

THE WELL-BEING FACTOR OF HOW LAW IS CHANGING WORKPLACE CULTURE: AN INTERSECTION OF MENTAL HEALTH AND EMPLOYMENT LAW

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INTRODUCTION

To achieve peak work performance, a human needs to be efficient in two essential physiological and psychological criteria. Throughout history, physiological needs have been taken care of because of their easy external access and visibility. Provisions for health benefits and insurance have often been seen being provided to the workers at their workplace; it is one of the perks benefits that is used to allure more employees.

However, it is also important to notice that psychological fulfillment is the need of the hour in this era where physiological need is not the end of the solution. As said rightly, '*Mens sana in corpore sano*', a Latin phrase which translates to a sound mind in a sound body'; suggests that optimal mental well-being is essential for physical health and vice versa. With growing emphasis on mental health in the contemporary period, it is important to consider that priorities should be set on those who are the building blocks of this vast nation which also holds the highest population in the world.

Now these building blocks don't necessarily stipulate to the youth of the nation but rather focus on the working population who is actively engaging and providing for the GDP and other national and international interests, which in turn provides for the people and their households. According to the 'Periodic Labour Force Survey'¹ Which was conducted by the Ministry of Statistics and Programme Implementation (MoSPI), there has been a declining unemployment rate in India alongside an increase in the ratio of the working population, i.e. 3.2% and 56% respectively.

To add on the same boat is the data from the 'Economic Survey 2024'² which highlights a major increase in the past six years of the working labor population of females; rising from

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¹ 'Employment Generation in India' (Press Information Bureau, 29 July 2024)

<<https://pib.gov.in/PressReleaseIframePage.aspx?PRID=2038699>> accessed 16 December 2024

² Khanchandani - Dr. Anu and others, 'Economic Survey 2024: India Has 18.3% Unpaid Workers, 57.3% of Total Workforce Self-Employed' (The Economic Times, 22AD) <<https://economictimes.indiatimes.com/budget->

23.3% to 37%. With the uptrend in employment, the destigmatization of mental health has become an integral issue to be recognized.

Coming to the bone of contention, mental health is increasingly becoming a crucial part of employment law. The country's framework is slowly yet steadily improving and addressing the well-being of employees. Hence, the nation's employment law comes into play.³, it regulates the relationship between employers and employees.

The applicable law is an amalgamation of central and state laws. From hiring requirements to holidays and termination of employment, the law states all but the necessary mental health, which needs to be regulated and implemented. There have been recent changes to make accommodations for it, but their implementation is a long way ahead.

Mental health isn't just a personal concern but a legal one, too, which in turn impacts both the employer and the employee, along with the colleagues who coexist in a habitat that makes an essential space for growing and developing. An employer who is at the helm of the workspace holds the water not just for physical safety but also for the less pondered-upon mental well-being.

Ensuring a healthy, supportive, and beneficial environment makes a better part of the legal considerations. These legal obligations along with the challenges impacting the workspace are to be discussed with utmost importance. Mental health must be taken seriously and not just like a daily affair that can be forwarded or procrastinated to the next day.

If a workspace culture provides for the employees and takes into consideration their mental health, not just out of legal obligations but for the better scenario, the employees are seriously going to work for the company by pouring their hearts out and leaving no stone unturned. A better space means a better reputation for the company, which means a better turnover and long-lasting employees who would be willing to go the extra mile and work harder.

