

Mental Healthcare Act, 2017 [UPSC Notes]

The Mental Healthcare Act, 2017 aims to provide 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. This is an important piece of legislation that has the potential to change the way mental health is perceived in India. In this article, you can learn all about the Mental Healthcare Act, 2017, its provisions and its significance for the [UPSC exam](#) polity and health segments.

Mental Healthcare Act

The Act defines “mental illness” as a substantial disorder of thinking, mood, perception, orientation or memory that grossly impairs judgment, behaviour, capacity to recognise reality or ability to meet the ordinary demands of life, and 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 a person's mind, especially characterised by sub-normality of intelligence.

Mental Healthcare Act Provisions

- **Rights of Persons with Mental Illness:**
 - Every person will have the right to access mental healthcare from services which are operated or funded by the government.
 - It also includes good quality, easy and affordable access to services.
 - It also provides for the right to equality of treatment, seeks to protect such persons from inhuman treatment, access to free legal services, their medical records, and the right to complain in the event of deficiencies in provisions.
- **Advance Directive:**
 - This provision empowers a mentally-ill person to have the right to make an advance directive that explains how she/he wants to be treated for the requisite illness and who her/his nominated representative shall be.
 - This directive has to be vetted by a medical practitioner.
- **Mental Health Establishments:**
 - Every mental health establishment has to be registered with the respective Central or State Mental Health Authority.
 - For registration, the concerned establishment needs to fulfil different criteria as mentioned in the Act.

- The act also outlines the procedure and process for admission, treatment and subsequent discharge of mentally ill persons.
- **Mental Health Review Commission and Board:**
 - It is a quasi-judicial body responsible for reviewing procedures for making advance directives.
 - It will also advise the government on the protection of mentally ill persons' rights.
 - It further states that the body in agreement with the state governments constitutes Mental Health Review Boards in states' districts.
- **Decriminalising Suicide and Prohibiting Electro-Convulsive Therapy:**
 - The most notable of all is the provision that **effectively decriminalises suicide attempts under the Indian Penal Code by mentally ill persons by making it non-punishable.**
 - Electroconvulsive therapy, which is allowed only with the use of anaesthesia, is however barred for minors.

Mental Healthcare Act Criticisms

- The Act does not provide for the advance directive to minors, as per Section (5) of the said Act.
- All the services are to be ensured by both Central and State governments. The expenditures estimated will not meet the obligations under the act.
- The Centre and State, both have responsibilities as per the Act; it does not provide sharing of funds between them.
- If a person no longer demands an order of supported admission to the mental health establishment, the Act provides that they may continue to remain in the mental health establishment as an independent patient and does not clarify for how long and what procedure is to be adopted to give the person an effective chance to live in the community.
- The definition of a mental health professional in the act is limited to clinical psychiatrists and specialists containing a postgraduate degree in Ayurveda, Homeopathy, Siddha, and Unani. Psychotherapists and psychoanalysts are excluded from the act as per the current definition.
- Although the law to punish the person committing suicide has been prohibited, a lot still needs to be done for mentally ill people.

Suggestions:

- The state must complete post-operative care for the individual and root them to a new environment.

- If an individual has attempted suicide due to socio-economic reasons, then the state should give financial consideration to resolve the problem.
- Psychological support and care should be given to the individual. The state can seek assistance from NGOs as well as religious organisations for this design.

