

INTERNATIONAL JOURNAL OF LEGAL STUDIES AND SOCIAL SCIENCES [IJLSSS]

ISSN: 2584-1513 (Online)

Volume 3 | Issue 5 [2025] | Page 176 – 183

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MENTAL HEALTH & WORKPLACE LAWS

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ABSTRACT

The article aims to critically analyze the existing status of mental health of workers against the backdrop of the rapid economic rise. It highlights that despite constitutional guarantees and recent labour codes, the major focus is on the physical safety of the workers, neglecting their mental well-being. A dedicated legislation i.e., Mental Healthcare Act, 2017, is in place that provides for the rights of persons suffering from mental illness, but it fails to adequately protect the mental well-being of workers and places no specific obligations on the employers to regulate the workplace stress and thereby protect the mental health of workers. The article finds India to be the world's second most overworked country in the world, with more than 51% of the workforce working more than 49 hours weekly, and yet the legal gaps exist which leaves workers vulnerable to work stress, burnouts leaving their mental well-being at the mercy of the employers.

A comparative analysis reveals that international legislations, like that of Australia, EU, etc., have explicitly provided for mental health to be covered under safety of workers, which identifies an urgent need for legal reforms in India relating to this issue. The article concludes by giving various recommendations, which includes adopting a multi-stakeholder approach, i.e., combining Government, Employers and Workers. Further, training programs as provided by WHO guidelines can also be looked at to bridge the gap between India's economic aspirations and the mental health requirement of the workforce.

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INTRODUCTION

India recently became the world's 4th largest economy overtaking Japan. The burden of this humongous growth is majorly borne by the working population compromising their health, be it mental or physical. Mental Health at workplace has emerged as a very crucial concern in the recent years. According to the World Health Organization², around 15% of the working-age adults live with poor mental health. Due to depression and anxiety alone, twelve billion working days are lost every year, which results in loss of productivity, costing around US \$1 trillion to the global economy. According to ILO³, India has emerged as one of the most overworked country globally. India is the second-most overworked country, with around 51% of workforce in India, working more than 49 hours weekly, with average worker clocking 46.7 hours weekly⁴. Recently, the ⁵Maharashtra government has amended their labour laws, wherein they have increased the daily working hours in private sector from 9 to 10 hours, and in factories and industries from 9 to 12 hours. But in here, no parallel compliance has been put on the employers to regulate the stress levels of workers with this increase in working hours.

The main contributor to this decline in mental health can be attributed to poor working environment which includes excessive workloads, lack of job security (mainly in the private sector), facing discrimination at work.

Although there are many provisions available for the welfare of the workers, but there is limited availability of safeguard in regard to mental health of the workers, one such legislation is Mental Healthcare Act, 2017.

Considering all this and the current legal provisions, a huge gap can be seen with the potential of the provisions and their on-ground status. Currently, Mental Healthcare Act, 2017 is the sole

² World Health Organisation, Mental Health, Brain Health and Substance Use, WHO, <https://www.who.int/teams/mental-health-and-substance-use/promotion-prevention/mental-health-in-the-workplace> (last visited Sept. 5, 2025)

³ International Labour Organisation, Statistics on Working Time, ILOSTAT, <https://ilostat.ilo.org/topics/working-time/> (last visited Sept. 5, 2025)

⁴ Nandini Singh, India Among Top Overworked nations, 51% employees work 49+ hours a week, BS, Sept 20, 2024

⁵ Faisal Malik, State increases daily working hours from 9 to 10 for private sector, HT, Sept. 04, 2025

legislation dedicated toward mental health. So, this raises a big legal question, does the current legal scenario adequately protects the mental health of workers?

WORKER HEALTHCARE IN INDIA

The current legal framework in India primarily addresses only the physical well-being of the laborers and the mental safety remains inadequately addressed.

At the ⁶Constitutional Level, Article 21 guarantees the right to life and live with dignity, which the supreme court interpreting it to include health and well-being. Article 39(e), which is a directive principle of state policy, provides for protection of workers health. Article 42 mandates the state to provide just and humane conditions to workers. Article 43 emphasizes for living wages and decent conditions of work. These provisions in constitution collectively reflects an intention to provide for welfare of workers. However, none of these provisions explicitly recognizes the mental health under the ambit of health safety of workers.

