



Role and Responsibilities of Police in Mental Healthcare Administration

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Abstract

The Mental Health Care Act 2017 in India was approved on April 7, 2017, and it became effective on May 29, 2018. The act essentially made suicide attempt, which was illegal under Indian Criminal Code Section 309, no longer a crime. An Act to Provide for Mental Healthcare and Services for Persons with Mental Illness and to Protect, Promote, and Fulfill the Rights of Such Persons during the Delivery of Mental Healthcare and Services and for Matters Connected Therewith or Incidental Thereto was how the law was described in its opening paragraph. The Mental Health Act of 1987, which was passed on May 22, 1987, was replaced by this Act. Mental Healthcare Act comprises of XVI chapters which have 126 sections all together. In this article we will discuss about the duties and role of police officers of the concerned state which is dealt with in the chapter XIII and sections (100-105) in the Mental Healthcare Act, 2017.

Keywords: mental healthcare act, mental illness, Indian criminal code, Judiciary.

Introduction:

People with mental illnesses are, or can be, especially vulnerable to abuse and violations of their fundamental rights. In order to limit their vulnerability to abuse by family members, carers, professionals, friends, fellow citizens, and law enforcement authorities, it is necessary that a protective mechanism be in place. In order to guarantee sufficient, adequate, timely, and humane

health care services, legislation is a crucial first step. Additionally, it aids in defending the human rights of underprivileged, outcast, and defenseless populations. This is a sign of a civilized society since it shows strong values, morals, attitudes, culture, traditions, customs, aspirations, and practices and respects and cares for its disabled and marginalized inhabitants. The primary goal of

mental health legislation should be to safeguard, advance, and enhance the lives and mental health of its constituents. Mental health care is a crucial subject that needs suitable regulation in the indisputable premise that every society needs laws in many sectors to protect the welfare of its citizens.

In relation to health care, the ideas of hard law and soft law have been used. The Mental Health Act of 1987, the Disability Act of 1995, the National Trust Act of 1999, the Human Rights Act of 1993, and other relevant laws are hard laws connected to mental health legislation. They have robust enforcement procedures in place to keep an eye on the infringers, and quite frequently, the infringers face harsh penalties, including fines and imprisonment, if not both. The term "soft laws" is used to describe mental health policies and programmes. These "soft laws" offer instructions for greater care quality, but frequently they serve only to demonstrate how international and national frameworks are used.

Laws Regulating Mental Health Treatment:

The original intent of the mental health laws was to protect the public by isolating dangerous persons from it. This was largely due to the lack of or limited therapeutic options at the time. However, in the modern world there has been a paradigm change from custodial care to community care and from a charity-based to rights-based approach because of the following factors.

1. proactively enacting laws;
2. improvements in medical technology for diagnosing and treating mental problems;
3. promoting human rights;
4. 'health' as defined by the World Health Organization (WHO) is more inclusive and comprehensive;
5. a fresh viewpoint on the treatment of mental diseases has been provided, and this has prompted a revision of mental health legislation. Promotive, preventative, curative, rehabilitative, and disability mitigation components of health have also contributed to this;

This paradigm shift needs to be reflected in the mental health legislation since it affects both those who have mental illnesses and those who manage or treat them. These laws will ultimately serve as a guide for the treatment of those with mental illness.

The following are the primary issues covered by international mental health laws:

- a) human rights and the rights of those who are mentally ill,
- b) the standard of mental health care,
- c) using administrative and financial controls, and
- d) the organization and management of mental health care services with consumer engagement and involvement.

Regarding India's laws governing mental health, there have been substantial improvements. Numerous laws, rules, and regulations pertaining to the rights of people with mental illnesses exist in addition to those governing mental health. Involvement with the law is highly likely to happen to those with mental illnesses. Therefore, procedural laws and criminal laws awarding remedies, setting procedures, punishing individuals, etc., also need to have a pertinent perspective for those suffering from mental illness. No justice can be served if they are not present. The concepts of criminal law, tort law, etc. are particularly pertinent. There is, of course, a more fundamental question that needs to be addressed: to what extent can law be used as a means of delivering mental health services to those who need them most. The significance of "soft laws" is revealed in this situation. The needy in this situation are cared for in large part thanks to the mental health programme.

Policy Regarding Mental Health Care:

The National Mental Health Programme is regarded as the driving principle for the delivery of mental health treatment in India even though the country does not have a dedicated mental health policy. The National Mental Health Programme (NMHP) and national mental health policy are thus utilized

synonymously in this study. To address the requirement of widely prevalent mental diseases, the Ministry of Health and Family Welfare, Government of India, established a Policy Group in 2011 to develop a National Mental Health Policy and Plan. Numerous psychiatric epidemiological studies conducted throughout India have shown how common all sorts of mental illnesses are. In India, the prevalence of mental diseases ranges from 9.5 to 370 per 1000 people. This issue is made even more difficult by India's flagrant disregard for mental illnesses for a number of reasons, which include;

- a) stigma,
- b) insufficient funding for mental health services and
- c) severe lack of qualified mental health professionals.

