Mental Health and Prisons
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
Addtional 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
- Board of visitors must visit psychiatric homes or any such facility and assess the living conditions 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
- SLSA shall seek directions from the respective High Court for treatment and shifting out of these persons
- Constitute a team of psychologists, psychiatrists and counsellors to visit jails and access the state of mental health of inmates
- These legal aid clinics shall be manned by sensitive para-legal volunteers and panel lawyers
Challenges Faced by Prisoners with Mental Illnesses

- Vulnerability and stigma
- Limited access to mental healthcare resources
- Lack of specialized care, treatment and rehabilitation
- Lack of identification of mental illnesses in inmates
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
- Uttar Pradesh had the highest number of inmates suffering from mental illnesses: 1626; followed by Madhya Pradesh (752) and Maharashtra (742)
  Suicide rate among inmates more than twice of what is recorded in general India population

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
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<th>Steps towards reducing incarceration of persons with mental illnesses</th>
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<td>Increased and effective use of Section 328 and 329 of the CRPC</td>
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<td>Regular visits by the Mental Health Review Board</td>
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<td>Sansitisation training of prison staff on handling prisoners with mental illnesses by adopting a more humane approach</td>
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<td>Increased monitoring of prisons by external members including the Board of Visitors (Official and Non-Official visitors)</td>
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<td>Training of prison staff on identification of early signs of mental illness among inmates</td>
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<td>Awareness building of inmates on de-stigmatisation of mental illness</td>
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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.