

## Beyond Bars: An Analysis of Prisoners' Mental Health in India

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### Abstract

Human rights are available to every human being irrespective of their position. As per the National Mental health Policy (2014) prisoners are considered as part of vulnerable group. They are prone to poor mental health conditions due to unequal treatment of inmates, poor infrastructure, stigma, non-rehabilitative approach and overcrowding. Even after passing of the Mental Healthcare Act 2017, prisoners mental health are at stake. This often results in mental health deterioration, suicide attempts and incapacity to live life in a dignified manner after releasing from jail. Effective implementation of legislation and policies related to mental health can serve as powerful tools in protecting the rights detained persons in jail who are suffering from mental health conditions. The research will examine the legal framework on prisoners' mental health and evaluate various shortcomings present in India. It further recommends legislative reforms for mentally ill prisoners as rehabilitation being the core goal of Indian system, improving prisoners' mental health is essential for the society.

**Keywords: Mental health, prisoners, human rights, stigma and rehabilitation**

### 1. INTRODUCTION

"Prisoners are not denuded of their fundamental rights. The mere fact of being a prisoner does not make a person a non-person."

**Justice V.R. Krishna Iyer**

Mental health is one of the most essential right for human well-being. This right hold much more importance when we talk about the vulnerable communities of the country. Mental health is an integral part of human well-being, yet it has been not implemented in an efficient manner. Lack of access of mental healthcare facilities, timely diagnosis, and negligence on the part of state to provide care and support has contributed in increasing of the treatment gap. This gap can be seen more evidently among vulnerable groups of the society as they are living in more distressed environment which automatically lead to deterioration of mental health and facing major barriers in accessing adequate mental health care. According to World Health Organization, prisoners are included in the vulnerable category of people.<sup>1</sup> Every individual has a right to both physical as well as mental health irrespective of their status which includes prisoners too. Prisoners who enter these centres often had mental health history and they are often have addictions of substance ranging from alcohol to different type of drugs or any kind of pre-existing mental health conditions. Even those who are healthy during the time of admission gets prone to serious mental health issues due to prison environment. since it is the duty of the state to look after at their basic needs and mental healthcare of the prisoners, it is most important that their mental health should be evaluated before admitting and after the release from jail to ensure that their proper integration in the society. As prisoners cannot directly approach the mental health facilities, it is the duty of the state to ensure that healthcare services related to mental health should be accessible the prisoners who are suffering from any kind of mental illness. They are legally and morally entitled to the same treatment as given to the general society, it is quite difficult to implement mental healthcare provisions due to infrastructural issues like overcrowding, violence, lack of rehabilitative approach which further led to mental distress. As per the last updated data of National Crime Records Bureau (NCRB), India had a total of 1,330 prisons as of December 31, 2022.<sup>2</sup> According to the data received from the Indian prison departments, total number of prisoners suffering from mental illness is around 16,503.<sup>3</sup> The Prison Statistics Report by NCRB shows that out of the 159 unnatural deaths in Indian prisons in 2022, 74.8%<sup>4</sup> of such deaths have been caused pre-dominantly by suicide which is somehow the after result of deteriorating mental health. The mental health concern of prisoners remain overlooked despite legal frameworks at national level like Mental healthcare act 2017 in India and international instruments like the United Nations Standard Minimum Rules for the Treatment of Prisoners (Mandela Rules) and the International Covenant on Civil and Political Rights (ICCPR) 1966. These acts ask the states to fulfil their responsibilities by protecting and safeguarding health of prisoners. But due to various factors like poor infrastructure, limited sources, neglect behaviour, stigma and punitive approaches effective implementation of these laws and guidelines have not taken place.

