Comparison Between Contents Of Mental Health Act 1987 With That Of Mental Health Care Act 2017

Paper Presenter

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Background

- The National Health Policy of **1983** and the National Health Policy of **2002** have served well in guiding the approach for the health sector in the Five-Year Plans.
- **14** years after the last health policy, the context has changed in **four** major ways-
- First, the **health priorities** are changing. Growing burden of non-communicable diseases and some infectious diseases.
- Second, the emergence of a **robust health care industry** - growing at double the speed.
- Third, **catastrophic expenditure** due to health care costs, -one of the major contributors to poverty.
- Fourth, a **rising economic growth** enables enhanced fiscal capacity.
- Therefore, a new health policy responsive to these contextual changes was required.
- **NHP 2017** builds on the **progress** made since the last NHP 2002.
- The developments have been captured in the document **"Backdrop to National Health Policy 2017- Situation Analyses"**, Ministry of Health & Family Welfare, Government of India.

Mental Health Legislation Scenario

- Last Mental Health Act came into force in **1987**.
- **30** years have passed.
- There is need to re-focus the mental health services from the **specialist** mental health workers (psychiatrists and psychologists), from **only service delivery** to **designing and managing** mental health services; **building clinical capacity** of the primary health care (PHC) workers.
- Provision of supervision and **quality assurance** of mental health services
- Mental health policies, programmes and acts need **continuous upgrading.**
- They are processes rather than isolated events.
- The **advances** in medical technology, **initiatives** at least restrictive treatment, **modalities and developments** in the health care delivery systems
- Demand **amendments** in legislations for mentally ill.

- **Mental Health Act** is essential for protecting human rights of mentally ill.
- Provide **direction** to the care delivery and set **limits** to exploitation.
- 32nd Annual Rosalynn Carter Symposium on Mental Health Policy focused on **"Widening the Circle of Health and Wellness: The Central Role of Behavioral Health".**
- The symposium addressed the **strategic focus** of health care policy which is found **shifting**
- from the treatment of illnesses in individuals to the **management of health** within defined populations.
- Governments need to step up their efforts to **improve mental health care** which remains **poorly resourced** and **under-prioritised** in many countries.

AIM OF THE STUDY

The study aims to identify the striking developments in the field of Mental Health care delivery by comparing the contents and provisions in the Mental Health Act 1987 and Mental Healthcare Act 2017.

OBJECTIVES

1. To perform the content analysis of the MHA 1987 and MHCA 2017.
2. To compare and identify the areas of commonalities and differences between both the Acts.
3. To identify the nature and extend of developments in various areas of legislature for the mentally ill.

METHOD

Design: A scoping review (Qualitative Study)

Sample: Mental Health Act 1987 and Mental Health Care Act 2017

Material: A comparison matrix

Method of data collection

- Study approved by IEC – DMIMS (deemed to be University)
- Data -obtained from secondary sources
- Websites of relevant government departments, - Ministry of Law and Ministry of Health and Family Welfare.
- A structured common matrix developed to analyse the contents of both the Acts

OBSERVATIONS AND RESULTS

Table 1: Definitions in MHA 1987 and MHCA 2017

Areas of comparison	MHA 1987	MHCA 2017	Remarks on progress
Definitions	• Psychiatric Hospital • Psychiatric Nursing Home • Mental Health Professional • Psychiatrist • Clinical Psychologist • Relative • Cost of maintenance	• Advance directives • Mental Health Nurse • Relative, Family Caregiver • Review Board • Informed consent • Least restrictive environment • Mental Health care • Mental Health Establishment	• Shift from cure to care • Restoration & Rehabilitation to Promotion and prevention • Includes rehabilitation of Mentally ill • Modern Medicine to AYUSH and other modalities of treatment included

Table 2: Mental Health Authorities in MHA 1987 and MHCA 2017

Areas of comparison	MHA 1987	MHCA 2017	Remarks on progress
Mental Health Authorities	• Central and State Mental health Authorities • Guidelines to constitute the Authority were vague.	• Organizational Structure of Central and State Mental Health Authorities is stated clearly with job responsibilities of each cadre and designation • Secretary, joint secretaries from AYUSH, social justice, child and women health, mental health professional, mental health nurse, psychologist, psychiatric social worker, representatives of mentally ill patients, caregivers, NGOs, etc. • Term for 3 years • Power of Central Government and State Government to make rules • Duties of appropriate government	• Identifies who, what, when, and where • Ensures dispensation of responsibilities • All stakeholders get representation in processes and procedures. • Locally relevant & prompt advice to the Governments • Creating awareness about mental health and illness • Reducing stigma of mental illness.