When it comes to the proper delivery of mental health care services, a wide range of other social, cultural, and religious variables are also very important. The stigma associated with mental illness, myths about its causes, its course, and beliefs about its treatments and its side effects all contribute to the complexity.

India was one of the few developing nations to create a National Mental Health Programme in response to the aforementioned issues. A National Mental Health Programme for India (NMHP) was established and recommended for implementation by the Central Council of Health and Family Welfare (CCHFW), the top policy-making body in the country's health sector, as early as 1982¹¹. This NMHP was proactive and served as an example for how to include mental health services into primary healthcare. An Expert Committee assembled by the World Health Organization (WHO) strongly supported this approach of integrating mental health within primary care services. Sadly, not much has changed in the area of mental health care in India in the more than three decades following this momentous adoption of NMHP.¹³ There was a discussion on whether the NMHP's principal strategy, which integrated mental health and

primary care, was the best course of action. The Lancet Global Mental Health series conducted a thorough and authoritative examination of the state of mental health care globally in 2007 to address this topic.

The NMHP supports community-based therapy, but it does not address the challenges of people with mental illness who are housed in institutions. The adopted policy touches on the integration of mental health programmes in primary care and general healthcare settings, but it ignores the problems with consent, admission, treatment, and guardianship. Furthermore, it is a serious worry because there is no regulation of the execution of the mental health policy. However, the passed Mental Health Act of 1987 has no mention of prevention, promotion, treatment, or rehabilitation in community settings and exclusively addresses care in mental institutions. The current mental health legislation and mental health policy are completely uncoordinated. Only a few attempts have been made to meaningfully coordinate the policy with the Mental Health Act of 1987. The limitations of laws in addressing social issues are recognised at the same time.

Before people with mental illnesses are given the same rights as other members of society, they must first cope with a number of other social challenges in addition to medical and legal concerns.

Responsibilities of Police Officers and other agencies under Chapter-XIII, Sections (100-105) of Mental Healthcare Act, 2017:

Article (100)-Every officer in-charge of a police station shall have a duty-

- (a) to take under protection any person found wandering at large within the limits of the police station whom the officer has reason to believe has mental illness and is incapable of taking care of himself; or
- (b) to take under protection any person within the limits of the police station whom the officer has reason to believe to be a risk to himself or others by reason of mental illness.

1. The officer in-charge of a police station shall inform the person who has been taken into protection under sub-section (1), the grounds for taking him into such protection or his nominated representative, if in the opinion of the officer such person has difficulty in understanding those grounds.
2. Every person taken into protection under sub-section (1) shall be taken to the nearest public health establishment as soon as possible but not later than twenty-four hours from the time of being taken into protection, for assessment of the person's healthcare needs.
3. No person taken into protection under sub-section (1) shall be detained in the police lock up or prison in any circumstances.
4. The medical officer in-charge of the public health establishment shall be responsible for arranging the assessment of the person and the needs of the person with mental illness will be addressed as per other provisions of this Act as applicable in the particular circumstances.
5. The medical officer or mental health professional in-charge of the public mental health establishment if on assessment of the person finds that such person does not have a mental illness of a nature or degree requiring admission to the mental health establishment, he shall inform his assessment to the police officer who had taken the person into protection and the police officer shall take the person to the person's residence or in case of homeless persons, to a Government establishment for homeless persons.
6. In case of a person with mental illness who is homeless or found wandering in the community, a First Information Report of a missing person shall be lodged at the concerned police station and the station house officer shall have a duty to trace the

family of such person and inform the family about the whereabouts of the person.

Article-101 Report to Magistrate of person with mental illness in private residence who is ill-treated or neglected-

1. Every officer in-charge of a police station, who has reason to believe that any person residing within the limits of the police station has a mental illness and is being ill-treated or neglected, shall forthwith report the fact to the Magistrate within the local limits of whose jurisdiction the person with mental illness resides.
2. Any person who has reason to believe that a person has mental illness and is being ill-treated or neglected by any person having responsibility for care of such person, shall report the fact to the police officer in-charge of the police station within whose jurisdiction the person with mental illness resides.
3. If the Magistrate has reason to believe based on the report of a police officer or otherwise, that any person with mental illness within the local limits of his jurisdiction is being ill-treated or neglected, the Magistrate may cause the person with mental illness to be produced before him and pass an order in accordance with the provisions of section 102.

Article-102 Conveying or admitting person with mental illness to mental health establishment by Magistrate-

1. When any person with mental illness or who may have a mental illness appears or is brought before a Magistrate, the Magistrate may, order in writing
 - (a) that the person is conveyed to a public mental health establishment for assessment and treatment, if necessary and the mental health establishment shall deal with such

person in accordance with the provisions of the Act; or

- (b) to authorize the admission of the person with mental illness in a mental health establishment for such period not exceeding ten days to enable the medical officer or mental health professional in charge of the mental health establishment to carry out an assessment of the person and to plan for necessary treatment, if any.
2. On completion of the period of assessment referred to in sub-section (1), the medical officer or mental health professional in charge of the mental health establishment shall submit a report to the Magistrate and the person shall be dealt with in accordance with the provisions of this Act.

