Recent amendments in the acts related to medical practice

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Abstract

Introduction- The Indian Penal Code, 1860 governs the substantive part and the Code of Criminal Procedure, 1973 along with the Indian Evidence Act, 1872 governs the procedural part of the criminal law of the country.

Material and Methods- A thorough study was made from the available online resources and books.

Result- It is worth mentioning that the amendments in laws from time to time make it flexible for implementation in present context.

***Conclusion*-** Indian Penal Code is derived from British Penal Code which is primitive in present context. So, many laws prevailing in India, codified as IEA, CrPC, and IPC needs amendment from time to time.

Keywords: IPC, CrPC, Amendment; HIV Act; Medical Indemnity Insurance; POCSO Act, 2018; Criminal Law. Amendment Act, 2018.

Introduction

Indian Penal Code (IPC) 1860: It is a comprehensive code that deals with substantive criminal law of India. It defines various offences and prescribes code for punishment in the court of law.

Criminal Procedure Code (CrPC) 1973: It deals with procedures of investigation and the mechanism for punishment of offences against the substantive criminal law.

Indian Evidence Act (IEA) 1872: It relates to evidence on which the court come to conclusion regarding facts of the case. It is common to both the criminal and civil procedure(1).

In the state of Jammu & Kashmir, Ranbir Penal Code is enforced.

The Indian Penal Code, 1860 governs the substantive part and the Code of Criminal Procedure, 1973 along with the Indian Evidence Act, 1872 governs the procedural part of the criminal law of the country. These Acts have been amended several times to keep pace with the changing needs of society.

An **amendment** is a formal or official change made to a law, contract, constitution, or other legal document. It is based on the verb **to amend**, which means to change for better. Amendments can add, remove, or update parts of these agreements. They are often used when it is better to change the document than to write a new one (2).

History

Medicine and laws have been related from the earliest times and the bonds which united them were religion, superstition and magic. The Charak Samhita (about seventh century B.C.) lays down on elaborate code regarding training, duties, privileges and social status of physicians. Manusmriti laid down various laws including punishment for various sexual offences and recognized mental incapacity due to intoxication, illness and age. Between Fourth and third century B.C., Arthshastra of Kautilya defined penal laws and regulated medical practice(3).

Law –medicine problems are found in written records in Egypt, Sumer, Babylon, India and China dating back 4000 to 3000 B.C. A Chinese material medica of about 3000 B.C. gives information on

poisons. The code of Hmmurabi, king of Babylon is the oldest known medicolegal code. Rig veda and other Vedas mention about crimes like incest, adultery, abduction, killing an embryo, murder, drunkenness and their punishments. Hippocrates, the "Father of Western Medicine" was born and practiced in the island of Kos in Greece, discussed lethality of wounds(4).

In the sixth century A.D. the Justinian Code (Roman emperor) and Institutes regulated the practice of medicine and surgery, and established the function of the medical expert for legal procedure. The first medicolegal autopsy was done in Bologna (Italy) in 1302, by Bartolomeo de Varignana. George Bishop of Bamberg, proclaimed a penal code in 1507, where medical evidence was a necessity in certain cases. Caroline Code was proclaimed in 1553 in Germany by Emperor Charles V., with which expert medical testimony became a requirement rather than an option.

The first book on Forensic Medicine was published in 1602 by an Italian physician, Fortunato Fedele (5).

In India first autopsy was performed by Edward Buckley on 10th August 1714 in Madras (6).

Material and Method

A thorough study related to various acts related to medical practice was made from various books, available online resources and bare act. Various related research articles were reviewed for understanding the present status of the law and its amendments.

Result and Discussion

The Medical Termination of Pregnancy Act, 1971

In India, abortion is legal in certain circumstances. It can be performed on various grounds till 20 weeks of pregnancy and termination can be allowed after 20 weeks in exceptional cases only.

Abortion law in India

Before 1971 (Indian Penal Code, 1860)

It was criminalized under Section 312 of the Indian Penal Code, 1860, before 1971. It was a punishable offense and criminalized women/providers, with three years in prison and/or a fine, and the woman availing of the service facing seven years in prison and/or a fine except in cases where abortion was carried out to save the life of the woman. After the legalization of abortion in 15 countries in 1960s and the alarmingly increased number of abortions taking place the Ministry of Health and Family Welfare, Government of India instated a Committee in 1964 led by Shanti Lal Shah to come up with suggestions to draft the abortion law for India. The recommendations of this Committee were accepted in 1970 and introduced in the Parliament as the Medical Termination of Pregnancy Bill, which was passed in August 1971 as the Medical Termination of Pregnancy Act.