[2024/economic-survey-2024/economic-survey-2024-57-3-per-cent-of-the-total-workforce-self-employed-18-3-per-cent-working-as-unpaid-workers/articleshow/111920479.cms](https://www.jlrjs.com/2024/economic-survey-2024/economic-survey-2024-57-3-per-cent-of-the-total-workforce-self-employed-18-3-per-cent-working-as-unpaid-workers/articleshow/111920479.cms)> accessed 16 December 2024

³ Ghoshal S and others, 'Employment & Labour Laws and Regulations Report 2024 India' (*International Comparative Legal Guides International Business Reports*, 7 March 2024) <<https://iclg.com/practice-areas/employment-and-labour-laws-and-regulations/india#:~:text=India%20follows%20a%20federal%20form,hiring%20of%20contract%20labour%2C%20etc.>>> accessed 16 December 2024

The workspace can take different initiatives to help out the employees, like regular wellness programs, employee assistance programs, flexible arrangements, and mental health days. All these would provide for a conducive environment that liberates the people working and allows them to speak their minds without fear of judgment. Establishing policies and promoting open communication along with training the management and employees to recognize the signs of distress would lead to the fall of the victims who suffer alone and silently.⁴

MENTAL HEALTH AND EMPLOYMENT LAW IN INDIA: AN OVERVIEW

Mental health issues are quite prevalent in society, especially in South Asia where the talks of such matters are considered baseless and time-consuming. According to a small but resourceful survey, it was found that as of 2022 mental health issues and high levels of stress were reported by 80% of the workforce of the nation; and a staggering 39% were wary of seeking treatment due to the societal stigmas.

Burnout, distress, depression, and anxiety have been reportedly the biggest issues cited in a toxic workplace by 4 in 10 Indian government and corporate employees. A lack of separation between personal and professional life is no help but rather an add-on to the string of issues.⁵ People from the lower strata feel a deeper and more complicated level of stress because of meager incomes and more time spent working away from family.

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Another complication in such a contention is the stigma of gender where women tend to be more stress-prone because of society's expectation of working and domestic women all in one which leads to nothing but extensive pressure on the females who have to prove to be a backbone for the family and also the office they are working for and the constant chaffing and criticism leads to extensive mental torture which leads to decline of physiological health as well.

While the government should provide for the employees, it is observed that often the laws are not implemented or not viable enough and lead to exploitation to maximize profits no matter what background the office is. The practical steps that should be taken into consideration are

⁴ Administrator, 'Managing Mental Health in the Workplace: Legal Considerations for Employers: Transcendent Law Group' (TLG, 24 September 2024) <<https://tlg.law/managing-mental-health-in-the-workplace/>> accessed 16 December 2024

⁵ 'Policies of Care: Mental Health and the Workplace' (Asia Society, 8 October 2024) <<https://asiasociety.org/india/events/policies-care-mental-health-and-workplace>> accessed 16 December 2024

not valued much and the ones that are already in ordeal are not implemented enough because of the stigma the phrase mental health carries around it, especially in Asia and Southern Asia.

As employees navigate through the challenges of the multifaceted domain of mental health, it is essential to note that even the prevalence of such is a cause of concern. The workplace is labeled as one of the major factors playing a handy role in the contribution to the deteriorating mental health. According to the Deloitte survey conducted it was seen that 80% of the working population suffers from mental health issues and this has resulted in significant economic costs for the employers.

Another citation for such a pervasive nature is highlighted in the National Sample Survey which found 60% suffering stress at their worksite.⁶ Employee efficiency is closely tied to mental health and if the condition is poor the overall outcome for the organisation will also be poor leading to losses both financial and reputational. It also contributes to physical diseases such as diabetes, cardiovascular conditions, and hypertension and is thus a major cause of disability and unemployment in the workforce.

Burnout and chronic stress have become increasingly found phenomena across the culture of working and thus the job satisfaction polls have seen a constant decline. The stigma wrapped around mental illnesses prevents employees from seeking help, leading to limited research on effective workplace mental health interventions. Conclusively, the a lack of proper mental health support in many workplaces across the nation.

THE RIGHT TO WORK AND EMPLOYMENT FOR PERSONS WITH MENTAL HEALTH PROBLEMS

Article 27 of the UN Convention on the Rights of Persons with Disabilities (CRPD)⁷ Emphasizes the rights and importance of equal opportunity and nondiscrimination which have to be provided to individuals with disabilities in the labor market. Right to work and employment is its main arena of focus and therefore it provides provisional laws for the same.

