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**Laws & Benefits to Mentally Ill & Mentally Disabled Human
Beings**

“Globally, the mental illness has been neglected for a long time, but now finally it’s time to fix it.”

INTRODUCTION

The role of laws and mental illness is inter-related. In today’s era, most of the countries have laws for people with mental disabilities, but in the early times, legislations for the mental health were primarily concerned with custodial aspects of persons with mental disabilities. Indian laws were also concerned with determination of competency, diminished responsibility and/or welfare of the society.

UNCRPD¹ was adopted in 2006 and that marked a paradigm shift in disabilities (including mental illness) from a social welfare concern to a mental illness issue; that provides an opportunity to improve the position of people with disabilities and has created strong incentives for reforms. In 2008, with the UNCRPD the ratification of the convention by India became an obligatory revision of all the disability laws and brought in a new harmony. Hence, the Mental Health Act – 1987 and Persons with Disabilities Act – 1995 are being processed and bills have been drafted by keeping in mind the Human Rights activists groups as they keep pressing for provisions for legal capacity for persons with mental disabilities.

In 1991, the United Nations was more explicit in the laws relating to ‘The Protection of Persons with Mental Illness’ and ‘The Improvement of Mental Health Care.’

The laws laid down by the UDHR² are applicable to every human being and they completely ‘Universal in Nature’ without creating any discrimination in any form. So, in order to establish quality and peace amongst the people in the society, the UDHR has laid down certain principle for the persons who are mentally retarded and they are as follows:

- The rights of a mentally retarded person are same as the rights of a normal human being.
- The patient has the right to proper care, physical therapy, education, training, rehabilitation, etc.
- The patient has the right of economic security and secures a decent standard of living, with the right to work.

¹ UNCRPD - United Nations Convention for Rights of Persons with Disabilities

² UDHR – Universal Declaration of Human Rights

- The patient should not be abused in any form; he/she has the right against exploitation and degrading treatment.

According to the 1st Article of the UDHR:

“All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.”

According to the 2nd Article of the UDHR:

“Everyone is entitled to all rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, color, sex, language, religion, political or other opinion, natural or social origin, property, birth or other status.”

According to the 3rd Article of the UDHR:

This Article includes “the Right to Life, Liberty and Security of Persons.”

According to the Indian Constitution:

Article 21 – *“No person shall be deprived of his life or personal liberty except according to procedures established by law.”*

LAWS BY THE INDIAN CONSTITUTION FOR PERSONS
WITH MENTAL DISABILITIES

Then Mental Care Bill August 2013³ was introduced in the Rajya Sabha⁴. This Bill helps in protecting the rights of the mentally ill by ensuring care and

³ The Bill was passed in August 2016.

⁴ Rajya Sabha – Upper House of the Indian Parliament.

promotes social justice (even to the families and care takers.) The Bill offers positivity, progression, standards of care, renewed process for involuntary admission and government being a watchdog throughout the mental health services and hence all these initiatives altogether with the right kind of guidance can focus on the 'right to liberty' and can also bring right treatment, with social care and social inclusions for the mentally disabled.

Before the commencement of the Mental Illness Protection Laws people have experienced high level of abuse, neglect (of human rights and from society), even in treatments.

Rights of the Persons with Mental Disabilities:

According to the UDHR; the International Covenant on Economic, Social and Cultural Rights; the International Covenant on Civil and Political Rights:

“Every person with a mental illness shall have the right to exercise all civic, political, economic, social and cultural rights.”

Legal Rights of Disabled Persons in India:

As the Indian Constitution is applicable to every Indian throughout the nation without making any discriminations on and grounds may it be for a mentally fit or mentally unfit person. The Indian Constitution provides legal rights to its citizens in the following ways:

- Right to justice, liberty of thought, expression, belief, faith and worship, equality of status and of opportunity and for the promotion of fraternity.
- According to **Article 15 (1)** - No discriminations on the grounds of religion, race, caste, sex or place of birth.

- According to **Article 15 (2)** - No discrimination in accessing shops, public restaurants, hotels and place of public entertainment or in the use of wells, tanks, bathing ghats, roads and places of public resort maintained wholly or partly out of government funds or dedicated to the use of the general public.
- Equality of opportunities related to employment or appointment to any office under the State.
- According to **Article 17** - No one should be treated as an 'untouchable' as it would lead to a punishable offence.
- According to **Article 21** - Every person has his life and liberty is granted to everyone.
- According to **Article 23** – There should be no human trafficking and beggar and forms of forced labor is prohibited and punishable.
- According to **Article 24** – Prohibition of children under the age of 14 years to work in any sort of work (May it be mining, factory or any other hazardous work.)
- According to **Article 25** – Right to freedom of religion to conscience to practice and propagate his religion every citizen.
- According to **Article 29 (2)** – The right to Education to every citizen.
- According to **Article 47** – It is Government's primary duty to raise the level of nutrition and standard of living of its people and make improvements in the public health sector.