The Medical Termination of Pregnancy Act, 1971

The Medical Termination of Pregnancy (MTP) Act, 1971 came into force on 1st April, 1972 and provides the legal framework for making CAC services available in India. Termination of pregnancy is permitted for a broad range of conditions up to 20 weeks of gestation as detailed below:

- Environmental: When continuation of pregnancy is a risk to the life of a pregnant woman or could cause grave injury to her physical or mental health;
- Eugenic: When there is substantial risk that the child, if born, would be seriously handicapped due to physical or mental abnormalities. It can be indicated in cases of exposure of mother teratogenic drugs (warfarin) or radiation exposure(10 rad) in early pregnancy, exposure to German measles, chicken pox, viral hepatitis or other viral infections if contacted within 1st trimester, structural, chromosomal or genetic abnormalities or the parents have inheritable mental condition or chromosomal abnormalities.
- Humanitarian: When pregnancy is caused due to rape (presumed to cause grave injury to the mental health of the woman);
- Social: When pregnancy is caused due to failure of contraceptives used by a married woman or her husband or the unplanned pregnancy with low socio-economic status.
- Therapeutic: In order to prevent injury to the physical health of pregnant women such as in cases of cardiac diseases, intractable hyperemesis gravidarum, epilepsy, insanity, toxemia of pregnancy, cervical or breast carcinoma, malignant hypertension.

The MTP Act further specifies –

(i) who can terminate a pregnancy;
(ii) till when a pregnancy can be terminated; and
(iii) where can a pregnancy be terminated

MTP Act, Amendments, 2002

The Medical Termination of Pregnancy (MTP) Act 1971, was amended in 2002 to facilitate better implementation and increase access for women especially in the private health sector.

1. The amendments to the MTP Act in 2002 decentralized the process of approval of a private place to offer abortion services to the district level. The District level committee is empowered to approve a private place to offer MTP services in order to increase the number of providers offering CAC services in the legal ambit.
2. The word 'lunatic' was substituted with the words 'mentally ill person'. This change in language was instituted to lay emphasis that "mentally ill person" means a person who is in need for treatment by reason of any mental disorder other than mental retardation.
3. For ensuring compliance and safety of women, stricter penalties were introduced for MTPs being conducted in unapproved sites or by untrained medical providers by the Act.

MTP Rules, 2003

The MTP Rules facilitate better implementation and increase access for women especially in the private health sector.

- **Composition and tenure of District Level Committee:** The composition of the committee stating that one member of the committee should be a Gynecologist /Surgeon/ Anesthetist and other members should be from the local medical profession, non-government organizations, and Panchayati Raj Institution of the district and one member of the Committee should be a woman.
- **Approved place for providing medical termination of pregnancies:** it deals with equipment, facilities, drugs, and referral linkages to higher facilities required by an approved place for providing quality CAC and post abortion services.
- **Inspection of private place:** It is a provision that an approved place can be inspected by the Chief Medical Officer (CMO), as often as may be necessary.
- **Cancellation or suspension of a certificate of approval for a private place:** As per the MTP Rules 2003, the CMO of the District shall make a report of the fact to the Committee giving the detail of the deficiency or defects found at the place and can suspend or, cancel the approval of the place, if satisfied that the facilities are not being provided properly.

Proposed Amendments to the MTP Act, 2014

In 2013 a national consultation was held which was attended by a range of stakeholders further emphasized the need for amendments to the MTP Act. In 2014, MoHFW shared the Medical Termination of Pregnancy Amendment Bill 2014 in the public domain. The proposed amendments to the MTP Act were primarily based on increasing the availability of safe and legal abortion services for women in the country.

- Expanding the provider base
- Increasing the upper gestation limit for legal MTPs
- Increasing access to legal abortion services for women
- Increasing clarity of the MTP law

Surrogacy bill

Lok Sabha has finally passed the Surrogacy (Regulation) Bill on December 19, 2018. This bill states some rules to control surrogacy in the country and has completely banned the commercial surrogacy, only allowing for altruistic surrogacy. The main aim of this bill is to protect women from exploitation.

Background

The bill was first introduced in Lok Sabha as The Surrogacy (Regulation) Bill 2016 on 21st November 2018. In 2017, it was then referred to Parliamentary Standing Committee on Health and Family Welfare. 102nd report of the bill was placed in Rajya Sabha and Lok Sabha last year.

Provisions of Surrogacy (Regulation) Bill 2016

- The bill is applicable to all the states of India except Jammu and Kashmir.
- The bill provides the constitution of National Surrogacy board and State

Surrogacy board for regulation of surrogacy process.