Table 3: Mental health Establishments in MHA 1987 and MHCA 2017

Areas of comparison	MHA 1987	MHCA 2017	Remarks on progress
Psychiatric Hospitals and Psychiatric Nursing Homes/ Mental Health Establishments	• Establishment or maintenance of psychiatric hospitals and psychiatric nursing homes • only with license • Grant or refusal Duration and renewal • Revocation of license • Inspection of psychiatric hospitals and psychiatric nursing homes Treatment of outpatients	• Prescribed norms for maintenance of Mental health establishments • Categories of MHE • Provisional registration for 12 months • Audit of mental health Establishments • Inspection and inquiry.	• Specified structure for functioning • All types of MHEs are considered • Prescribed norms for minimum standards • License • Inspections • Allied AYUSH contributors

Table 4: Admission procedures in MHA 1987 and MHCA 2017

Areas of comparison	MHA 1987	MHCA 2017	Remarks on progress
Admission in Psychiatric Hospital and Psychiatric Nursing Homes/MHEs	• Types of admission • Voluntary • Under special circumstances • Reception order • Role of Magistrate • Role of Police Officials • Admission as inpatient after inquisition • Admission and detention of mentally ill prisoner • Time and manner of medical examination of mentally ill person • Officers competent to exercise powers and discharge functions of Magistrate	• Admission of person with mental illness as independent • patient in mental health Establishment • Admission of minor • Supported admission • Emergency treatment • Prohibited procedures • Restriction of psychosurgery • Restraints and seclusion • Admission by Magistrate • Admission of MI prisoner • Duties of police officers in respect of persons with mental illness.	• Dignified treatment ensures health seeking • Aids to overcome stigma • Helps in stating the advance directives • Protects the patients rights as well as protects the health professional

Table 5: Discharge Procedures in MHA 1987 and MHCA 2017

Areas of comparison	MHA 1987	MHCA 2017	Remarks on progress
Inspection, Discharge, Leave of Absence and Removal of Mentally Ill Persons	• Appointment of Visitors • Monthly inspection • Inspection of mentally ill prisoners • Discharge of voluntary patients • Types of discharge • Leave of absence • Grant of leave of absence • Removal of mentally ill person from one psychiatric hospital or psychiatric nursing home to any other psychiatric hospital or psychiatric nursing home • Admission, detention and retaking	• Discharge of independent patient • Leave of absence • Absence without leave • Transfer of the mentally ill from one MHE to another • Discharge planning • Research	• Involvement of family, patients in discharge planning provides for better drug adherence and continuity of care. • Community participation – tide over the scarcity of trained mental health personnel

Table 6: Rights of Mentally Ill in MHA 1987 and MHCA 2017

Areas of comparison	MHA 1987	MHCA 2017	Remarks on progress
Human Rights of Mentally Ill	• Mentally ill persons to be treated without violation of human rights	• 28 human rights of mentally ill are well defined in a fully dedicated chapter	• Basic Human rights are protected • Right to information provided
Mental Health Review Boards	• Not stated	• Constitution & Composition of Mental Health Review Boards by State Authority • Powers and functions of Board.	• Ease in addressing matters related to mentally ill's service disputes, benefits issues and proceedings of mentally ill prisoners

Table 7: Provisions for property possessed by Mentally ill in MHA 1987 and MHCA 2017

Areas of comparison	MHA 1987	MHCA 2017	Remarks on progress
Mentally Ill Person Possessing Property Custody of His Person And Management of His Property	• Application for judicial inquisition • Role of district courts • Appointing guardian of mentally ill person and manager of property • Manager of property to execute bond • Duties of guardian and manager • Powers of manager • inventory and annual accounts • Disposal of business premises • Dissolution and disposal of property of partnership	• Right to retain property • Right to dispose of property • Make will • Give testimony • Participate in appointment of guardian and manager • Demand change in guardian and manager	• Patient participation is ensured

