



Decriminalization of Mental Illness and Patients with Substance Use Disorder in the State of Nagaland

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DOI : <https://doi.org/10.5281/zenodo.15845216>

ARTICLE DETAILS

Research Paper

Accepted: 22-06-2025

Published: 10-07-2025

Keywords:

Criminal Justice System, Criminalization, Mental Health, Substance Use Disorder, Rehabilitation

ABSTRACT

Substance Use Disorders (SUDs) have always been stigmatized in India, leading to the criminalization of individuals who are affected by it. Rather than providing them the necessary treatment and support, the stigmatization and criminalization continues to challenge both public health and the criminal justice system in India. In the past, the Indian criminal justice system has inadequately distinguished between criminal behaviour and the acts driven by mental health conditions, resulting in increased incarceration rates for victims with SUDs. In the state of Nagaland, individuals with substance use disorders often face arrest, prosecution, and incarceration instead of receiving the medical attention and rehabilitation services they require. This criminalization approach increases the challenges faced by those struggling with



addiction and undermines their efforts to promote recovery and reconnect with society. India has made progress in addressing mental health concerns in recent years, but much work remains to be done. Through an examination of empirical data collection in Nagaland and reviewing the existing relevant legislations, this paper will explore the legal protections for patients with SUDs in advocating for reforms that emphasize treatment over incarceration. The goal is to shift the paradigm from criminalization to a public health-centered approach prioritizing compassionate, evidence-based care over punitive measures.

Introduction

Substance use disorder (SUD) is a treatable mental disorder that affects a person's brain and behaviour, leading to their inability to control their use of substances like legal or illegal drugs, alcohol, or medications. Symptoms can be moderate to severe, with addiction being the most severe form of SUD ([National Institute of Mental Health](#)). The importance of mental health is often discussed and especially these days many people have started advocating on the topic. Mental health is vital to our overall well-being, from physical health and emotional intelligence to social interactions and professional performance, it influences every aspect of our day-to-day life ([Slade, Mike, 2010](#)). An individual with good mental health contributes a lot to his ability to be resilient, this enables one to manage stress under any given situation, build positive relationships and environment and make effective decisions ([Repetti et. al, 2002, pg- 330-336](#)). Having good mental health not only gives one the emotional stability but it also possesses a significant impact on physical health, as chronic stress, anxiety, and depression can increase the risk of physical health issues, including cardiovascular disease, immune system suppression, insomnia and lifestyle change.

Beyond individual impacts, bad mental health affects his surroundings along with his family and society. Depression and anxiety disorders alone contribute to a substantial loss in global productivity, with the World Health Organization estimating billions in lost productivity each year due to untreated mental health issues ([World Health Organization, 2001](#)). Investing in mental health resources, having good support systems, and destigmatizing mental health care can promote well-being on a broader scale, benefiting both individuals and communities ([Simon, et al, 2024, Pg- 1524-1534](#)). Fostering good mental



health from an early age through a supportive environment and accessible treatment options can create resilient populations better geared to face life's challenges, ultimately leading to healthier and more harmonious societies.

The criminalization of mental illness and substance use disorder (National Academies of Sciences, et al. 2016) still remains a critical issue even in this modernised era. Individuals struggling with these conditions often face punitive response rather than supportive care (Brown, 2021). Instead of receiving appropriate care and support, by providing access to proper medical and psychological interventions, people with mental health conditions or substance use disorders are often subjected to punitive legal actions that worsen their situation (Cohen, et al, 2022). By treating mental illness and substance use as criminal issues rather than health concerns, society risks perpetuating cycles of poverty, homelessness, and incarceration that often infringe on basic human rights (Caruso, 2017). Moreover, this approach also limits their ability to reintegrate and adjust back into society due to the stigma and barriers created by their past criminal records.

Recognizing substance use disorder as a medical condition rather than a moral failing is essential in promoting humane and effective treatment (Patel, et al, 2016) as protecting the legal rights for patients with SUDs is crucial for ensuring that they are provided fair treatment, have access to necessary healthcare, and are shielded from discrimination. A shift toward decriminalization, coupled with legal protections, could foster an environment where individuals receive the care they need rather than letting them face punitive punishment (Curry, 2019). Also, supporting a more just and compassionate system for those affected by mental health and addiction issues not only protects the human rights of these individuals but also reshapes the broader legal and healthcare landscape toward a more compassionate, effective, and just system (Aviram, 2019).