⁶ Co. HFTT, 'Is Your Work Culture Draining You? The Indian Workplace Mental Health' (*The Thought Co.*, 11 April 2024) <<https://www.thoughtco.in/blogs/news/is-your-work-culture-draining-you-the-indian-workplace-mental-health-crisis?srltid=AfmBOoo8m-OBBy0HPzsELW0jHkowz-POvDKhjYX4Zf3QAT5Pv2qz-KanI>> accessed 16 December 2024

⁷ 'Article 27 – Work and Employment Enable' (*United Nations*) <<https://www.un.org/development/desa/disabilities/convention-on-the-rights-of-persons-with-disabilities/article-27-work-and-employment.html>> accessed 16 December 2024

The article provides for the promotion of employment opportunities and protection of the rights of those who are usually not considered a part of the main streamlined labor community. From equal rights and prohibiting discrimination to protection from forced labor which might lead to exploitation, it provides clear guidelines to the citizens.

Though India is a signatory and ratified party to the CRPD protocol and is bound to follow all the mentioned 50 articles along with their preamble, further analysis is required when it is implemented in the Indian law of land. When considering the legal framework, the government has enacted various laws such as the Persons with Disabilities Act.⁸ Which provides for the guidelines of Article 27 along with fuller participation of persons with disabilities.

India has also implemented immense amounts of schemes, for example, the 'National Programme for Empowerment of Persons with Autism, Cerebral Palsy, Mental Retardation, and Multiple Disabilities (NPEPMDR)', which takes into account the vocational and employment training and opportunities which can be provided to the ones requiring it.⁹

Despite much aid and implementations the optimum and fuller utilization of the resources and policies isn't possible because of the challenges hindering the system. Indian courts have shown deep regard for the same and are showing increasing awareness but the specific focus is not yet there and hence there's a need for a comprehensive plan and progressing affirmative actions which could align with the employment laws and Article 27 principles.

With constant monitoring and regular interval intervention and evaluation, the result could be achieved and a better life would not be a chimerical dream for people with disabilities be it physical or mental.

What are exactly the global trends in Mental Health Employment Law?

To begin with, there has been an increase in recognition of mental health being a disability. Many countries now recognize mental health as an important health condition and it is covered

⁸ 'Rights of Persons with Disabilities Act, 2016' (*India code*) <https://www.indiacode.nic.in/bitstream/123456789/15939/1/the_rights_of_persons_with_disabilities_act_2016.pdf> accessed 16 December 2024

⁹ 'UNCRPD' (*Disability Rights Through Courts*) <<https://www.disabilityrightsindia.com/p/article-1-purpose.html>> accessed 16 December 2024

under the anti-discrimination laws.¹⁰; though one can observe the variations depending upon the state of the nation and other factors influencing it.

Moreover, there has been an upward trend where employers are required to provide reasonable accommodations for workers with mental conditions. Some countries have even implemented what precisely constitutes these accommodations. This can include flexible arrangements of jobs to provide assistive technology.¹¹

Additionally, employers are required to be aware of the needs that might occur and they must show growing recognition if they wish to hire such an employee. Some countries have even implemented mandatory training programs for employers so that they can be prepared to address the barriers that might be infringing.¹²

Many countries have also implemented various quotas or targets for the employment of people who have disabilities, both mental and physical; but the quota or criterion might vary widely for the enforcement.¹³ There has been increasing attention to places that accommodate people with mental health needs and despite the legal protections, there are innumerable instances where discrimination is faced by the people and the chasm between legal requirements and practical needs is vast and deep.

They are constantly linked with SDG 8 which talks about decent work and economic growth for sustainable development. While Article 27 is cohesively implemented in a lot of scenarios and is aligned with a lot of global trends there is like always room for improvement. The consistent application and focus on specific goals along with awareness based on monitoring and evaluation is a good still far away but not untenable.