- The rights and duties of the parties of marriage is mentioned in the provisions contained in the different marriage acts of different religions (like the Hindu Marriage Act, 1955) and it implies equally to everyone may that person be disabled or non-disabled.

RIGHTS UNDER THE MENTAL HEALTH ACT, 1987

- Right to be admitted, treated and cared in a psychiatric care centre or a hospital which is established by the government.
- Mentally ill prisoners and minors also have the right to be admitted and treated in an institution established by the government.
- Minors who are under the age of 16 years and if they are addicted in any form (drugs, alcohol), then they are to be admitted in separate hospital established by the government.
- The services granted by the Government established hospitals cannot be taken away from the patient. (Rights of regulation, co-ordination and direction.)
- Voluntary admissions can be taken by the patients for their treatment in the institutions established by the government and minors under the guidance of their parents or any close relative who is taking their responsibility can admit their ward.
- The police have the duty to present an involuntary patient before the magistrate before admitting him/her to the mental hospital and it is also important to inform the relatives of the patient.

- After the completion of the treatment, the patient has the right to get discharged and to leave the hospital.
- If there is any asset that a mentally ill person owns, the district court is entitled to arrange a guardian to the patient.
- If the patient is not able to maintain his/her treatment and if no relative is there to maintain it so, then it is the duty of the State Government to maintain the cost of treatment of the patient in a government established institute.
- Without the personal consent of the patient, the patient is not entitled for any medical research or examination.
- If there is any sort of pay pension, gratuity or any other form of allowance from the government, then the patient cannot be denied from it at any cost.
- The mentally ill patient has the right to be entitled with the services of a legal practitioner.
- Under **The Rehabilitation Council of India Act, 1992**, it is the right of every patient to be served by a trained and qualified professional (whose name is registered and maintained by the Council.)
- A patient has the right to have his guardian removed under some conditions like – neglect, abuse, etc.

Every person with mental disabilities is entitled to receive the basics of facilities for a little easement in their living:

- To receive the best health care.

- Treated with respect and humanity.
 - No discrimination because of mental illness.
 - Right to live and right to work.
 - Receive treatment in society's community as much as possible.
 - Doctors must regularly check their patients for reviewing their treatment and medication.
 - Whether the treatment is voluntary or involuntary, if the patient asks, then he/she should be informed about the details of the ongoing treatment.
 - Until and unless there is an official guideline made, no patient should be forcefully brought up for treatment.
- A separate impartial body along with the non-biased doctors should be made for reviewing the cases of such patients and for the involuntary patients too.
- Records should be maintained properly from the very first day and even for few more years after the completion of the treatment.
 - Patients should be provided appropriate resources and with appropriate facilities during the process of treatment.

After the 1991 Act, the WHO⁵ in 1996 went on to establish 10 basic principles of the mental health care law to protect the rights for the people with mental disorders who have been ignored in the past in the following ways:

⁵ WHO – World Health Organization

- Mental well-being should be promoted and everyone should get the maximum benefit out of it to prevent mental disorders.
- Basic mental health care should be accessed by every person who needs it.
- In accordance with internationally accepted medical principles and instruments, mental health assessments should be performed.
- The least restrictive possible way of mental health care should be provided to all persons having mental disorders.
- Consent of the person is very important before making any type of interference in his/her treatment.
- If the patient is facing any type of difficulties in making any kind of decision then the patient has the complete authority to take assistance of any 3rd party of his/her choice.
- There should be a neutral 3rd party to look into the cases where the decision is made by any official person (May it be a doctor too) in the treatment of a patient.
- The officials, who are taking the decisions in the official authority, should be well qualified for this job.
- An automatic review mechanism should be there where there are decisions which could affect the integrity and liberty of a person which can have long lasting impacts on the life of the patient.
- All the decisions made should be done by keeping the law and jurisdiction in the mind without harming the integrity of anyone or

anything. No other baseless basis or any other arbitrary based decisions should be made.

CONCLUSION

As common people, it's finally time to stop pretending and time to open up our eyes. Instead of looks and sighs, it's time to give a helping hand to the suffering one. It's a need to feel close to someone to pull him/her back from this ledge, depression, overwhelming anxiety and fear. 'The fact is, everyone needs help.' Everyone needs someone there because the moon and the stars do not provide enough light when there is darkness in the mind.

Because if we only knew how much these people struggle in their mental wars with themselves, then maybe we would be there to pick them up off the floor. To them, their mental illness is a punisher, a captor, a tormentor and a torturer.

As hope drains from the soul, people can only remember the good times and laughter, but it makes them feel even worse. They can see the good times, but cannot live it. They keep running for the light even though they cannot see one. So, we must understand that 'Life is hard to live sometimes when the light inside no longer shines, everything around also becomes dark.'

All we need to prove is that, "There really is hope outside the pills."