

# Legal Series: Volume 1:



*The* disability rights movements in India have achieved laudable goals on various fronts, but its greatest drawback has been neglect of the rights of persons with mental illness. The Government of India has passed two acts, Mental Health Act 1987 and Persons with Disability Act 1995 to protect the rights of persons with mental illness, mainstreaming of these people into the society. Though these people are depriving from their rights, even not treated as normal human beings and not even able to access medical facilities and rehabilitation services in compared to the other disabled people.

If we look into history of mental health legislation in India, it clearly demonstrates that needs of mentally ill people has been recognized and efforts have been made in same direction. These efforts neither are nor enough and proper implementation machinery was totally failed to create sound environment in the society for acceptance of mentally ill people. The first act was passed during the British Regime in 1858. This act was mainly emphasized on Treatment of mentally ill, they were not treated as patient and chained in hospital. The building was looked like cell. Then this act was replaced by

**Indian Lunacy act 1912.** This act could not made further changes in mental health delivery system and failed to improve the hospital conditions. It was believed behind that the freedom movement was main factor. Again, this act has been amended in 1987. The act has given more importance to treatment of mental illness and stress was given to Central and State Government responsibility through Central and state Government authority. The Act was drafted and importance was given to admission and reception in mental hospital and psychiatric clinics. The advantages of Mental Health Act, 1987 are those provisions that do safeguard the interests of persons with mental illness. These acts widely protect the right of mentally ill persons and safeguard their property through guardians and appointment of managers. But it does not talk about Rehabilitation aspect.

On other side, the Persons with Disability Act, 1995 has included mental illness and mental retardation. The definition of Mental illness given in section 2 is not specific and not matched with the definition of Mental Health Act, 1987. The act has not has further provisions regarding mental illness. The inclusion of mental illness into seven categories of disability is victory only in inclusion neither in reality nor providing services to the mentally ill people.

With the given situation, mentally ill and mentally disabled persons are dependent on vigilant members of society and the intervention of the courts for care and protection. The other enacted laws like Divorce Act, Marriage Act, Partnership Act, Contract Act, Company

**Laws, Indian Penal Code and Criminal Procedure Code and Transfer of Property Act etc. are closely associated with mentally ill People. To generate better awareness, advocating for amendments in the current legislations. Parents, Friends, Relatives and Organizations and Hospitals needs to be congregated from village level to national level and fights for their civil rights, human rights and legal rights.**

**This series would be helpful to create awareness related to laws, judgments given by the High courts of the various states and Supreme courts and execution orders related to mental health.**