LEGAL FRAMEWORK FOR SUPPORTING EMPLOYEE MENTAL HEALTH

Indian law for mental health with emphasis on mental health has been developing slowly and progressively, but it is high time that the process is no more a slow and steady one but rather a

¹⁰ Heymann J, Wong E and Waisath W, 'A Comparative Overview of Disability-Related Employment Laws and Policies in 193 Countries' (2021) 33 Journal of Disability Policy Studies 25

¹¹ Heymann J, Wong E and Waisath W, 'A Comparative Overview of Disability-Related Employment Laws and Policies in 193 Countries' (2021) 33 Journal of Disability Policy Studies 25

¹² Heymann J, Wong E and Waisath W, 'A Comparative Overview of Disability-Related Employment Laws and Policies in 193 Countries' (2021) 33 Journal of Disability Policy Studies 25

¹³ (*Article 27 CRPD (work and employment)*)

<https://www.internationaldisabilityalliance.org/sites/default/files/article_27_crpdpdf> accessed 16 December 2024

fast-paced and long-lasting one. Mental health has emerged as a crucial aspect of a hominids' well-being. No matter what the circumstance, it has been recognized throughout the globe.

With growing awareness of mental health being a contributory factor in the efficiency of the work achieved, there has been the enactment of the Mental Healthcare Act, 2017 by the parliament of India, and while this is a big leap for an Asian nation as like India it also has a multitude of challenges which are pertaining and needs to be addressed as quickly as possible. The legal landscape is in its budding phase where certain provisions fulfil the requirements.

First is The Constitution of India, which talks about Article 21, the right to life and personal liberty which also includes mental health as recognized by the Supreme Court of India. Second is The Mental Healthcare Act, of 2017 the Act states that persons with mental illness should not be discriminated against in employment and have the right to access health care.

Third is the Rights of Persons with Disabilities Act, 2016 (RPWD Act) it broadens the definition and includes mental illnesses such as depression, bipolar disorder, and schizophrenia. Employers are obliged to provide reasonable accommodations to employees. Last is the Factories Act, of 1948 which has a primary focus on physical well-being and safety measures but it also has provisions for coverage of mental health under a wider understanding.¹⁴

The judiciary has always played an important role and has increasingly recognized importance and the same is reflected in the recent judgments of the courts. In the case of *Vikas Gupta V. State Bank Of India & Ors.* of Delhi High Court, it was observed that sensitivity should be observed with mental health condition employees and discrimination should be avoided against them. It also emphasized that termination on the same sole basis is against the law and without reasonable accommodations or efforts to understand the difficulty is unjust.

In another case of the Supreme Court, *Jeeja Ghosh & Another V. Union Of India & Ors.*, the same concept and law were reinforced and underlined. It is the employees' right to have confidentiality and easy access to accommodations without discrimination. The Gallup 2024

¹⁴ Ali SF, 'Mental Health at the Workplace: A Legal Perspective' (*LinkedIn*, 18 August 2024) <<https://www.linkedin.com/pulse/mental-health-workplace-legal-perspective-syed-fayyaz-ali-jpnqc>> accessed 16 December 2024

report ¹⁵Clearly states that only 14% of the working force feels like they are thriving and a striking surprising 86% report struggle and suffering in their working habitats.

The duty of care by any employer is very significant to any employee. The responsibility on the shoulders of the employer is a big one because it is multifaceted and should be inclusive to all. The creation of a safe space and reducing stigma by creating awareness and regular intervening evaluation is necessary. Even if the employer has to be flexible in his policy, the need for a conducive environment with no judgment from the people is important for thriving and achieving the fullest optimization of human resources.

Many companies have taken steps in the right direction and have provided workshops and confidential counseling where they can vent their overwhelming feelings and escape the burnout situation. This would mean a better and more efficient working class that is willing to work maybe longer hours with the appropriate amount of breaks and facilities.

THE MENTAL HEALTHCARE ACT, 2017: A GAME-CHANGER

The MHCA 2017, has been a revolutionary act being brought into the Indian law scenario where even talking about is not considered of much importance. The act defines what exactly constitutes mental illness and what does not. It highlights the provisions which have been shadowed for years or more like never taken into consideration. It established several rights specifically for mentally ill individuals.

