

Mental Health and Prisons



Know the Law

The Mental Healthcare Act 2017

"prisoner with mental illness is a person with mental illness who is an under-trial or convicted of an offence and detained in a jail or prison"

the Act mandates setting up of mental health unit in the medical wing of at least one prison in every State/UT

the Act mandates constitution of 'Mental Health Review Board' which shall visit and inspect prisons and seek clarification from the medical officer incharge.

the board may enquire on why a prisoner with mental illness has been kept in the prison and not transferred for treatment to a mental health establishment

the Act mandates training of all medical officers in prisons to provide basic and emergency healthcare

Know the Law

□ **Section 328, 329 and 330 of the CRPC lays down:**

→ if the accused person is determined to be of unsound mind, then the adjudicating authority must allow for the postponement of his trial

→ adjudicating authority may release the person on surety of safe conduct

→ legal entitlement to treatment at a mental healthcare facility

→ release of accused with mental illness on bail on furnishing sufficient security; if bail cannot be granted then the such accused shall be kept in safe custody



CHRI

Commonwealth Human Rights Initiative

working for the *practical* realisation of human rights in the countries of the Commonwealth



Additional Safeguards

Rulings of the Supreme Court of India

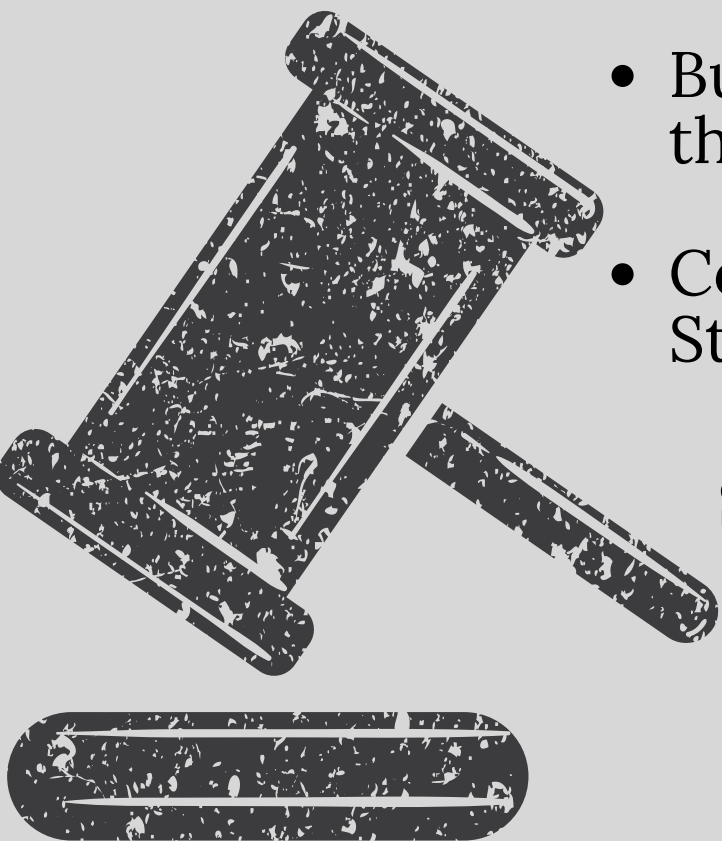
ACCUSED 'X' V. STATE OF MAHARASHTRA [Supreme Court of India - (2019) 7 SCC 1]

- Appellate court shall consider **post-conviction' mental illness** as a **mitigating factor** in death sentence cases.
- Burden of proof shall be on the accused to “**demonstrate active, residual or prodromal symptoms**” that the mental illness was manifesting
- Court must **establish a panel of qualified professionals** (medical experts and criminologists) while the State may offer evidence to rebut the claim

SHATRUGHAN CHAUHAN AND ANOTHER V. UNION OF INDIA AND OTHERS

[Supreme Court of India - (2014) 3 SCC 1]

- Regular **mental health evaluation** of all death row convicts and appropriate medical care must be provided.
- Before the execution, after consulting **government psychiatrists and doctors**, if the Superintendent **finds the prisoner to be not fit mentally**, she **must stop the execution** forthwith, produce the prisoner in front of a Medical board for a comprehensive evaluation and shall forward the report to the State government for further action.