- The bill ensures regulation of surrogacy in India, prohibiting commercial surrogacy. It allows altruistic surrogacy to Indian married couple who cannot bear children.
- The bill is providing g surrogacy to only Indian citizens. Thus, Foreigners, NRI and PIOs are not allowed. Homosexuals and Single parents are also not allowed for surrogacy and bar the couple who already have children. The couple seeking surrogacy should possess a certificate of essentiality issued by appropriate authority. The bill provides that women can only surrogate once in her lifetime and her age should be in between 25 to 35 years. The bill also provides provision for the custody of the child to be born which will be passed by a court of the Magistrate of the first class or above.

  The bill contains the provision of penalty and imprisonment if the person violated the law.

Juvenile Justice Act

It replaced the Indian juvenile delinquency law, Juvenile Justice (Care and Protection of Children) Act, 2000, and allows for juveniles in conflict with Law in the age group of 16–18, involved in Heinous Offences, to be tried as adults. The Act came into force from 15 January 2016.

Background

In December 2012, Delhi gang rape left tremendous impact on public perception of the Act. One of the accused, who was a few months younger than 18 years of age, was tried in a juvenile court. The accused had proved to be most brutal in the incident and causing threat to the life of the victim. Demands for a reduction of the age of juveniles from 18 to 16 years were also turned down by the Supreme Court, when the Union of India stated that there is no proposal to reduce the age of a juvenile.

On 31 July 2013, Subramanian Swamy, a BJP politician filed a Public Interest Litigation in the Supreme Court of India seeking that the boy be tried as an adult in a court.

On 22 April 2015, the Cabinet cleared the final version of the bill proposed by Minister of Women and Child Development, Menka Gandhi who opined that a new law which will allow 16-year-olds to be tried as adult for murder and rape, would scare them as most of them thought that they will take away with it. The new bill proposed to allow minors in the age group of 16-18 to be tried as adults if they commit heinous crimes.

The bill allowed a Juvenile Justice Board, including psychologists and sociologists, to decide whether a juvenile criminal in the age group of 16–18 should be tried as an adult or not. The bill introduced concepts from the Hague Convention on Protection of Children and Cooperation in Respect of Inter-Country Adoption, 1993 which were missing in the previous act and also streamlined the adoption process of orphaned, abandoned and surrendered children

The bill introduced foster care children in India, who are in conflict with the law and families providing such care will be monitored and shall receive financial aid from the state for the same. In adoption, disabled children and children who are physically and financially incapable will be given priority. Parents giving up their child for adoption will get 3 months to reconsider, compared to the earlier provision of 1 month.

Under Section 15, special provisions have been made to tackle child offenders committing heinous offences in the age group of 16-18 years. The Juvenile Justice Board is given the option to transfer cases of heinous offences by such children to a Children's Court (Court of Session) after conducting preliminary assessment. The provisions provide for placing children in a 'place of safety' both during and after the trial till they attain the age of 21 years after which an evaluation of the child shall be conducted by the Children's Court. After the evaluation, the child is either released on probation and if the child is not reformed then the child will be sent to a jail for remaining term. The law will act as a deterrent for child offenders committing heinous offences such as rape and murder and will protect the rights of victim.

Penalties

A person giving alcohol or drugs to a child shall be punished with 7 years imprison and/or Rs100,000 fine. Corporal punishment will be punishable by Rs50,000 or 3 years of imprisonment. A person selling a child will be fined with Rs100,000 and imprisoned for 5 years.

Criminal law amendment Act, 2018

The Criminal Law Amendment Act, 2018 is also a consequence of such barbaric incidents which shook the conscience of the entire nation. The demand for making anti-rape laws more stringent had started developing due to various child rape incidents. The Bill was passed by the Parliament on 6th August 2018. The President gave assent to the Bill and thus, the Criminal Law (Amendment) Act, 2018 came into force.

This followed the Criminal Law (Amendment) Ordinance, 2018 and brought amendments in four major Acts.

- The Indian Penal Code, 1860
- The Code of Criminal Procedure, 1973
- The Protection of Children from Sexual Offences Act, 2012
- The Evidence Act, 1872

The Indian Penal Code, 1860

After the amendment, Section 376 deals with three categories of punishment for rape, apart from rape of women by police officers, public servants, member of the armed forces, etc.

- Punishment for the rape of a woman to be a minimum ten years rigorous imprisonment which may extend to imprisonment for life. {Section 376(1)}.
- Punishment for rape on a woman under sixteen years of age is rigorous imprisonment of a minimum twenty years which may extend to life imprisonment. {Section 376 (3}
- Punishment for rape on a woman under twelve years of age has also been added, which is minimum twenty years rigorous imprisonment and may extend to imprisonment for life. The offender in such cases can also be punished with death penalty. {Section 376AB}

Thus, for the first time, death penalty has been introduced for the offence of rape considering the gravity of the offence.