The right to access mental healthcare, right to community living, protection from cruel treatment, right to equality and non-discrimination, right to information and confidentiality, right to legal aid, and right to personal contacts and communication are some of the highlights of this landscape-changing act. Individuals are also given the right to ask for a specific treatment or any designating a nominated representative, under the advance directive through the guidance of a medical practitioner which allows them a sense of autonomy.

¹⁵ Patni - Prince and others, 'Nearly 90% Indian Employees Say They Are Suffering, over 40% Are Sad: Gallup Workplace Report' (*The Economic Times*, 12 June 2024) <<https://economictimes.indiatimes.com/jobs/mid-career/nearly-90-indian-employees-say-they-are-suffering-over-40-are-sad-gallup-workplace-report/articleshow/110931144.cms>> accessed 16 December 2024

Suicide is specifically decriminalized.¹⁶ Considering the situation of their minds and surroundings. The MHA 2017, also mandates the creation of 2 bodies.¹⁷ To be responsible for managing and overseeing national and state authorities. These all have a massive impact on the workplaces where it is implemented or is supposed to be implemented shortly.

It forms a right-based framework with the aid of the MHCA 2017 and this shift aims to reduce the stigma around mental health issues and foster inclusivity and openness to the same. It promotes mental health awareness and provides more for the facts rather than feeding the rumors and myths which are cruel baseless assumptions. The need for training and resources both in the government and corporate sector improves the response strategies and ideas to support the employees affected.

Employers when encouraged to create a haven for their employees indirectly and directly enhance productivity and efficiency. Decriminalization of suicide is yet another important step recognized by the people and the stress that is faced by the victim of such. Despite everything, there are challenges be it regarding fewer resources or not complying fully with the provisions of the act which are constantly hindering it. However, successful implementation requires constant efforts and that can be ensured by addressing the needs of the ones with ailments.

MENTAL HEALTH SUPPORT PROGRAMS AND RESOURCES IN INDIAN ORGANIZATIONS

Though the Indian legal framework doesn't have specific labor laws to address burnout or stress, the same can fall under the category of workplace safety regulations. The Occupational Safety, Health, and Working Conditions Code, 2020 (OSH Code) requires employers to ensure a safe working environment but does not include detailed provisions for managing chronic stress or psychological hazards.¹⁸ Also, the Factories Act, of 1948 sets limits on working hours

¹⁶ Admin Y, 'Mental Healthcare Act, 2017: Highlighting Important Provisions' (*YLCC*, 2 April 2022) <<https://www.yourlegalcareercoach.com/mental-healthcare-act-2017-highlighting-important-provisions/>> accessed 16 December 2024

¹⁷ Admin, 'Mental Healthcare Act, 2017 PDF, Provisions of the Mental Healthcare Act for UPSC' (*BYJUS*, 17 February 2023) <<https://byjus.com/free-ias-prep/mental-healthcare-act-2017-upsc-notes/>> accessed 16 December 2024

¹⁸ 'Psychological Safety and Mental Health in the Workplace: Legal Protections and Compensation for Psychological Injuries' (*Legal Service India - Law, Lawyers and Legal Resources*) <<https://www.legalserviceindia.com/legal/article-18413-psychological-safety-and-mental-health-in-the-workplace-legal-protections-and-compensation-for-psychological-injuries.html>> accessed 16 December 2024

but doesn't state or address how mental health is impacted by chronic overwork or increased stress of a job.