### 2. Legislative framework on right to mental health of prisoners in India

The right to mental health of prisoners in India is not given in a single statute but has been protected under Constitution, prison model, Mental healthcare Act and judicial pronouncements. Article 21 of the Constitution guarantees the right to life and liberty which has been expanded by the judiciary under various decisions by including right to mental health as part of it. The Supreme Court, through landmark judgments such as *Sheela Barse v. State of Maharashtra* and *Inhuman Conditions in 1382 Prisons, In Re*,<sup>5</sup> has reiterated that humane treatment and psychiatric care are integral to Article 21 protections. In *Sunil Batra vs. Delhi Administration*,<sup>6</sup> the basic rights of the prisoners were highlighted by the Supreme Court of India. The Supreme Court in *Shri Ram Murthy vs. State of Karnataka*<sup>7</sup> has upheld the protection of prisoners' health by giving the reason that people in prison suffer a double handicap not only do they do not enjoy equal access to the medical expertise to which free citizens are entitled, they are also more vulnerable to health hazards due to prison surroundings. In a recent case of *Sartaj v. State of NCT of Delhi*<sup>8</sup> court laid down certain guidelines keeping in view the mental health rights of prisoners: (i) if any prisoner shows any sign of mental illness or change in behaviour due to same issue, it should be reported immediately and bring in notice of psychiatrist present in the facility. (ii) sensitization of police administration should be done so that they can identify the mental healthcare issues without any delay. (iii) in case of repetitive punishment being given to a prisoner, his case may be referred to a psychiatrist for appropriate remedial measures to balance his emotions and behaviour.. (iv) in case if any prisoners is facing mental health issues, his counselling should be done through therapy sessions. (v) an standard operation procedure should be prepares mentioning the course of action if someone is suffering from mental health issues and detailed explanation of sessions or remedies available for the inmates to get funds from the NCT of Delhi to support the same. (vi) every prison of Delhi should consist of a psychiatrist who will identify the behavioural or mental health issues in prisoners and (vii) awareness programmes or workshops should be conducted with the help of Delhi Services Legal Authority to help the prisoners in availing the services and protecting their mental health rights.

<sup>1</sup> Enggist, S., Möller, L., Galea, G., & Udesen, C. (Eds.). (2014). Prisons and health. World Health Organization Regional Office for Europe. <https://iris.who.int/handle/10665/128603>

<sup>2</sup> National Crime Records Bureau. (2023). Prison Statistics India -2022. Ministry of Home Affairs, Government of India. <https://www.ncrb.gov.in/uploads/nationalcrimerecordsbureau/custom/psiyarwise2022/1701613297PSI2022ason01122023.pdf>

<sup>3</sup> Centre for Research & Planning. (2024). Prisons in India: Mapping Prison Manuals and Measures for Reformation and Decongestion. Supreme Court of India. <https://cdnbbsr.s3waas.gov.in/s3ec0490f1f4972d133619a60c30f3559e/uploads/2024/11/2024110677.pdf>

<sup>4</sup> Prison Statistics India 2022, NCRB, MHA, Government of India.

<sup>5</sup> *Sheela Barse v. State of Maharashtra*, (1983) 2 SCC 96

<sup>6</sup> *Sunil Batra vs. Delhi Administration*, 1978 (4) SCC 494

<sup>7</sup> *Shri Ram Murthy vs. State of Karnataka*, (1997) SCC (Cri.) 386

<sup>8</sup> *Sartaj v. State of NCT of Delhi*, 2023 SCC OnLine Del 4764, decided on 07-08-2023

The SC in *Sheela Barse v. State of Maharashtra*<sup>9</sup>, “recognized the plight of female prisoners with mental health concerns and ordered medical evaluations, underscoring the importance of legal aid and medical care”. Similarly, in *Rakesh Chandra Narayan v. State of Bihar*<sup>10</sup>, the Court held that “prisoners, including those with mental illness, retain all fundamental rights under Article 21 of the Constitution, except those curtailed by law. These early interventions laid the groundwork for treating prisoner health, including mental health, as a core constitutional issue”. A significant case that brought national attention to the mental health crisis in Indian prisons was *In Re Inhuman Conditions in 1382 Prisons* (2016), where the Supreme Court, taking suo motu cognizance, addressed systemic issues in prison management. The Court emphasized the need for mental health professionals, periodic inspections, and psychological assessments, especially for undertrial prisoners. The decision led to the formulation of various recommendations, including better training for prison staff and integration with public mental health services. High Courts have also stepped in at state levels for instance,

### 2.1 The Mental Healthcare Act 2017

This Act specifically protect the rights of individuals who are suffering from mental illness. Section 103 of the MHCA<sup>11</sup> asks transfer of prisoners suffering from mental health issues to proper health facilities where they can be taken care of. The Mental health review Board has the duty to keep a check on the transfer as well as the condition of mental health establishments. They must monitor that those establishments should be registered and following prescribed standards. In addition to this provision, other sections of the MHCA also apply to prisoners like sec.18 talks about the right to access mental healthcare which are also applicable to prisoners just like other people of the society. protection of inhuman or cruel behaviour is given under section 20 and 21 of the act. the Delhi High Court, in *Court on its Own Motion v. State (2017)* , dealt with the conditions of inmates in Tihar Jail, directing the implementation of mental health screening protocols and counselling services. Despite these progressive rulings, implementation remains a challenge due to administrative inertia and infrastructural deficits.<sup>12</sup>

Prisoners are also human beings and they must be treated with dignity ensuring no discrimination shall take place while accessing mental healthcare. There mental health should be protected in the same manner as their physical health. Section 100 of the MHCA is very important as it shows duties of police officers stating that they must not hold prisoners force fully in prison if they are suffering from mental illness rather they must be transfer to appropriate medical facilities for proper protection and care.