The ⁷Occupational Safety, Health and Working Conditions Code, 2020, is another legislation that provides for regulation of working conditions of workers employed in an establishment. Through the definitions of ‘employee’ under section 2(t) and ‘establishment’ under section 2(v), the legislation brings under its ambit the private entities also. Section 6(1)(d) of the act mandates the employer to provide for a ‘reasonably practicable working conditions’ for the workers. Now this, read with section 23 of the act provides some of these conditions like cleanliness, hygiene, potable drinking water, ventilation, etc. So, this shows that the focus here is on the outer bodily aspects of workers, their physical appearance and doesn’t delve into the psychological health conditions of workers.

The ⁸Code on social security, 2020 is another piece of legislation. This legislation consolidates a wide range of acts like the employee compensation act, 1923, maternity benefits act, 1961 and many more, a total of 9 security laws. It provides for compensation to employees in case of accidents, any serious bodily injury in due to accident occurring in the premises of the

⁶ INDIA CONST. art 21, art 39, cl.(e), art. 42, art. 43

⁷ Occupational Safety, Health and Working Conditions Code, 2020, No. 37 of 2020, Acts of Parliament, 2020 (India)

⁸ Code on Social Security, 2020, No. 36 of 2020, Acts of Parliament, 2020

establishment, or any occupational disease. Further, employment injury has also been merely defined as a personal injury occurring due to accident or occupational disease in the course of employment. This shows that the focus is only on the physical injury, and the psychological aspect is left untouched.

Presently, the ⁹Mental Healthcare Act, 2017, is the only piece of legislation that addresses mental health and mental illness, but is not without shortcomings. This act was passed to give effect to the Convention on Rights of Persons with Disabilities in India. The act provides and safeguards rights of persons with mental illness like their right to confidentiality, right to access mental healthcare, etc. Chapter X of the act, regulates the mental health establishments providing for their mandatory registration, a procedure for inspection, etc. But the major shortcoming is that it doesn't provide any duty upon the employers for providing such working conditions with which there is minimal chances of developing any such mental illness. The act also doesn't put any obligation on employer if they get the knowledge about any mental illness for the employee. In all probability, such knowledge would lead to termination of the employee as they would be deemed unfit for their work.

One thing to keep in mind in regards to provisions aiming for welfare of the workers is that it targets only one of many stakeholders involved in the process.

WORKER HEALTHCARE GLOBALLY

At international level, the International Labor Organization (ILO) has played a significant role in recognition of mental well-being of the workers. The ILO fundamental convention on ¹⁰Occupational Safety and Health Convention, 1981 (No. 155), under Article 3 (e) provides that health doesn't merely means absence of disease or infirmity, it also includes mental elements that affects health. This shows that in 1981 itself ILO expanded the meaning of health beyond the physical aspect and included mental health also. Another convention of ILO, ¹¹Promotional

⁹ Mental Healthcare Act, 2017, No. 10 of 2017, Acts of Parliament, 2017

¹⁰ Occupational Safety and Health Convention, (No. 155), 22 June, 1981, International Labour Organization, https://normlex.ilo.org/dyn/nrmlx_en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C155

¹¹ Promotional Framework for Occupational Safety and Health Convention, 2006 (No. 187), 15 June, 2006, International Labour Organization, https://normlex.ilo.org/dyn/nrmlx_en/f?p=NORMLEXPUB:12100:0::NO::p12100_instrument_id:312332

Framework for Occupational Safety and health Convention, 2006 (No. 187), can be regarded as a furtherance of the 1981 convention. Together these conventions take up a multi-pronged approach by taking into account all the stakeholders (govt, workers, employers) ensuring a safe and healthy working environment. Particularly, they provide a well outlined duties for employers to maintain and provide a healthy and safe working environment for the workers. Even though at the national level, India has an Occupational Safety, Health and Working Conditions Code, 2020, but these 2 conventions have not been formally ratified by India even when India is a founding member of ILO. This shows a hesitance among Indian Lawmakers to recognize the mental well-being of the workers.

In Australia, the ¹²Work Health and Safety (WHS) Act and Regulations were adopted in 2022. According to these regulations, a ‘Psychological Hazard’ is a hazard that arises from work environment and leads to psychological harm (which may or may not include physical harm). So, this shows that Australian Laws recognizes the importance of mental well-being of workers. Further, it imposes a clear duty on the employers to ensure psychological health of the workers in addition to physical well-being.

European Union issued ¹³Directive 89/391/EEC – OSH “Framework Directives” in 1989, which provides various duties for employers and workers. Employers have a duty to evaluate all the risks to the safety and health of workers and implement measures to improve the protection of workers wherein the workers have a responsibility of cooperating with their employers and taking a reasonable care of their own health and safety. Even though the word “MENTAL HEALTH” is not specifically mentioned in the above directives, but the European Union, in 2014, issued an ¹⁴interpretative document on these directives which provided that the 1989 framework is equally applicable to mental health also, and the obligations of employers also extend to maintaining a healthy and safe environment for mental well-being of the workers.

