social and Cultural Rights Article 12 states that the parties to this covenant recognise everyone's fundamental right to bodily and mental health. To the extent that parties have recognised that a mentally or physically disabled child should be able to live a full and decent life, or that a disabled child has the right to special care, they must encourage and ensure its extension to all eligible children, as well as the exchange of appropriate information in this field, as stipulated by the Article 23 of the 1989 United Nations Convention on the Rights of the Child.

### **RIGHT TO HEALTH UNDER THE INDIAN CONSTITUTION**

As far as health rights are concerned, health is the most crucial issue to be addressed in India, as well as throughout the world. The Indian Constitution not only ensures that the people's health needs are met, but it also directs the government to take steps to improve the overall quality of health care provided to the people of the nation. When viewed in conjunction with Articles 39(e), 41, and 47, the right to health and medical care is established as a basic right under the Constitution. The fact that it is vital for making one's life meaningful and worthwhile while maintaining one's dignity. According to the Supreme Court of India, in the case of Consumer Education and Research Centre v Union of India, the right to health and medical treatment is a basic right under Article 21 of the Indian Constitution, which had previously been affirmed by the Court of Appeal for Delhi. In the case of State of Punjab v. Mohinder Singh, which was decided earlier this year, the Supreme Court ruled that it is now established law that the right to health is an integral part of the right to life. Provision of health-care facilities is a constitutional obligation on the part of the federal and state governments. The Supreme Court held in the case of Parmanand Katara v U.O.I that authorities in charge of community health, regardless of whether the patient was innocent or guilty of a crime, have an obligation to maintain the patient's life and prevent him or her from succumbing to their injuries. According to the Indian Constitution, holding non-criminal mentally ill individuals in jails is illegal and unconstitutional, as determined by the Supreme Court of India in the case of Sheela Barse v



Union of India and others. The outcome is that India has a fundamental right to health and medical treatment under Article 21 of the Constitution of India and under Articles 39(e) and 47 of the Directive Principles of state policy to maintain the health of its inhabitants.

### **PROTECTING THE RIGHT OF THE MENTALLY ILL**

The availability, accessibility, acceptability, and quality of mental health services are the most important obligations and parts of the right to health of mentally ill people who require special care and attention both at home and in a hospital setting. The obligation for providing exceptional care and treatment falls on the shoulders of those who provide it. The mental health sector, which is governed by legislation, relies significantly on institutionalised care, in which ill people can enter the institution of their own free will but are unable to exist on their own free will because of their illness. In India, the mental health industry is confronted with a number of unique obstacles that must be overcome. Persons suffering from mental illness have traditionally been regarded as individuals from whom society must be shielded in order to maintain order. Because of this, it is important to note that both the previous Indian Lunacy Act of 1912 and its reincarnation in the Present Mental Health Act of 1987 dealt primarily with the institutionalisation of mental health care patients. As a result, the majority of court disputes involving mental health care have revolved around the circumstances of these institutions.

#### **1. Right to speedy trial of mentally ill under trial persons**

Mentally ill people, like everyone else, have the fundamental right to obtain mental health care and to live in humane conditions in mental institutions. A number of under trials had been detained in jail for extended periods of time without being tried. In *Hussainara Khatoun v. State of Bihar*, the Supreme Court found that a speedy trial was an essential and integral aspect of the fundamental right to life and liberty guaranteed by Article 21 of the Constitution. In the case of *Veena Sethi v. State of Bihar*, the Supreme Court was notified via letter that several inmates who had been deemed 'crazy' at the time of their trial but had afterwards been declared 'sane' had not been released and had been held in prison for 20 to 30 years before being finally released. Given the importance of protecting the citizen's right to life and liberty against governmental lawlessness, the court ordered that they be released as soon as possible. A number of cases have come to light where mentally ill persons who have been facing trial for an offence have been undergoing incarceration for long period.