### 2.2 Model Prison Manual<sup>13</sup>

This is a step taken by the supreme court in case *Ramamurthy v. State of Karnataka. In Ramamurthy*. it serves as the major shift and highlight the need for uniformity in legislation related to prison and prisoners. It was prepared in 2003 by evolving national consensus on relevant issues relating to prison reforms in India.<sup>14</sup> In reference to this the Supreme court has laid down three major principles (i) an individual in a prison has the same dignity as a person outside the jail. (ii) prisoners are entitled to protection of their human rights within the limitations of jail establishment and (iii) it is not justified in any form to increasing the pain of an individual who is already suffering in the process of incarceration. At the time of admission, the medical officer will examine the health of prisoner and record should be maintained in the given Performa for health screening of prisoners.<sup>15</sup> The Madras High court in *Mrs. S v. Superintendent of Prison Thoothukudi District*<sup>16</sup> suggested that “it is a need of an hour to upgrade the mechanism of evaluating the health of arrestees. The perform use for this evaluation must contain a separate column of mental health criteria and that should not be filled up by the general answers of the arrestee but information should be gather thoroughly examining him and collection behavioural information from the closed ones”. In the year 2023, National Human Rights Commission issued an advisory in this regard which states that <sup>17</sup>“The newly admitted prisoners should be interviewed by a trained medical officer along with a qualified psychologist for identification of inmates who appears to be psychologically abnormal and who could be prone to suicidal tendencies, the key to identifying potentially suicidal behaviour in inmates is through careful inquiry/interview and assessment during initial screening of the inmates. The pre-entry/initial health screening report of the prisoner must be filled up in detail and signed by both medical officer and psychologist after filling all the mandatory information. Initial health assessment must be followed by regular follow up assessment as well.”

### 3. International Instruments on right to mental health of prisoners

“It is true that in comparison to all the vulnerable groups that face the social stigmatization, persons with mental disabilities are perhaps the most under privileged and disadvantaged. And this whole situation becomes a disaster when the person suffering from mental illness is bound to be detaining in prison without proper treatment”.<sup>18</sup> Mental health is considered to be an integral part of human rights. If we talk about prisoners, this right is protected through various legal international instruments. This ensures the protection of mental health right and living conditions of prisoners with dignity. Among the majorly followed frameworks are the United Nations Standard Minimum Rules for the Treatment of Prisoners also known as Nelson Mandela Rules and the International Covenant on Civil and Political Rights (ICCPR).

#### 3.1 The Nelson Mandela Rules

The United Nations Standard Minimum Rules for the Treatment of Prisoners for the first time was adopted in 1955 by United nations at the First UN Congress on the Prevention of Crime and the Treatment of Offenders, held in Geneva<sup>19</sup>. These rules needed to be revised to reflect healthcare standards and management under prisons. Year 2015 seen a major shift in these rules and it was adopted by the General Assembly on 17<sup>th</sup> December 2015 by Resolution A/RES/70/175.<sup>20</sup> These rules were named in the honour of Nelson Mandela, who spent 27 years in prison and became a global entity to help in recognizing the rights of prisoners. these rules are not legally binding in nature but they aim to protect the dignity of a prisoner and provide equal access to healthcare treatment and facilities as available to the society. these rules are the milestone in protecting mental health rights of prisoners by advocating non- custodial measures and rehabilitative approaches. Rule 24 based on the principle of non- discrimination as it states that prisoners must receive equal standard of healthcare that is available to general society outside the prison. It is the responsibility of state to ensure the same. “Every prison shall have in place a health-care service tasked with evaluating, promoting, protecting and improving the physical and mental health of prisoners, paying particular attention to prisoners with special health-care needs or with health issues that hamper their rehabilitation.”<sup>21</sup> Further Rule 30 directs that if any prisoner is suffering from serious mental health illness, he must be shift to mental health establishments for proper treatment and care and those who can be treated within the prison should be treated their only by the psychiatrist. Rule 33 emphasized on Right to privacy of the prisons. Their health records should be kept confidential.

<sup>9</sup> 983 SCR (2) 337

<sup>10</sup> AIR 348 1988 SCR Supl.