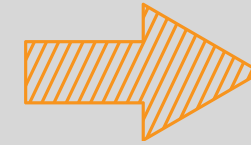


Additional Safeguards

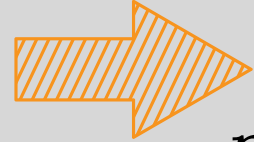
NALSA (Legal Services to the Mentally Ill and Mentally Disabled Persons) 2015



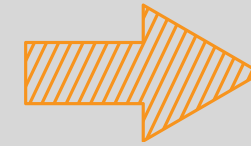
Regular inspection by State Legal Service Authority (SLSA) with State Mental Health Authority (SMHS) to identify cases of inmates suffering from mental illnesses



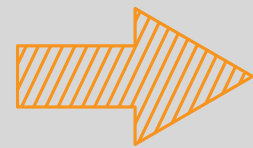
SLSA shall seek directions from the respective High Court for treatment and shifting out of these persons



Board of visitors must visit psychiatric homes or any such facility and assess the living conditions of inmates



Constitute a team of psychologists, psychiatrists and counsellors to visit jails and assess the state of mental health of inmates

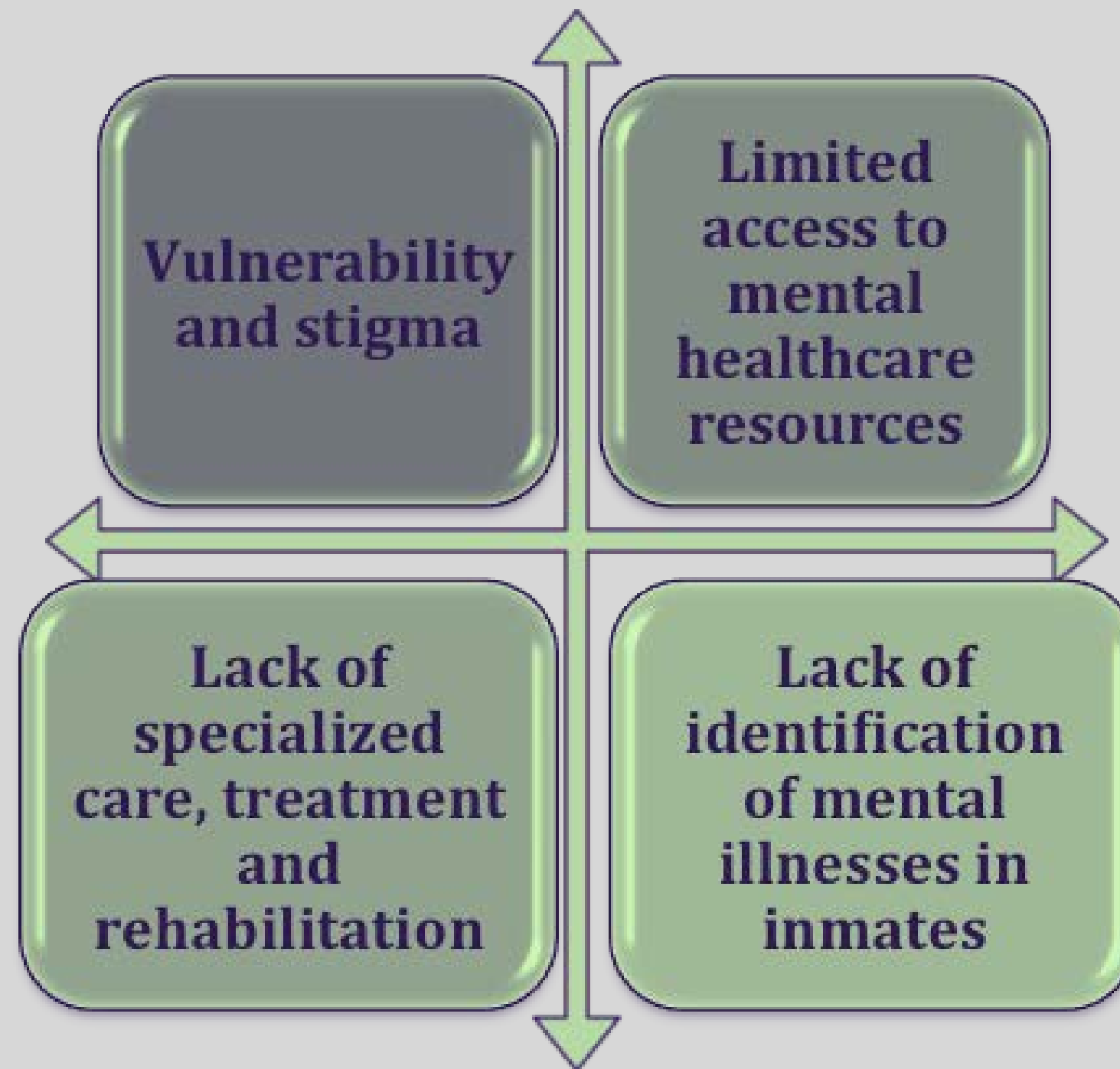


Set up legal aid clinics in psychiatric homes and any such facility to provide legal assistance to inmates suffering from mental illnesses and their families