¹² Work Health and Safety Regulations, 2011 (Cth) Regulation 55A

¹³ Directive 89/391/EEC – OSH “Framework Directives, 1989, introduction of measures to encourage improvements in safety and health of workers at work, O.J. (L 183) 1

¹⁴ European Commission, Interpretative document on implementation of Council Directive 89/391/EEC, 2014, EU-OSHA

These global practices not only shed light on the gaps of the current Indian provisions regarding the mental health of workers but also provides us the lessons that India must take into account while reforming the Indian mental health laws related to workers.

GAP

A substantial gap exists between India's economic aspirations and the protection of worker's mental health. Despite various constitutional provisions and legislative enactments, the current Indian labour laws are overwhelmingly focused on the physical safety and tangible risks that can occur at workplace, with scarce attention towards the psychological safety and well-being of the workers. Notably, 2 codes, namely the code on social security, and the Occupational Safety, Health and Working Conditions Code doesn't recognize psychological hazards like workplace stress, extreme burnouts, anxiety, etc. even at a time when India has been shown to be the second-most overworked country in the world. In 2022,¹⁵ a survey was also conducted by Deloitte, wherein it was reported that almost 80% of professionals in India faced mental health issues in a year, and around 47% of them experienced stress, depressions, anxiety, etc. which was specifically linked to their jobs.

THE PATH FORWARD

Mental Healthcare Act, 2017 recognizes only mental illness whereas the global legislations and org. focus not only on mental illness but also on mental health which paves the way for holistically recognizing the mental health, which is lacking in our national legislations. Such recognition will help in normalizing this issue.

The recent EY case, where a woman died due to extreme stress and overwork, makes it evident that no legal mechanism existed in India that required the company to monitor or mitigate work stress levels among its employees. Therefore, a specific legislation has to be enacted that directly addresses these grey areas. In this legislation, one important inclusion can be the definition of mental health as provided by WHO.

¹⁵ Deloitte Insights, Mental Health and well-being in the workplace, Deloitte India (Oct. 2022)

Currently there is a Mental Healthcare Act, which was enacted in 2017, which shows a very positive intent of the legislature for recognizing the mental health, but again the problem lies in its effective implementation. Even after 8 years of the act's implementation, various states are still yet to notify the rules implementing the provisions of the act. ¹⁶Even the Punjab and Haryana HC, in May 2025, observed that even after 7-8 years of act's enactment, the states of Punjab and Haryana are yet to notify the rules, which is their obligation as it's a social welfare act, and directed both the states to frame the rules within 60 days.

The ambit of current legislations is required to be widened to be at par with the international standards set by legislations of EU, Australia, etc. Likewise specific amendments are required in the act that puts the responsibility upon the employers to ensure mental well-being of the workers. Also, the Code on Social Security, 2020 can be expanded to provide for compensation and rehabilitation to workers for any work-related mental health condition, on par with physical injuries.

The ¹⁷WHO guidelines on mental health at work also provides for a strong inspiration for training of both employers and workers at workplaces. It provides for various recommendations like training for both employers and workers. Employers are required to be trained for early identification of emotional distress, responding to it, having adequate listening skills, having good leadership qualities. On the other hand, the workers can be trained to have awareness about mental health related knowledge, to better support their colleagues, etc.

A multi-stakeholder approach is required which puts emphasis on shared responsibility between the government, employers and workers for safe and healthy working environment. A tripartite COMMITTEE, comprising of government agencies, employer unions and labor unions must be constituted to develop guidelines for various industrial sectors. It can bring out the expertise from mental health professionals which can help to create standardized psychological risk assessments tools that can provide a very reliable indicator for stress levels, etc. It will also prove to be in line

¹⁶ Shivam Y, Punjab and Haryana High Court orders Notification of Mental Health Rules within 60-days after 7-year delay, Cour Book, May 21, 2025

¹⁷ World Health Organization, Guidelines on Mental Health at Work (2022), pg. 26-41, <https://www.ncbi.nlm.nih.gov/books/NBK586381/> (Last viewed Sept. 7, 2025)

with the ILO fundamental Convention No. 187 that also provides for a shared responsibility between different stakeholders.

The onus of mental well-being should be a collective responsibility, instead of it being a burden solely on the directly affected.