Table 8: Liability for Cost of Maintenance in MHA 1987 and MHCA 2017

Areas of comparison	MHA 1987	MHCA 2017	Remarks on progress
Liability to Meet Cost of Maintenance of Mentally Ill Persons Detained in Psychiatric Hospital Or Psychiatric Nursing Home	• Application to District Court for payment of cost of maintenance out of estate of mentally ill person or from a person legally bound to maintain him • Persons legally bound to maintain mentally ill person not absolved from such liability	• State Government grants • Central Government grants • Patient property • Government to make arrangement for the cost of maintenance in case patient fails to do so.	• Mentally ill should not be denied of treatment for not having money. • Safety of the patient, family and society ensured.

Table 9: Penalties and Procedure in MHA 1987 and MHCA 2017

Areas of comparison	MHA 1987	MHCA 2017	Remarks on progress
Penalties and Procedure	• Penalty for not maintaining standards of Psychiatric Hospitals • for improper reception of mentally ill person • General provision for punishment of other offences • Offences by companies	• Penalties for establishing or maintaining MHEs in contravention of provisions. • Punishment for contravention of provisions of the Act or rules or regulations made thereunder. • Offences by companies. • Presumption of severe stress in case of attempt to commit suicide. • Protection of action taken in good faith. • Power to remove difficulties	• Provides for prevention of suicides under stress • Provides for general public to come forward to help people with mental illness. • Central government can remove difficulties in the implementation of the Act.

Table 10: Legal Aid Provision to Mentally Ill in MHA 1987 and MHCA 2017

Areas of comparison	MHA 1987	MHCA 2017	Remarks on progress
Legal aid	• Pension, etc., of mentally ill person payable by Government. • Legal aid to mentally ill person at State expense in certain cases • Effect of Act on other laws	• Appropriate Government to provide support as appropriate including legal aid and to facilitate living in the family home. • Right to free legal aid. • Right to retain jobs and get pension	• Establishment of half-way homes, group homes and the like for persons who no longer require treatment in more restrictive mental health establishments
Nominated Representative	• Not defined	• Appointment & revocation • Nominated representative of minor • Duties of nominated representative.	• Current and past wishes, the life history, values, cultural background and the best interests of the person with mental illness

Table 11: Capacity to make decisions in MHA 1987 and MHCA 2017

Areas of comparison	MHA 1987	MHCA 2017	Remarks
Mental Illness And Capacity To Make Mental Healthcare And Treatment Decisions	• Very vague	• Determination of mental Illness • Capacity to make mental healthcare and treatment decisions. • Advance Directive • Manner of making AD • Maintenance of online register. • Revocation, amendment or cancellation of AD • Not to apply to emergency treatment. • Duty to follow advance directive. • Power to review, alter, modify or cancel advance directive. • Liability of medical health professional in relation to advance directive.	• Patient and community partnership • Encourages protection of human rights • Ensures better documentation of the care rendered to the Mental Ill.

DISCUSSION

- Train all relevant persons including law enforcement officials, mental health professionals and other health professionals
- Duty of mental health establishment to display information.
- Homeless Mentally ill – police to trace the family after an FIR
- Special provisions for States in north-east and hill States.
- Attempted suicides prompted by stress – no trials and punishments
- Hospitals and community based rehabilitation establishment and services
- Other medicine disciplines to be involved in the care of mentally ill
- Wide range of mental health professionals are recognized – **Mental Health Nurse**
- Structured Central and State Mental Health Authorities.
- Research provision protect the vulnerable population

CONCLUSION

- Considers shift of treatment paradigm from cure to care.
- Provisions for latest interventions for restoration and rehabilitation of the mentally ill.
- MHCA 2017 is more evolved with consideration of latest medical treatment advancements, societal changes, and personal preferences.
- Provisions related to research on mentally ill is a welcome move.
- Considers shift of treatment paradigm from cure to care
- Provisions for latest interventions for restoration and rehabilitation of the mentally ill
- Focus on promotion mental health and prevention of mental illness
- MHCA 2017 considers creating awareness among masses.

A step towards globally relevant mental health services to mentally ill in India

References

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