- Further, Section 376DA and 376DB have been added by the amendment which deals with punishment for gang rape on a woman under sixteen years and twelve years respectively. The punishment in such cases has to be invariably imprisonment of life. However, for gang rape on a woman under twelve years of age **death penalty** can also be awarded.
- Clause (i) of Section 376(2) has been omitted.

The Code of Criminal Procedure, 1973

There have been simultaneous amendments in the Cr.P.C to meet the ends of justice in such cases of rape.

- If a person is accused of rape on a woman of less than sixteen years of age, he shall not be granted anticipatory bail under Section 438 by a High Court or a Court of Session.
- The amendment has provided for speedy trial and investigation.
    - The investigation has to be mandatorily completed within two months.
    - The appeal in rape cases has to be disposed within six months.
- Moreover, the amendment has also made two changes in Section 439 of the Code.
    - A provision has been inserted which states that the High Court or the Session Court has to give notice to the public prosecutor within 15 days of which it receives the bail application of an accused of raping a girl under 16 years of age.
    - A sub-section has been inserted which makes the presence of informant or a person authorized by him mandatory during the hearing of bail application of the accused in such cases.

The Protection of Children from Sexual Offences Act, 2012

- Section 42 of the Act which deals with alternative punishment has been amended to include Sections 376AB, 376DA, and 376DB.

The Evidence Act, 1872

- Section 53A and Section 146 have been amended to make the provision of the Act to be in consonance with the amendments in other Acts.

Comments

- After the amendment, the minimum punishment in both the sub-sections 376(1) and 376(2) is ten years of imprisonment and thus, there remains no difference.

- This is gender neutral legislation as it defines a 'child' as the one who is under the age of 18 years. The maximum punishment under this Act is imprisonment for life and the maximum punishment for a sexual offence under IPC for minor girls has become death penalty. Thus, a difference has been created by the amendment of 2018 as punishment for rape on minor girls has become more stringent as compared to rape on minor boys.
- The amendment in Cr.P.C provides that no anticipatory bail shall be granted in cases of rape on a woman less than sixteen years of age. Thus, now the accused has no provision to get an anticipatory bail even if there are chances of being booked under a false case.

The Protection of Children from Sexual Offences Act, 2012

The Protection of Children from Sexual Offences (POCSO) Act, 2012 deals with sexual offences against persons below 18 years of age, who are deemed as children. The Act for the first time, defines "penetrative sexual assault", "sexual assault" and "sexual harassment". The gravity of the offence is increased, if it is committed by a police officer, public servant, any member of the staff at a remand home, protection or observation home, jail, hospital or educational institution, or by a member of the armed or security forces.

The Act has come into force on the 14th of November, 2012, along with the rules framed there under. The Act is a comprehensive law to provide for the protection of children from the offences of sexual assault, sexual harassment and pornography, while safeguarding the interests of the child at every stage of the judicial process by incorporating child-friendly mechanisms for reporting, recording of evidence, investigation and speedy trial of offences through appointment of Special Public Prosecutors and designated Special Courts. The Act incorporates child friendly procedures for reporting, recording, investigation and trial offences. The Act provides for stringent punishments which have been graded as per the gravity of offence.

Table 1: Punishment for offences for using child for pornographic purposes

Offence	POCSO Act,2012	2018 bill
Use of child for pornographic purposes	Maximum 5 years	Minimum 5 years
Use of child for pornographic purposes resulting in penetrative sexual assault	• Minimum 10 years • Maximum life imprisonment	No change
Use of child for pornographic purposes resulting in aggravated penetrative sexual assault	life imprisonment	Minimum 20 years Maximum life imprisonment or death
Use of child for pornographic purposes resulting in sexual assault	Minimum: Six years Maximum: Eight years	Minimum: Three years Maximum: Five years
Use of child for pornographic purposes resulting in aggravated sexual assault	Minimum: Eight years Maximum: 10 years	Minimum: Five years Maximum: Seven years

Source:https://www.prsindia.org/billtrack/protection-children-sexual-offences-amendment-bill-2019

The transplantation of human organs act, 1994

An Act to provide for the regulation of removal, storage and transplantation of human organs for therapeutic purposes and for the prevention of

commercial dealings in human organs and for matters connected therewith or incidental thereto. Human organ and tissue transplantation was started in India in 1962. Initially, the organ transplant was unregulated, and organ trafficking was rampant. The act governing the transplantation was passed in 1994. This has been subsequently amended in 2011, and new rules came into force in 2014. The act was initiated at the request of Maharashtra, Himachal Pradesh, and Goa (who therefore adopted it by default) and was subsequently adopted by all states except Andhra Pradesh and Jammu and Kashmir.