<sup>11</sup> Mental Healthcare Act 2017, S.103

<sup>12</sup> Raj, P. (2025). Ensuring mental health as a human right for prisoners: Legal barriers, policy gaps, and advocacy for reform. *International Journal of Law Management & Humanities*, 8(2), 3891.

<sup>13</sup> Centre for Research & Planning. (2024). Report on prisons in India – Mapping prison manuals and measure reformation and decongestion. Supreme Court of India

<sup>14</sup> Ministry of Home Affairs, 2016, Model Prison Manual, p. 12.

<sup>15</sup> Rule 5.65 of the MPM, 2016

<sup>16</sup> MANU/TN/8349/2021.

<sup>17</sup>National Human Rights Commission. (2023). Advisory on deliberate self-harm and suicide attempts by prisoners. Government of India. [https://nhrc.nic.in/sites/default/files/NHRC%20Advisory%20on%20DISH%20and%20Suicide%20attempts%20by%20prisoners\\_2023.pdf](https://nhrc.nic.in/sites/default/files/NHRC%20Advisory%20on%20DISH%20and%20Suicide%20attempts%20by%20prisoners_2023.pdf)

<sup>18</sup> Gostin, L. O., & Gable, L. (2008). Global mental health: Changing norms, constant rights. *Georgetown Journal of International Affairs*, 9, 83.

<sup>19</sup>United Nations General Assembly. (2015). United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules) (Resolution 70/175). [https://www.unodc.org/documents/justice-and-prison-reform/Nelson\\_Mandela\\_Rules-E-book.pdf](https://www.unodc.org/documents/justice-and-prison-reform/Nelson_Mandela_Rules-E-book.pdf)

<sup>20</sup> Nelson Mandela Rules. 2015.

<sup>21</sup> Rule 25. Nelson Mandela Rules. 2015.

As per Rule 109, prisoners with mental illness should be transferred to mental health facilities if his need cannot be taken care of in the prison. "It is desirable that steps should be taken, by arrangement with the appropriate agencies, to ensure if necessary the continuation of psychiatric treatment after release and the provision of social-psychiatric aftercare".<sup>22</sup>

### 3.2 International Covenant on Civil and Political Rights

ICCPR was adopted by the General Assembly of the United Nations on 19 December 1966.<sup>23</sup> Provisions of ICCPR emphasizes on protecting Civil and Political rights of individuals at global level. Article 6 explains the duty of the state to protect the rights of the person under arrest by managing their living conditions under the prison. Depriving prisoners of quality medical treatment and food can violate their right to life. Article 7 protects prisoners from any kind of inhuman behaviour or degrading treatment in the premises of jail. Additionally, The Principles for the Protection of Persons with Mental Illness and for the Improvement of Mental Health Care (1991) states that persons suffering from mental illness including prisoners too, have the right to get equal care and treatment in every aspect. "Principle 20 recognizes that prisoners with mental illness are entitled to the same standards of treatment as other patients, including regular psychiatric evaluations."<sup>24</sup> According to the WHO,<sup>25</sup> "mental health care in prisons should be integrated with community health and highlights the risk of violation of rights of prisoners in custody."<sup>26</sup> These international instruments together presents guidelines and mandates the countries to protect the human rights of prisoners including mental healthcare right. Nelson Mandela Rules and ICCPR together puts obligations on the states to modify their domestic laws on their basis. These are considered as rehabilitative approaches rather than punitive ones. Despite these national and international laws on protection of rights of prisoners, implementation of the same is a challenge due to various complexities all around the world.

### 4. Challenges

Lack of infrastructure often leads to more number of inmates as compared to the space present which results in poor sanitation and violence which eventually cause mental health issues. Delays and ignorance in providing healthcare services by the staff and inadequate facilities of mental healthcare establishments are one of the major challenge in dealing with mental health issues. Another major component which acts as an obstacle is budgetary constraint. Due to the allocation of less funds for prisons, it becomes difficult to provide equal treatment to the prisoners. Additionally, in country like India mental health issues are seen as a taboo. Inmates may feel immense pressure to appear tough and hide any signs of mental distress. Seeking mental healthcare is often stigmatized as a sign of weakness, making inmates hesitant to ask for help.<sup>26</sup> Evidence suggests that the immense burden of mental disorders among people in prison is not matched by a proportional use of mental healthcare. Several reports from various correctional settings have documented that incarcerated persons are reluctant to seek help for mental health problems.<sup>27</sup> Most of the prisons lack adequate number of psychiatrists making it impossible to look over the prisoner who are suffering from mental health issues. There is only a ratio of one mental health professional for every 16,789 prison inmates which is insufficient to deal with mentally ill prisoners in India.<sup>28</sup> Due to the mindset, it is believed that punitive measures can create discipline but instead of this therapeutic approaches are needed. Treatment without valid consent of patients present in prison often leads to violation of human rights and institutionalism. Although the MHCA 2017 focuses on mandatory compliance of provisions to take care of mentally ill patients, its effective implementation process is slow. It is the duty of the prison medical officers to inform the Mental health review board about the mental condition of the prisoners and these MHRBs have the authority to inspect the prisoners and suggest appropriate care and treatment. Not all the states of India has these MHRBs. Also, ignorance from the side of officers will automatically ends down the whole process. Lastly, inadequate aftercare system for prisoners with health issues leads to failure of their reintegration into the society.