India has made progress in addressing mental health concerns in recent years, but much work remains to be done (M. Shankardass, 2018). In India, the Mental Healthcare Act, 2017 and the Narcotic Drugs and Psychotropic Substances (NDPS) Act, 1985 are two key legislations that address mental health and SUD issues (Ambekar, et al, 2022). On one hand these laws attempt to provide a structure for the management of mental health and substance use, while on the other their implementation and interpretation poses challenges that often lead to the criminalization of individuals with mental illness or SUDs (Egart, 2024).

The Mental Healthcare Act, 2017.



The Mental Healthcare Act, 2017 is a landmark legislation in India which represents a progressive step towards protecting the rights of people with mental illness (Duffy, et al, 2019, Pg- 169-178). The introduction of this act established mental healthcare as a right, mandating that all individuals have access to mental healthcare services and treatment to be made available and accessible in sufficient quantity, funded by the government if necessary (Duffy et al, 2020, Pg- 141-207). The Mental Healthcare Act, 2017 aligns with international standards with regard to mental health care laws, particularly the UN Convention on the Rights of Persons with Disabilities (UNCRPD) (Id) to which India is a signatory. It represents a shift from custodial care towards treatment and social inclusion where mental health is prioritized, ensuring that individual rights are respected and people with mental health conditions are treated with dignity and without discrimination (Bhattacharjee et al, 2017, Pg-9-16).

The Act outlines various rights to individuals, which emphasizes on treating people with mental illness in least restrictive environment, including the right to confidentiality, right to protection from inhumane treatment, right to live in a community, and right to personal contacts and communication (Gostin, 2000, Pg- 125-159). It also directs for the establishment of Mental Health Review Boards (MHRBs) (Kaur et al, 2024, Pg-538-553) across the country to protect the rights of individuals receiving mental health services to ensure their safety and fair treatment. These boards are to review cases of admissions, treatment, and care of individuals with mental illness, especially for involuntary admissions.

One of the most significant provisions in this act is that it decriminalizes suicide attempts recognizing it as mental health concern (Lew, et al, 2022), acknowledging that those who attempt suicide often do so under severe mental distress. It mandates the government to provide therapeutic care and treatment to reduce the recurrence of suicide attempts (Galagali et al, 2022, Pg-553-562). The act allows individuals to make an Advance Directive that specifies how one wishes to be treated if they are unable to make decisions on their own during a mental health crisis. This directive can designate a nominated representative who will make decisions on their behalf. It also provides for the prohibition of discrimination based on mental illness in matters of healthcare, employment, and education (Khandelwal, Sudhir K., et al.2004, Pg-126-141). It requires insurance providers to cover mental health conditions on par with physical illnesses.

However, despite its good intentions, challenges such as stigma, lack of resources, and inadequate implementation continue to hinder the Act's effectiveness (Gaiha et al, 2014, Pg-146-158). Many individuals with mental illnesses, particularly those with co-occurring substance use disorders, still face discrimination in accessing care or in their interactions with the legal system.



The Narcotic Drugs and Psychotropic Substances (NDPS) Act, 1985

The NDPS Act, of 1985 regulates the use, possession, and trafficking of narcotic drugs and psychotropic substances ([Sharma et al, 2017](#)) in India. This Act focuses heavily on law enforcement and punitive measures, with stringent penalties for possessing, producing, and selling controlled substances ([Id](#)). Although it has provisions for treatment and rehabilitation of affected victims, its implementation has largely been punitive ([Patel, 2021, Pg- 950-966](#)) rather than therapeutic. This has resulted in individuals with substance use disorders frequently being subjected to criminal charges, which worsens their condition and often boils down to incarceration instead of rehabilitation ([Choudhary, 2021](#)).

The 2014 amendments ([Parmar, et al, 2023, Pg-5-13](#)) introduced to the NDPS Act was to emphasize treatment and rehabilitation, particularly for individuals with substance use disorders. While these amendments recognized that treatment of patients is often more effective than punishment in addressing substance use. However, the practicality of integrating these provisions into reality has been a slow progress, and the criminal justice approach of incarceration remains predominant in present scenario ([Bada Math, et al, 2018, Pg-271-277](#)). Moreover, individuals often hold themselves back from seeking treatment due to the stigma attached to substance use followed by the fear of legal repercussions ([National Academies of Sciences, et al, 2016](#)).