#### **2. Human Rights for persons with Mental Illness**

It is the responsibility of every central and state government, as well as other related authorities, to ensure that its people have a safe environment, human conditions, and a place to live, while also protecting their rights. In *Chandan Kumar Banik v. State of West Bengal*, the Supreme Court expressed concern about the inhumane conditions that the mentally ill were subjected to at the mental hospital in Mankundu, in the district of Hooghli. The Court ordered that the practise of tying the patients up with iron chains be discontinued, and that they be provided with medication to alleviate their suffering. When a fire broke out in the middle of the night in August 2001, the inmates of Erwadi were unable to escape because of the disparity between state and private authorities. The result was the tragic loss of 25 detainees. The subject of the rights of inmates of mental asylums was highlighted in the case of *Re. v. U.O.I.*, which involved the death of 25 chained inmates in an asylum fire. The Supreme Court ordered the state to put the requirements of the Mental Health Act of 1987 into effect and to conduct a survey of all institutions that provide mental health services. On the basis of this order, the Union of India is directed to conduct an all-India survey with a view to identifying registered and on-registered asylums, and to assess the conditions provided in such asylums. In the case of *Rakesh Chandra Narayan v. State of Bihar*, the court ruled that The Supreme Court judged the conditions at Ranchi mental hospital to be alarming and inhumane, and as a result, it created a committee to oversee the facility's appropriate operation and handling of cash. Furthermore, the Court directed that mental health facilities be modelled after the National Institute of Mental Health and Neurosciences (NIMHANS), which is located in Bangalore.

In the case of *Dr. Upendra Baxi v. State of Uttar Pradesh*, the Supreme Court was asked to uphold the human rights of women who resided in state-run protection homes for the disadvantaged. To this end, the court ordered that an examination be conducted by a medical panel at the Agra prison and that a report be submitted. The According to the report, 33 out of 50 detainees had varying degrees of mental incapacity and had not been checked at the time of their admittance, according to the report. The court suggested that psychiatric treatment be offered to mentally ill detainees, with a record of the time and site of the treatment being kept on file as evidence of compliance.

Following these visits, inspections, and reviews, a number of qualitative changes and improvements in the general work environment, management, and quality of care have occurred in these institutions as a result of the findings and recommendations. The National Human Rights Commission (NHRC) can only act as a promoter, facilitator, and catalyst in the fight for human rights. The monitoring system has been used as a tool for the correction and promotion of the human rights of mentally ill people up to this point. .



## CONCLUSION

According to the discussion above on the right to health care and mental health care in India, it is clear that the right to health is a fundamental right protected by Article 21 of the constitution, and that the state should provide and ensure that this right to health is protected for all, regardless of religion, caste, race, colour, or sexual orientation, among other things. This right to health is also protected by the Directive Principles of State Policy of India. In addition to this, the Mental Health Act of 1987 (MHA) has a number of measures pertaining to mentally ill people and their protection. In this sense, the Mental Health Act of 1987 plays a critical role in the legal system. Despite all of this, the Mental Health Act of 1987 does not establish criteria to ensure that minimal requirements are met in mental health institutions. It has resulted in an increase in the number of public interest lawsuits being filed by concerned persons and organisations, all aimed at attracting the Supreme Court's notice to the horrific circumstances that are commonly seen in mental health institutions. However, the Mental Health Care Act of 1987 (now in draught form) is going to be replaced by the Mental Health Care Act of 2013 (currently in draught form). It has been prohibited to employ Electro Convulsive Therapy (ECT) and to shackle mentally ill people under the provisions of this New Bill. The Mental Health Care Bill, 2013, has been proposed by the Parliament, with minor modifications, as amended. Each year, according to ministry officials, the centres of excellence in mental health will add 44 psychiatrists, 177 clinical psychologists, 176 psychiatric social workers, and 220 psychiatric nursery beds to their roster of services.

As part of the 12th plan, the ministry intends to establish counselling services in colleges where a considerable proportion of the student body is affected by psychiatric disease. There are approximately 29 state-run mental institutions and 88 psychiatric wings in government-run hospitals in the United States. Colleges are also being brought up to date.

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