Table 1: Differences in THOA 1994 and Transplantation of Human Organs and Tissues Act 2014

	THOTA 1994	**THOTA 2014**
Advisory committee	No	Yes
Appropriate authority	Mentioned	Defined: who and what
Authorization committee	State	Included hospitals of >25 transplantation/year
Video	No	Video recording
Definition of brain death	Yes	Yes
Brain death declaration team	Neurology/neurosurgeon	Added physician, anesthetist, intensivist.
Hospitals	Transplanting centers	Added non-transplant retrieval centers
Which hospital	-	Any hospital with RMP and ICU facility
Registration of hospital	Organ retrieval	Yes for organ retrieval but not needed for tissue retrieval
Scope of donor	"near-relative" means spouse, son, daughter, father, mother, brother or sister	Near relative included grandparents, grandchildren
Swap donations	No	Yes
Pledge	No	Yes, form 7
Conselling for donation	Mentioned	Mandatory
Medico-legal cases	Not mentioned	Simplified
Number of forms	13	21
Role of doctor	Needed for organ retrieval	Yes for organ retrieval not for tissue
Transplant coordinators	Mentioned	Mandatory
Organ retrieval charges	Organs	Recipient/govt./ NGO
Scope	Less	Organs and tissues
Penalties	Less	More
Registries	No	Yes

Source:http://www.ijtonline.in/viewimage.asp?img=IndianJTransplant_2018_12_2_84_235594_t2.jpg

Besides, the other provisions are-

Other than near-related donors- donors expect those defined under near-related donors come under this category. Permission in such cases is granted only by the authorization committee.

Donor or recipient from other state-When the living donor is unrelated and if donor or recipient belongs to a state, other than the state where the transplantation is to be undertaken, verification of residential status by Tehsildar, or any other authorized officer for the purpose with a copy marked to the appropriate authority of the state of domicile of donor or recipient is required as per Form 20.

Foreign donors-All such cases are dealt by authorization committee. Such transplantation is permitted only in near-related donors. In case of foreigners coming for transplantation in India, the transplant is permitted in India with permission from a senior embassy official of the country of origin who certifies the relationship between the

donor and the recipient, and in case, a country does not have an embassy in India, and the certificate of relationship is issued by the government of that country.

Deceased donor- Deceased donation can be either after brain death (brain stem death) or after cardiac death.

Penalties- Penalties for the removal of organ without authority, making or receiving payment for supplying human organs, or contravening any other provisions of the act have been made very stringent in order to serve as a deterrent for such activities. These may be in the form of financial penalties, imprisonment, or suspension of license.

Unauthorized removal-5-10 years/ penalty up to Rs 20 lacs.

Commercial dealing-2-7 years/10,000-20,000

Pre-Conception and Pre-Natal Diagnostic Techniques (PCPNDT) Act, 1994

It is an Act of the Parliament of India enacted to stop female feticides and arrest the declining sex ratio in India. The act banned prenatal sex determination. Sex can be determined by

- Amniocentesis
- Chorionic villous biopsy
- Ultrasonography and image scan

The main purpose of enacting the act is to ban the use of sex selection techniques after conception and prevent the misuse of prenatal diagnostic technique for sex selective abortions.

Amendment in 2003

Pre-Natal Diagnostic Techniques (Regulation and Prevention of Misuse) Act, 1994 (PNDT), was amended in 2003 to The Pre-Conception and Pre-Natal Diagnostic Techniques (Prohibition Of Sex Selection) Act (PCPNDT Act) to improve the regulation of the technology used in sex selection.

Prerequisite for doing PCPNDT

1. History of two or more abortions.
2. Age of pregnant female is above 35 years.
3. History of exposure to teratogenic drugs, radiations or infections.

Implications of the amendment are

1. Amendment of the act mainly covered bringing the technique of pre conception sex selection within the ambit of the act
2. Bringing ultrasound within its ambit. Nursing homes or RMP or hospital where ultrasonography is used has to display the board stating “hospital does not do sex determination”.
3. Empowering the central supervisory board, constitution of state level supervisory board.
4. Written consent of pregnant women is a most to undergo PC and PND technique.
5. Provision for more stringent punishments. Doctor contravening the provisions of Act shall be punished for 3 years imprisonment and fine of Rs 10,000. Any person seeking help for sex determination shall also be held guilty and a provision of punishment for 3 years and fine of Rs 50,000 is made under the Act.
6. Empowering appropriate authorities with the power of civil court for search, seizure and sealing the machines and equipment of the violators. Doing sex determination test amounts to misconduct by Medical Council of India.
7. Regulating the sale of the ultrasound machines only to registered bodies.