Methodology

To address the present study, a mixed method research design ([Asenahabi, 2019](#)) was employed and exploratory research design was used, this kind of research is employed when there is limited knowledge or understanding of a specific issue, and the goal is to gain initial insights, identify patterns, or generate hypotheses for further investigation ([Hassan, 2024](#)). According to Burke-Johnson et al., empirical research is when a researcher combines elements of qualitative and quantitative research approaches for the broad purposes of breadth and depth of understanding and corroboration. ([Johnson et al, 2017](#)). Under mixed method research design, qualitative research brings in open-ended data without predetermined responses while quantitative research brings in closed-ended data ([Creswell, 2014](#)). In the context to seek and explore the nature, scope, and impact of current mental health laws and the legislations of SUDs an exploratory design was deemed appropriate. The focuses on issues in the effectiveness of drug laws in controlling substance abuse, their influence on criminal justice systems, and the public's perception of such laws.



Sample

For this study, a purposive sampling method was employed to legal professionals who have 3 years and above experience in the legal field with a total of 32 voluntary participants. Purposive sampling was chosen because it allows for the selection of individuals who are particularly knowledgeable or involved in the subject matter, ensuring that the data collected would provide relevant insights into the issues (Campbell et al, 2020) surrounding mental health and SUD laws in Nagaland. It was a voluntary participation where a questionnaire was circulated among legal professionals who have direct involvement with drug laws and their potential to provide valuable perspectives on the effectiveness and challenges of the current policies of mental health and patients with SUD in the state.

Data Collection

The questionnaire was designed to capture both quantitative and qualitative data and was circulated via Google Forms. It consisted of closed-ended questions by using dichotomous survey and Likert scale to assess participants attitudes, knowledge, and awareness of mental health and SUD laws that allowed participants to share their insights or personal experiences with these laws. The data was later analysed using Statistical Package for the Social Sciences (SPSS) (Williams, 2024).

Results

Table I: Awareness of Mental Health Act 2017 and the Narcotic Drug and Psychotropic Substance Act 1985					
		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	No	4	12.5	12.5	12.5
	Yes	28	87.5	87.5	100.0
	Total	32	100.0	100.0	

A total of 32 participants were surveyed regarding their awareness of the Mental Health Act 2017 and the Narcotic Drugs and Psychotropic Substances Act 1985. The survey consisted of a binary response, where participants indicated whether they were aware "Yes" or not aware "No" of the acts. The frequency and percentage of responses were analyzed to determine the overall level of awareness.

The results indicated that the majority of respondents (87.5%) were aware of both the Acts. In contrast,



only (12.5%) of respondents indicated that they were not aware of these legislative frameworks. The full breakdown of responses is presented in the above frequency table.

Table II: Harsh treatment of individuals with Mental Health Issues and Substance Use Disorder by the criminal justice system.

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Agree	6	18.8	18.8	18.8
	Disagree	8	25.0	25.0	43.8
	Neutral	18	56.3	56.3	100.0
	Total	32	100.0	100.0	

Descriptive statistics and frequency analysis was calculated to examine the relationship between the perception of harsh treatment and other potential predictors. The distribution of responses was that 6 respondents (18.8%) agreed that individuals with mental health issues and substance use disorders are treated harshly by the criminal justice system and 8 respondents (25.0%) disagreed with this statement while 18 respondents (56.3%) were neutral. This data suggests that a majority of the sample holds neutral stance on the issue, with fewer respondents agreeing and disagreeing.

Table III: Perception of Treatment for Individuals with Substance Use Disorders (SUDs)

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Criminal offenders	9	28.1	28.1	28.1
	Patients in need of medical treatment	23	71.9	71.9	100.0
	Total	32	100.0	100.0	

Table 3 shows the respondents analysis who were asked to select whether individuals with SUDs should be treated as "criminal offenders" or as "patients in need of medical treatment." Here, 9 respondents (28.1%) indicated that individuals with SUDs should be treated as criminal offenders while majority 23 respondents (71.9%) believe that individuals with SUDs should be treated as patients in need of medical



treatment. These findings suggest a vivid majority preference among the respondents for treating individuals with SUDs as victims and patients rather than criminal offenders.

Table IV: Referral of Individuals with Mental Health Issues and Substance Use Disorders to Treatment Programs.

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	No	18	56.3	56.3	56.3
	Yes	14	43.8	43.8	100.0
	Total	32	100.0	100.0	

Descriptive statistics was calculated to determine the frequency and percentage of respondents who have observed or have been involved in a case where legal enforcement officers referred individuals with mental health issues and SUDs to treatment programs instead of charging them with criminal offences. In the distribution, 14 respondents i.e. 43.8% indicated that they have observed or was involved in cases where legal enforcement officers referred individuals with mental health issues and SUDs to treatment programs instead of charging them with criminal offenses and 18 respondents i.e. 56.3% responded negative in such cases and occurrences.

