

Topic: The Modern Way

Topic  
Introduction

The Mental Healthcare Bill, 2016, aims to provide for mental healthcare and services for persons with mental illness and ensure these persons have **the right to live a life** with dignity by not being discriminated against or harassed.

**Definition:** The Bill defines “**mental illness**” as a substantial disorder of thinking, mood, perception, orientation or memory that grossly impairs judgment, behaviour, capacity to recognize reality or ability to meet the ordinary demands of life, mental conditions associated with the abuse of alcohol and drugs, but **does not include mental retardation** which is a condition of arrested or incomplete development of mind of a person, specially characterized by sub-normality of intelligence. Mental illness shall be determined in accordance with such nationally or internationally **accepted medical standards**.

**Rights of persons with mental illness:** The Bill ensures **every person shall have a right** to access mental health care and treatment from mental health services run or funded by the appropriate government. The Bill also assures **free treatment for such persons** if they are ‘**homeless or belong to Below Poverty Line**’, even if they do not possess a BPL card. Every person with mental illness shall have a right to live with dignity and there shall be no discrimination on any basis including gender, sex, sexual orientation, religion, culture, caste, social or political beliefs, class or disability. A person with mental illness shall have the right to confidentiality in respect of his mental health, mental healthcare, treatment and physical healthcare. The **photograph or any other information pertaining to the person cannot be released to the media** without the consent of the person with mental illness.

**Advance Directive:** A person with mental illness shall have the right to make an advance directive that states **how he/she wants to be treated for the illness** and who his/her **nominated representative** shall be. The advance directive should be **certified by** a medical practitioner or registered with the **Mental Health Board**. If a, mental health professional/ relative/care-giver, does not wish to follow the directive while treating the person; he can make an application to the Mental Health Board to review/alter/cancel the advance directive.

**Mental Health Authority:** The Bill empowers the government to set-up **Central Mental Health Authority at national-level** and **State Mental Health Authority in every State**. Every mental health institute and mental health practitioners including clinical psychologists, mental health nurses and psychiatric social workers will have to be registered with this Authority. These bodies will (a) register, supervise and maintain a register of all mental health establishments, (b) develop quality and service provision norms for such establishments, (c) maintain a register of mental health professionals, (d) train law enforcement officials and mental health professionals on the provisions of the Act, (e) receive complaints about deficiencies in provision of services, and (f) advise the government on matters relating to mental health. A **Mental Health Review Board** will be constituted to protect the rights of persons with mental illness and manage advance directives.

**Mental Health treatment:** The Bill also specifies the **process and procedure** to be followed for admission, treatment and discharge of mentally-ill individuals. A medical practitioner or a mental health professional shall not be held liable for any unforeseen consequences on following a valid advance directive. A person with mental illness **shall not be subjected to electro-convulsive therapy** without the use of muscle relaxants and anesthesia. Also, electro-convulsive therapy will not be performed for minors. **Sterilization will not be performed** on such persons. They shall not be chained in any manner or form whatsoever under any circumstances. A person with mental illness **shall not be subjected to seclusion** or solitary confinement. Physical restraint may only be used, if necessary.

**Suicide is decriminalized:** A person who attempts suicide shall be presumed to be suffering from mental illness at that time and **will not be punished under the Indian Penal Code**. The government shall have a duty to provide care, treatment and rehabilitation to a person, having severe stress and who attempted to commit suicide, to reduce the risk of recurrence of attempt to commit suicide

The passage of the **Mental Healthcare Bill in the Lok Sabha**, putting it on course to become law and repealing the **Mental Health Act of 1987**, will potentially **help India catch up with the advances made in the field by other countries**. India urgently needs to make a transition from old-fashioned approaches to providing care for those suffering from mental illnesses, something that China, for example, has achieved through state-led policy reform. Even the sketchy studies on the nature of care available to Indians indicate that in terms of population coverage the new law faces a big challenge. The country's grossly inadequate base of professional resources is evident from its ratio of **0.3 psychiatrists for 100,000 people** (with marginally higher numbers taking independent private practitioners into account), compared to **China's 1.7**. Then there are massive deficiencies in the availability of **trained clinical psychologists** and psychiatric **social workers**. Evidently, the National Mental Health Programme has **not been sufficiently funded** within the **health budget**; neither has capability been built in most States to absorb the meager allocation. Delayed though it is, the new legislation can bring about change with its positive features. The important provisions relate to the **recognition of the right to medical treatment**, decriminalization of attempted suicide, explicit acceptance of agency of people with mental illness and their freedom to choose treatments, prohibition of discrimination and regulation of establishments working in the field. Raising effective primary and district-level coverage of mental health services for the general population, without requiring people to travel long distances to see a specialist and get medicines, should be a priority. Since the base of psychiatrists is low in relation to the need, the use of trained general practitioners as the first line of contact assumes importance. Some studies show many of them are not confident enough with their training to detect diagnose and manage mental illnesses. With a concerted effort, **primary care physicians can be trained** to help people with mild and severe problems, ranging from anxiety **disorders to depression**, psychoses and conditions arising from alcohol and substance abuse. Being able to get professional counselling will reduce the complications arising from extreme stress, often the trigger for suicide. Extending health insurance cover is also a step forward, since out-of-pocket expenditure has risen along with the expansion of the private sector in this sphere, just as for other ailments. The provision in the new legislation prohibiting seclusion of patients, something that is frequently resorted to in asylums, and the general use of **electro-convulsive therapy** must be welcomed. Modern treatment approaches rely more on family and community support. The new Central and State regulatory authorities should speedily weed out shady non-governmental rehabilitation organisations in this field.

**Read further:**

<http://www.thehindu.com/news/national/all-you-need-to-know-about-the-mental-healthcare-bill/article17662163.ece>

<http://indiatoday.intoday.in/story/mental-healthcare-bill-passed-in-parliament-all-you-need-to-know/1/914433.html>

<https://www.thequint.com/health/2017/04/01/the-mental-healthcare-bill-on-depression-suicide-anxiety-ect-is-important-but-still-has-major-concerns>

<http://indianexpress.com/article/what-is/mental-healthcare-bill-passed-parliament-lok-sabha-4588288/>