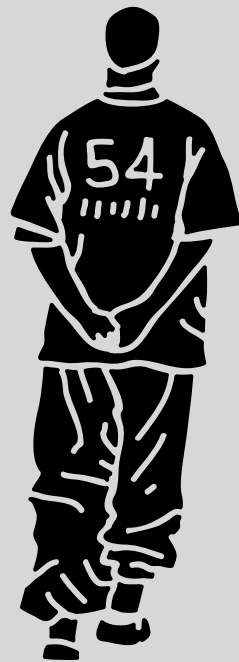
These legal aid clinics shall be manned by sensitive para-legal volunteers and panel lawyers

Challenges Faced by Prisoners with Mental Illnesses



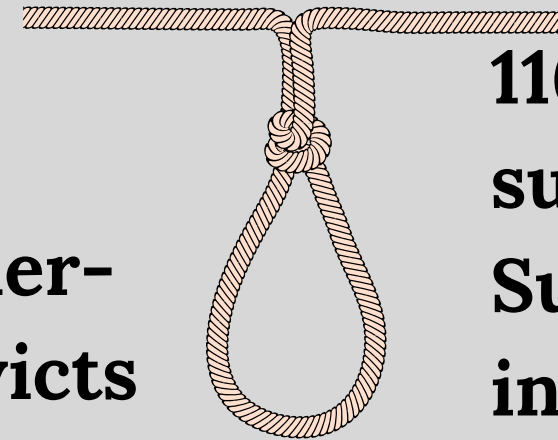
What the numbers tell us!

Prison Statistics India (PSI) data, 2019



Inmates suffering from mental illnesses form 1.5% of the total prison population i.e. a total of 7,394

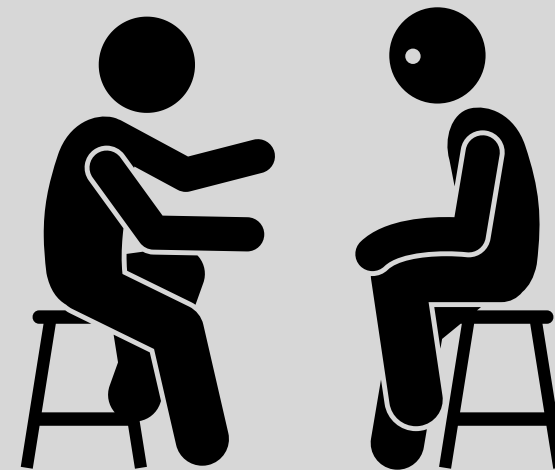
50% of these were under-trials, 48.7% were convicts and 0.2% were detenues



116 prisoners died of suicide in 2019. Suicide rate among inmates more than twice of what is recorded in general India population



Uttar Pradesh had the highest number of inmates suffering from mental illnesses: 1626; followed by Madhya Pradesh (752) and Maharashtra (742)



Severe dearth of correctional staff including psychologists and psychiatrists in Indian prisons; Ratio of prisoner per correctional staff is 628:1 & Prisoners per mental staff ratio is 243:1

Steps towards reducing incarceration of persons with mental illnesses



Increased and effective use of Section 328 and 329 of the CRPC



Increased monitoring of prisons by external members including the Board of Visitors (Official and Non-Official visitors)



Regular visits by the Mental Health Review Board



Training of prison staff on identification of early signs of mental illness among inmates



Sensitisation training of prison staff on handling prisoners with mental illnesses by adopting a more humane approach



Awareness building of inmates on de-stigmatisation of mental illness

Steps towards reducing mental illnesses among the prison population



Increased and widespread recreational and educational provisions for inmates inside prisons must be introduced across prisons in India



Involvement in sports activities, usage of prison libraries, inter-prison sports tournaments, yoga and meditation by trained professionals must be encouraged and adopted



Regular visits by psychologists and psychiatrists to the jails



Referral to civil hospitals/government hospitals/mental health institute for specialized treatment



Availability of trained counsellors inside jails