Table V: Perception of the current Indian legal frameworks in protecting individuals with mental health issues and SUDs from criminalization.

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Maybe	9	28.1	28.1	28.1
	No	10	31.3	31.3	59.4
	Yes	13	40.6	40.6	100.0
	Total	32	100.0	100.0	

To report the frequency and percentage of respondents on their Perception of the current Indian legal frameworks in protecting individuals with mental health issues and SUDs from criminalization descriptive statistics was used to summarize the distribution of responses,



Here, 13 respondents (40.6%) believed that the current Indian legal frameworks adequately protect individuals with mental health issues and SUDs from criminalization. 10 respondents (31.3%) disagreed, believing that the legal frameworks does not adequately protect these individuals from criminalization while 9 respondents (28.1%) were uncertain about the adequacy of such protections and chose the response "Maybe".

Table VI: The stigma against individuals with mental illness and SUDs are prevalent in both health care and the criminal justice system.

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Neutral	13	40.6	40.6	40.6
	Yes	19	59.4	59.4	100.0
	Total	32	100.0	100.0	

Focusing on the frequency and percentage of respondents who selected each option, the distribution of responses is such that 19 respondents i.e. 59.4% indicated that they believe that there exists stigma against individuals with mental illness and SUDs in both healthcare and the criminal justice system and a smaller portion of 13 respondents i.e. 40.6% chose a neutral stance, neither agreeing nor disagreeing with the statement. There was no negative frequency in the responses.

Table VII: Legal barriers prevent individuals from seeking professional therapeutic help.

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Maybe	8	25.0	25.0	25.0
	No	16	50.0	50.0	75.0
	Yes	8	25.0	25.0	100.0
	Total	32	100.0	100.0	

The frequency and percentage distribution of the responses was that 8 respondents that amounts to 25.0% indicated that they believe legal barriers prevent individuals from seeking professional therapeutic help



and 16 respondents i.e. 50.0% disagreed while 8 respondents amounting to 25.0% expressed uncertainty with the statement and selected the "Maybe" option.

Table VIII: Impact of Criminalization on Access to Treatment for Mental Health Issues and Substance Use Disorders (SUDs)

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	No	13	40.6	40.6	40.6
	Yes	19	59.4	59.4	100.0
	Total	32	100.0	100.0	

Descriptive statistics was used to summarize the distribution of responses to get the frequency and percentage of respondents who selected "Yes" or "No" option. In the table it can be seen that 19 respondents that makes 59.4% believe that criminalization negatively impacts an individual’s ability to access treatment for mental health issues and SUDs and the other 13 respondents with 40.6% disagreed and does not see it as a significant obstacle.

Table IX: Focus on Rehabilitation vs. Punishment in Criminal Justice Cases Involving Mental Illness and Substance Use Disorders (SUDs).

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Depends upon the severity of the case,	22	68.8	68.8	68.8
	Yes	10	31.3	31.3	100.0
	Total	32	100.0	100.0	

The distribution of responses in Table 9 is that, 22 respondents (68.8%) indicated that decisions about rehabilitation versus punishment should be case-specific, based on the severity of the case with mental health issue or SUD while 10 respondents (31.3%) agreed that the criminal justice system should focus more on rehabilitation rather than punishment in all cases, prioritizing rehabilitation and treatment of such individuals in all such cases.

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Maybe	3	9.4	9.4	9.4
	Yes	29	90.6	90.6	100.0
	Total	32	100.0	100.0	

Here, the vast majority of 29 respondents (90.6%) took a stance that increased collaboration between society, legal systems, and healthcare systems would improve the treatment of individuals with mental health issues and SUDs while 3 respondents (9.4%) were uncertain of such occurrence and selected the option “Maybe”. There was no negative response in the distribution.

Discussion

In this paper the data was collected in such a way that provides valuable insights from legal practitioners regarding the individuals with mental health issues and substance use disorders (SUDs) in that state of Nagaland within the context of the Indian legal and healthcare systems. The participants of the study reflect a complex interplay of their own perspectives that highlight the challenges and opportunities for improving care for these vulnerable individuals. Overall, the results raise a number of discussions from the tables shown above.