HIV Act

The Human Immunodeficiency Virus and Acquired Immune Deficiency Syndrome (Prevention and Control) Act, 2017, often shortened to the **HIV/AIDS Prevention Act** or simply the **HIV/AIDS Act**, is an Act of the Parliament of India that prohibits discrimination against individuals who are diagnosed with HIV/AIDS. The law makes India the first country in South Asia to prohibit discrimination against people living with HIV/AIDS, and also makes India the largest country to have such a law.

The process of drafting a law to prevent and control the spread of HIV/AIDS was first begun in 2002. The current bill originates from a draft bill created by the Lawyers Collective, a non-governmental organization. The draft bill was officially presented to the National AIDS Control Organisation (NACO) in 2006.

Legislative history

The Human Immunodeficiency Virus and Acquired Immune Deficiency Syndrome (Prevention and

Control) Bill, 2014 (Bill No. III of 2014) was introduced in the Rajya Sabha on 17 February 2014 by then Minister for Health and Family Welfare, Ghulam Nabi Azad. The bill was moved in the Rajya Sabha by Minister for Health and Family Welfare, Jagat Prakash Nadda and passed by the House on 21 March 2017. The bill was passed by the Lok Sabha on 11 April 2017. Nadda termed the enactment of the bill as "historic". He added, "It is not the cases that before coming of this bill, these HIV infected people were not empowered but with the passage of this bill they will get more powers." The bill received assent from then President Pranab Mukherjee on 20 April, and was notified in *The Gazette of India* on 21 April 2017.

Provisions

The Act prohibits discrimination against persons living with HIV/AIDS for the purposes of employment, access to educational establishments, healthcare and insurance services, renting property, or running for public or private office. The law also bans any form of expression that is deemed as inciting hatred against people infected with HIV/AIDS.

The law prohibits conducting an HIV test, medical treatment or research on a person without their informed consent and also prohibits a person from being forced to disclose their HIV/AIDS status, unless mandated by a court order. However, no informed consent will be required by licensed blood banks, medical research, and epidemiological purposes where an HIV test is conducted anonymously and not for the purpose of identifying a specific HIV positive individual. It also mandates the Union and State governments to provide HIV prevention, testing, treatment and counseling services to any individual who is under the care or legal custody of the State.

The Mental HealthCare Act, 2017

In India, the **Mental Health Care Act 2017** was passed on 7 April 2017 and came into force from 29th May, 2018.The law was described in its opening paragraph as "An Act to provide for mental healthcare and services for persons with mental illness and to protect, promote and fulfill the rights of such persons during delivery of mental healthcare and services and for matters connected therewith or incidental thereto." This Act superseded the previously existing Mental Health Act, 1987 that was passed on 22 May 1987. It states that mental illness be determined "in accordance with nationally and internationally accepted medical standards (including the latest edition of the International Classification of Disease of the World Health Organisation) as may be notified by the Central Government." Additionally, the Act asserts that no person or authority shall classify an individual as a person with mental illness unless in directly in relation with treatment of the illness.

The act effectively decriminalized attempted suicide which was punishable under Section 309 of the Indian Penal Code.

Provisions

1. The Mental Healthcare Act 2017 aims at decriminalizing the Attempt to Commit Suicide by seeking to ensure that the individuals who have attempted suicide are offered opportunities for rehabilitation from the government as opposed to being tried or punished for the attempt.

   Previously, under Sec. 309, it was punishable with upto 1 year simple imprisonment with/without fine.
2. The Act seeks to fulfill India's international obligation pursuant to the Convention on Rights of Persons with Disabilities and its Optional Protocol.
3. It looks to empower persons suffering from mental illness, thus marking a departure from the Mental Health Act 1987. The 2017 Act recognises the agency of people with mental illness, allowing them to make decisions regarding their health, given that they have the appropriate knowledge to do so.
4. The Act aims to safeguard the rights of the people with mental illness, along with access to healthcare and treatment without discrimination from the government. Additionally, insurers are now bound to make provisions for medical insurance for the treatment of mental illness on the same basis as is available for the treatment of physical ailments.
5. The Mental Health Care Act 2017 includes provisions for the registration of mental health related institutions and for the regulation of the sector. These measures include the necessity of setting up mental health establishments across the country

to ensure that no person with mental illness will have to travel far for treatment, as well as the creation of a mental health review board which will act as a regulatory body.