### 5. Conclusion and Recommendations

Protecting human rights of mentally ill prisoners is very crucial for a country like India. Right to equality envisaged in Article 14 of the Constitution makes it essential to not to discriminate between prisoners and society on the basis of their mental health. They are considered as the part of vulnerable group and their rights should be protected. This research examines the interrelation between mental health, human rights and prisoners.

National legal framework like MHCA 2017 and international instruments like Nelson Mandela Rules and ICCPR set guidelines for adequate treatment of prisoners and non- discrimination. Judicial interventions have been of great importance which time to time mentioned about the need for protecting the mental health rights of patients. However, there is a need of legal reforms , community based treatment, therapeutic approaches and many more measures for protecting the rights of marginalized sector of the country.

- Number of professional psychiatrists should be increased in order to treat the individuals suffering from mental illness in prisons. As the ratio between the number of mental health patient present in prison and the number of psychiatrist available is not up to the mark.
- There is a need to start a screening process of detecting mental health issues in prisoners before admitting them. This will help in treating them at the earlier stage so that they can be protected from the environmental stress of prisons. It should be conducted by professionals. Additionally, training should be given to prison staff to deal with mentally ill prisoners.
- The Mental Healthcare act 2017 should be implemented properly in all the establishments. Mental health review boards should be established in each state so that complaints and issues related to mental health of prisoners can be addressed easily. Provisions can added through amendment specifically for incarcerated individuals.
- Community based treatment should be there instead of punitive approaches. After identifying the prisoners who are suffering from serious mental health illnesses, they should be directly transferred to mental health establishments rather than prisons. This will be helpful in reducing overcrowding.
- Under national Human Rights Commission, routine inspections of prisons should be conducted to check the condition of prison in which all the prisoners are living and to assess the complaints of violation of human rights of prisoners.
- Most importantly, awareness programs should be conducted to educate people inside or outside the prison system about mental health and their right to protect the same. This will not only reduce the stigma associated with it but also encourage people suffering from mental illness to report about their issues at initial stage. It will also be easier to detect the symptoms. Staff will be getting training for the same so that they can go for therapeutic or rehabilitative approaches instead of neglecting the prisoners or abusing them through discriminatory practices.

In conclusion, changing conditions of prisons as well for the protection of mental health of prisoners there is a need of legislative reforms particularly directing towards prisoners. budget allocation should be made in such a manner that a good amount of fund should be given to improve the position of prisons and its prisoners. battling with stigma is necessary so that people can be treated without any kind of discrimination.

<sup>22</sup> Rule 110. Nelson Mandela Rules. 2015.

<sup>23</sup> Treaty Series, vol. 999, I-14668 [PDF]. United Nations Treaty Collection. <https://treaties.un.org/doc/publication/unts/volume%20999/volume-999-i-14668-english.pdf>

<sup>24</sup> International Journal of Law Management & Humanities [Vol. 8 Iss 2; 3891]

<sup>25</sup> World Health Organization. (2005). WHO resource book on mental health, human rights and legislation.

<sup>26</sup> Canada, K., Barenger, S., Bohrman, C., Banks, A., & Peketi, P. (2022). Multi-level barriers to prison mental health and physical health care for individuals with mental illnesses. *Frontiers in Psychiatry*, 13, 777124. <https://doi.org/10.3389/fpsy.2022.777124>.

<sup>27</sup> Byrne, E., Bradshaw, D., Kerin, M., & Pepe, I. (2023). A social identity approach to mental health help-seeking behaviour in prisoners: A systematic review. *Journal of Community & Applied Social Psychology*. Advance online publication. <https://doi.org/10.1002/casp.2727>.

<sup>28</sup> National Crime Records Bureau. (2023). Prison Statistics India