Firstly, on the awareness of the Mental Health Act 2017 and Narcotic Drugs and Psychotropic Substances Act 1985, a significant majority of the respondents of 87.5%, reported being aware of the two Acts. This high level of awareness is encouraging as it reflects that legal frameworks related to mental health and drug use are well-known among legal professionals, which is of high importance for effective implementation.

Secondly, with regard to perceptions of harsh treatment of individuals with SUDs and mental health issues in the Criminal Justice System, the opinions were divided where only 18.8% of respondents agreed that such individuals are treated harshly, a significant portion 56.3% expressed neutrality. This neutrality suggests that there is lack of clarity on whether individuals with mental health and substance use disorders are indeed treated harshly by the criminal justice system or not. Some respondents may feel that



the legal system in India is not entirely supportive, leading to an uncertainty about the treatment of such individuals.

In the third table the finding from the data is that a majority (71.9%) believe individuals with SUDs should be treated as patients in need of medical treatment rather than as criminal offenders. The strong preference for a therapeutic approach reflects a more progressive view in the subject of mental health and substance use which indicates a shift from criminalization to health-focused.

In the fourth table only 43.8% of respondents indicated that they had observed or have been involved in cases where individuals with mental health issues and SUDs were referred to treatment programs rather than charged with criminal offenses. While the ideal approach would be to prioritize treatment, the practice may still fall short in some cases, potentially due to the severity of such cases in the criminal justice system.

The fifth table responses to the question were mixed. While 40.6% of respondents believed that the current legal frameworks are adequate, a considerable number 31.3% disagreed. This indicates that while progress has been made, there are still gaps in the protection of individuals with mental health and SUDs from criminalization, this suggests that there is a need for further legal reforms and to raise awareness within the legal and healthcare sectors.

The sixth table indicated overwhelming majority of 59.4% respondents agreeing that the stigma against individuals with mental illness and SUDs persists in both healthcare and the criminal justice system. This is a critical finding, as most of us are aware that such stigmas can prevent individuals from seeking help, further deteriorating their issues. .

The data of table seven whether legal barriers prevent individuals from seeking professional therapeutic help presents a mixed picture. Half of the respondents i.e., 50% indicated that legal barriers do not prevent individuals from accessing treatment, while 25% of respondents disagreed. This suggests that while some legal frameworks may facilitate access to healthcare for individuals in need of such help, there may still be concerns about the laws that criminalize behaviour of substance use and mental health, without actually knowing the core reason for such events.

In table eight it can be seen that majority 59.4% of respondents agreed that criminalization negatively impacts an individual's ability to access treatment for mental health and SUDs. This highlights a critical issue between mental health and criminal justice, where punitive measures that are implicated upon such



individuals can obstruct access to necessary healthcare services. This finding shows the importance of decriminalizing substance use and mental health issues by judging upon the severity of the case in order to improve access to appropriate care.

The ninth table shows a significant portion of respondents of 68.8% agreeing that the criminal justice system should turn their focus more on rehabilitation rather than punishment in cases involving mental health and SUDs, while only 31.3% believe in a more punitive approach. This reflects the consensus that rehabilitation and therapeutic programs can provide better long-term outcomes for individuals suffering with mental health issues and SUDs, instead of punishment which again exacerbate their conditions.

The last table indicates overwhelming majority of 90.6% respondents that agreed that increased collaboration between society, the legal system, and healthcare would improve the treatment of individuals with mental health issues and SUDs. This demonstrates a broad recognition for the need of an integrated approach in addressing these complex issues, which involves cooperation across different fields to ensure holistic treatment and support.

Conclusion:

SUD and Mental Health issues in Nagaland has emerged as a pressing issue that demands urgent attention, it poses a multifaceted challenge to the well-being of individuals, families and the broader community. The high prevalence of drug abuse in the state has been causing devastating consequences in private lives, social, occupational, financial and health for those affected by such issues.

The findings of this study indicate a growing awareness and recognition of the need for a shift in how individuals with mental health issues and SUDs are treated within the Indian legal and the healthcare system. There is strong support for treatment-focused approaches, including rehabilitation rather than criminalization and a clear recognition of the importance of reducing stigma in the society. However, the data also point out the challenges, such as legal barriers and inconsistent practices within the criminal justice system. To improve outcomes for individuals with mental health issues and SUDs, it is crucial to focus on reducing criminalization, enhancing legal protections, and promoting a collaborative approach between legal, healthcare, and the societal institutions. Criminalizing every individual with such issues is not going to make any difference in curbing the situation.

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