Any person or organization should not establish or run a mental health establishment without being registered with the Authority under the provisions of this Act.

Offences and penalties:-

- Fine Rs. 5,000-50,000 for first contravention
- Fine Rs. 50,000- 2 lakh for second contravention
- Fine Rs. 2-5 lakh for every subsequent contravention.
- Any healthcare professional knowingly serving such establishment to be fined Rs. 25,000.
- Anyone contravening any of the provisions/ regulations/rules of this act- imprisonment upto 6 months with/without fine upto Rs. 10,000 [first contravention], and for any subsequent contravention- imprisonment for upto 2 years with/without fine (Rs. 50,000-5 lakh).

    - The Act has restricted the usage of Electroconvulsive therapy (ECT) to be used only in cases of emergency, and along with muscle relaxants and anaesthesia. Further, ECT has additionally been prohibited to be used as viable therapy for minors.
    - The responsibilities of other agencies such as the police with respect to people with mental illness have been outlined in the 2017 Act.
    - The Mental Health Care Act 2017 has additionally vouched to tackle stigma of mental illness, and has outlined some measures on how to achieve the same.

	Older terms used in Indian Lunacy Act, 1912	**New terms used in Mental Health Act, 1987**
	Mental hospital	Psychiatric hospital
	Lunatic	Mentally ill person
	Criminal lunatic	Mentally ill person

The Medical indemnity Insurance,2002

Professional indemnity is an insurance plan to financially safeguard medical practitioners against legal costs and claims for compensation by the patients in case of a legal row. Legally, it is an exemption from liabilities for damages. The uncertainty in the amount of compensation to be paid is one of the greatest fears. At times, the amount is quantified based on the mental trauma and stress that the course of events has caused to the patients. In such cases, patients' expectation of monetary compensation is huge. Due to the rise in litigations and frivolous charges, doctors are driven to take indemnity insurance, every year, some of them to the tune of lakhs of rupees.

Objectives

To look after and protect the professional interests of the insured doctor.

To arrange, conduct and pay for the defense of such doctor.

To arrange all other professional assistance including pre-litigation advice.

National medical commission bill

The Medical Council of India (MCI) is established under the Indian Medical Council Act, 1956 in order to maintain standards of medical education, give approval to establish medical colleges, medical courses, and recognise medical

qualifications and is also responsible for the regulation of medical practice, including registering doctors in an All India Medical Register. Over the years, there have been several issues with the functioning of the MCI with respect to its regulatory role, composition, allegations of corruption, and lack of accountability. In 2009, the Yashpal Committee and the National Knowledge Commission recommended separating the regulation of medical education and medical practice. The recommendation stated that the MCI should not be responsible for regulating medical education and should be a professional body that conducts qualifying examinations for entering the medical profession.

The Parliamentary Standing Committee (2016), and Expert Committees under the Chairmanship of Prof. Ranjit Roy Choudhary and the NITI Aayog (2016) have suggested legislative changes in order to overhaul the functioning of the MCI. The NITI Aayog recommended changes in the composition of the MCI and creation of several autonomous Boards in order to address different functions such as medical education and qualifying examinations, medical ethics and practice, and accreditation of medical colleges. The National Medical Commission Bill, 2017 was introduced in Lok Sabha on December 29, 2017. The Bill repeals the Indian Medical Council Act, 1956.

Highlights of the bill

- The Bill sets up the National Medical Commission (NMC). The NMC will regulate medical education and practice. It will determine fees for up to 40% seats in private medical institutions and deemed universities.
- The NMC will consist of 25 members. A Search Committee will recommend names to the central government for the post of Chairperson, and the part time members.
- Four autonomous Boards have been set up under the supervision of the NMC. These Boards will focus on undergraduate and postgraduate medical education, assessment and rating, and ethical conduct.
- There will be a National Licentiate Examination for doctors to obtain a licence to practice after graduation. This examination will also be the basis for admission to post-graduate medical courses.
- Medical Councils will receive complaints relating to professional or ethical misconduct against a doctor. If the doctor is aggrieved of a decision of the State Medical Council, he may appeal to successively higher levels of authority.

Right to Information (**RTI**)

Right to Information (**RTI**) is act of the Parliament of India to provide for setting out the practical regime of the right to information for citizens and replaces the erstwhile Freedom of information Act, 2002. Under the provisions of the Act, any citizen of India may request information from a "public authority" (a body of Government or "instrumentality of State") which is required to reply expeditiously or within thirty days. The Act also requires every public authority to computerise their records for wide dissemination and to proactively certain categories of information so that the citizens need minimum recourse to request for information formally.