Article-103 Prisoners with mental illness-

1. An order under section 30 of the Prisoners Act, 1900 (3 of 1900) or under section 144 of the Air Force Act, 1950 (45 of 1950), or under section 145 of the Army Act, 1950 (46 of 1950), or under section 143 or section 144 of the Navy Act, 1957 (62 of 1957), or under section 330 or section 335 of the Code of Criminal Procedure, 1973 (2 of 1974), directing the admission of a prisoner with mental illness into any suitable mental health establishment, shall be sufficient authority for the admission of such person in such establishment to which such person may be lawfully transferred for care and treatment therein:

Provided that transfer of a prisoner with mental illness to the psychiatric ward in the medical wing of the prison shall be sufficient to meet the requirements under this section:

Provided further that where there is no provision for a psychiatric ward in the medical wing, the prisoner may be transferred to a mental health establishment with prior permission of the Board.

2. The method, modalities and procedure by which the transfer of a prisoner under this

section is to be effected shall be such as may be prescribed.

3. The medical officer of a prison or jail shall send a quarterly report to the concerned Board certifying therein that there are no prisoners with mental illness in the prison or jail.
4. The Board may visit the prison or jail and ask the medical officer as to why the prisoner with mental illness, if any, has been kept in the prison or jail and not transferred for treatment to a mental health establishment.
5. The medical officer in-charge of a mental health establishment wherein any person referred to in sub-section (1) is detained, shall once in every six months, make a special report regarding the mental and physical condition of such person to the authority under whose order such person is detained.
6. The appropriate Government shall setup mental health establishment in the medical wing of at least one prison in each State and Union territory and prisoners with mental illness may ordinarily be referred to and cared for in the said mental health establishment.
7. The mental health establishment setup under sub-section (5) shall be registered under this Act with the Central or State Mental Health Authority, as the case may be, and shall conform to such standards and procedures as may be prescribed.

Article-104 Persons in custodial institutions-

1. If it appears to the person in-charge of a State run custodial institution (including beggars homes, orphanages, women's protection homes and children homes) that any resident of the institution has, or is likely to have, a mental illness, then, he shall take such resident of the institution to the nearest mental health establishment run or funded by the appropriate Government for assessment and treatment, as necessary.

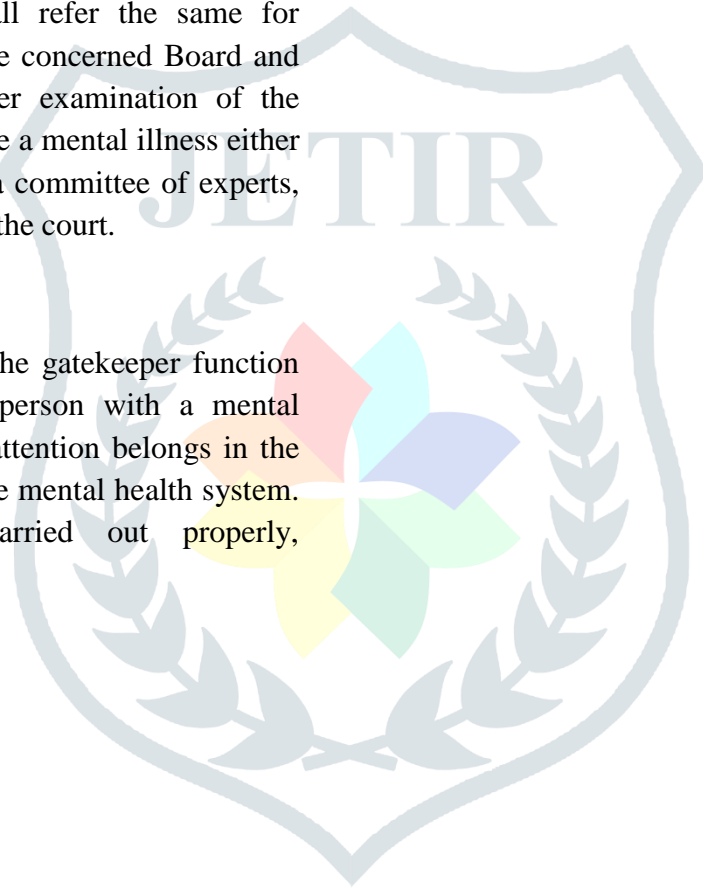
2. The medical officer in-charge of a mental health establishment shall be responsible for assessment of the person with mental illness, and the treatment required by such persons shall be decided in accordance with the provisions of this Act.

Article-105. Question of mental illness in judicial process-

1. If during any judicial process before any competent court, proof of mental illness is produced and is challenged by the other party, the court shall refer the same for further scrutiny to the concerned Board and the Board shall, after examination of the person alleged to have a mental illness either by itself or through a committee of experts, submit its opinion to the court.

Conclusion:

The police frequently play the gatekeeper function in determining whether a person with a mental illness who comes to their attention belongs in the criminal justice system or the mental health system. If this duty is not carried out properly, criminalization may occur.



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