**Statement of**

**Centre for Mental Health Law & Policy, Indian Law Society (Pune, India)**

**Session 2: Highlighting key aspects of legal reform based on the Convention on the Rights of Persons with Disabilities**

India recently enacted the Mental Healthcare Act (MHCA) in 2017 in compliance with its obligations under the CRPD. The MHCA repeals the previous Mental Health Act of 1987 while adopting a rights-based approach. The MHCA for the first time recognises the right to access mental healthcare and treatment for all persons from government mental health services and facilities. It recognises a range of rights for persons with psychosocial disabilities including the right to community living, right to medical insurance, right to confidentiality, and the right against cruel, inhuman, and degrading treatment. It also puts in place institutional safeguards and judicial review for all instances of compulsory treatment and substitute decision making.

The MHCA introduces two important tools for supported decision-making: advance directives and the appointment of nominated representatives to support decision-making. It bans practices such as chaining, solitary confinement, and unmodified electro-convulsive therapy. The MHCA has also partially decriminalised attempt to suicide by creating a rebuttable presumption that any person attempting suicide is under severe stress and cannot be prosecuted under criminal law. Finally, the MHCA ensures representation and participation of persons with psychosocial disabilities in the State Mental Health Authorities and Mental Health Review Boards.

However, despite the MHCA being in force for almost three years, there’s much to be desired in its implementation as several State Governments are yet to establish statutory bodies for monitoring implementation and rights violations. Duty-bearers continue to resist right-based implementation of the legislation in light of inadequate infrastructure, unavailability of trained human resources and a resistance to accept the full personhood and autonomy of persons with psychosocial disabilities.