This law was passed by Parliament on 15 June 2005 and came fully into force on 12 October 2005.

Information disclosure in India is restricted by the Official Secrets Act 1923 and various other special laws, which the new RTI Act relaxes. Right to Information codifies a fundamental right of the citizens of India. RTI has proven to be very useful, but is counteracted by the Whistleblowers Act.

Scope and application

The Act covers the whole of India except Jammu and Kashmir, where J&K Right to Information Act is in force. It covers all the constitutional authorities, including executive, legislature and judiciary; any institution or body established or constituted by an act of Parliament or a state legislature. It is also defined in the Act that bodies or authorities established or constituted by order or notification of appropriate government including bodies "owned, controlled or substantially financed" by government, or non-Government organizations "substantially financed, directly or indirectly by funds". Private bodies are not within the Act's ambit directly. As of 2014, private institutions and NGOs receiving over 95% of their infrastructure funds from the government come under the Act.

Execution

The Right to information in India is governed by two major bodies:

- Central Information Commission (CIC) – Chief Information commissioner who heads all the central departments and ministries- with their own public Information officers (PIO)s. CICs are directly under the President of India.
- State Information Commissions – State Public Information Officers or SPIOs head over all the state department and ministries. The SPIO office is directly under the corresponding State Governor.

A citizen who desires to seek some information from a public authority is required to send, along with the application (a Postal order or DD (Demand draft) or a bankers cheque) payable to the Accounts Officer of the public authority as fee prescribed for seeking information. If the person is from a disadvantaged community, he/she need not pay.

Consumer Protection Act, 1986

Consumer Protection Act, 1986 is an Act of the Parliament of India enacted in 1986 to protect the interests of consumers in India. It makes provision for the establishment of consumer councils and other authorities for the settlement of consumers' disputes and for matters connected therewith also. The act was passed in Assembly in October 1986 and came into force on December 24 1986. The day is celebrated as consumer protection day.
It is established at three different levels:

- District forum headed by district judge, situated in each district of the state. The jurisdiction to entertain complaints is limited to those where the value of services is between 20 lacs-1 crore.
- State commission headed by a judge of a high court, situated in the capital of each state. It can entertain the complaints in the limit of 1-10 crore
- National commission is the apex consumer body headed by a judge of the Supreme Court, situated in New Delhi and run by the central government. It entertains the cases where the value of the services is above 10 crore.

Appeals

Any appeal against the order of the district forum or the state commission under this act must be filed within 30 days.
Any person who is aggrieved by an order of the National Commission has a right to appeal to the Supreme Court within a period of 30 days from date of the order.

Penalties
For non-compliance of any order by these commissions, the person is punished with imprisonment ranging from 1 month to 3 years.
For false complaints, the complainant has to pay a penalty to opposite party not exceeding Rs 10,000.

CPA and medical services
Services rendered at a government hospital, health centre or dispensary, non-governmental hospital or person availing the service is outside the purview of the expression 'service'.

The medical services delivered on payment basis fall within service.

Hospital and nursing homes, which provide free service to some patients who cannot afford to pay and for those who can pay comes under the act
When a person has an insurance policy for medical treatment and all charges are borne by insurance company, the service rendered by a doctor would not be free of charge.

Conclusion

Indian Penal Code is derived from British Penal Code which is primitive in present context. So, many laws prevailing in India codified as IEA, CrPC, and IPC needs amendment from time to time. In April 2013, the prevailing rape law in country was replaced by Criminal Law Amendment Act. In 2014, the MTP Act was amended and under special permission from high court, MTP can be done up to 24 weeks of pregnancy. In 2016, the new surrogacy bill came into force in country with many changes. In 2017, the Mental Health Act repealed the Mental Health Act of 1987. Human DNA profiling bill was also introduced to the parliament. On September 10, 2017, HIV Control and Prevention Act came into force. In 2018, Criminal Law Amendment Act came into force and according to this act minimum punishment for rape became 10 years and in cases of rape with child less than 5 years of age, there is a provision of death penalty. Meanwhile there has been amendment in article 377 and 476. Keeping in view, the modern era of society, nature and criminality of the act committed by criminals is changed a lot. Many atypical crimes are

committed nowadays, making the judiciary puzzled in awarding punishment. There is much uproar in the parliament regarding amendment and scraping of article 35 and 370, prevailing in the state of Jammu & Kashmir. Hence, it is high time to amend the age old CrPC, IEA, IPC to cover the atypical and heinous crimes within the ambit of law.

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Nil

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Statement of Informed consent: As this is a review report there was no need to take informed consent.

Statement of Human and Animal Rights: No human right and animal right is violated in this case.

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