The Mental Health Care Act, of 2017 majorly focuses on individual rights rather than providing detailed legal frameworks for workplace mental health management which is a matter of concern and poses a high credibility issue considering the purpose was majorly mental health of an employee. The Sexual Harassment of Women at Workplace (Prevention, Prohibition, and Redressal) Act, 2013 (POSH Act) addresses sexual harassment but does not extend to other forms of workplace bullying and psychological harassment also there is insufficient support for chronic stress and overwork in the legal framework. This, therefore paints the picture for a larger issue.¹⁹

The current situation of mental health is stigma and poses a significant challenge that affects the adaptability to workspace and colleagues. Some mental health support programs are Employee Assistance programs, mental health days, wellness initiatives, and manager training. Though there will be challenges with an apt amount of stigma reduction campaigns, cultural sensitivity, technological integration, and collaboration with mental health professionals there could be a system of checks and balances with regular feedback and policy developments.



¹⁹ 'Psychological Safety and Mental Health in the Workplace: Legal Protections and Compensation for Psychological Injuries' (*Legal Service India - Law, Lawyers and Legal Resources*) <<https://www.legalserviceindia.com/legal/article-18413-psychological-safety-and-mental-health-in-the-workplace-legal-protections-and-compensation-for-psychological-injuries.html>> accessed 16 December 2024

FUTURE TRENDS AND CHALLENGES IN INDIAN EMPLOYMENT LAW

There is increasing awareness and recognition of mental health as a critical workplace issue in India. Companies are stepping up efforts to prioritize mental health in more meaningful ways, supporting employees and reducing stigma around mental health discussions. Hybrid Work Models with Clear Boundaries: As remote and hybrid work models become more prevalent, there is a need to establish clear boundaries between work and personal time to prevent burnout. Finding the right balance between flexibility and work-life separation is both an opportunity and a challenge for Indian organizations. Personalized Mental Health Support: Companies are moving away from one-size-fits-all approaches to mental health support. Instead, they are tailoring wellness programs and benefits to meet the diverse needs of individual employees. This personalized approach is seen as more empowering and satisfying for workers.

Emphasis on Inclusivity and Belonging: There is a growing focus on creating inclusive workplaces that foster a sense of belonging among employees. This involves celebrating cultural differences, hosting cultural events, and ensuring all employees feel valued and respected. Technology is playing an increasingly important role in workplace mental health initiatives. AI-driven mental health tools, apps for tracking physical activity, and other digital solutions are making mental health support more accessible and measurable.²⁰

Need for Comprehensive Policies and Assessments: Many workplace mental health interventions in India lack comprehensive needs assessments, impact evaluations, and alignment with broader organizational policies. There is a need for more holistic approaches that address mental health promotion, prevention, and treatment. Despite the growth in workplace mental health initiatives, robust research is scarce on the effectiveness of these interventions in the Indian context. More studies are needed to evaluate the cost-effectiveness and outcomes of different approaches.²¹

²⁰ Advisor S, 'Five Employee Well-Being Trends Shaping Indian Workplaces in 2025' (*Welcome to SHRM*, 13 December 2024) <<https://www.shrm.org/in/topics-tools/news/blogs/five-employee-well-being-trends-shaping-indian-workplaces-in-2025>> accessed 16 December 2024

²¹ Pandya A, Khanal N and Upadhyaya M, 'Workplace Mental Health Interventions in India: A Rapid Systematic Scoping Review' (*Frontiers in public health*, 3 May 2022) <<https://pmc.ncbi.nlm.nih.gov/articles/PMC9110774/>> accessed 16 December 2024

India is implementing new labor codes that may impact how mental health is addressed in the workplace. These changes could influence aspects like working hours, employee benefits, and employer responsibilities regarding mental health.²²

In conclusion, while there is growing recognition of mental health as a workplace issue in India, there are still significant challenges in developing and implementing effective mental health support programs. Organizations face the need to balance flexibility with clear boundaries, personalize support, foster inclusivity, leverage technology, and conduct rigorous evaluations of their approaches. As Indian employment law evolves, addressing mental health will likely become an increasingly important aspect of workplace policies and practices.



²² Doshi D, 'New Labour Codes and Mental Health Compliance' (*orfonline.org*, 9 October 2024) <<https://www.orfonline.org/expert-speak/new-labour-codes-and-mental-health-compliance>> accessed 16 December 2024