



INTERNATIONAL LAW  
JOURNAL

---

**WHITE BLACK  
LEGAL LAW  
JOURNAL  
ISSN: 2581-  
8503**

*Peer - Reviewed & Refereed Journal*

The Law Journal strives to provide a platform for discussion of International as well as National Developments in the Field of Law.

[WWW.WHITEBLACKLEGAL.CO.IN](http://WWW.WHITEBLACKLEGAL.CO.IN)

### **DISCLAIMER**

No part of this publication may be reproduced or copied in any form by any means without prior written permission of Editor-in-chief of White Black Legal – The Law Journal. The Editorial Team of White Black Legal holds the copyright to all articles contributed to this publication. The views expressed in this publication are purely personal opinions of the authors and do not reflect the views of the Editorial Team of White Black Legal. Though all efforts are made to ensure the accuracy and correctness of the information published, White Black Legal shall not be responsible for any errors caused due to oversight or otherwise.

WHITE BLACK  
LEGAL

## **EDITORIAL TEAM**

### **Raju Narayana Swamy (IAS) Indian Administrative Service officer**



Dr. Raju Narayana Swamy popularly known as Kerala's Anti-Corruption Crusader is the All India Topper of the 1991 batch of the IAS and is currently posted as Principal Secretary to the Government of Kerala. He has earned many accolades as he hit against the political-bureaucrat corruption nexus in India. Dr Swamy holds a B.Tech in Computer Science and Engineering from the IIT Madras and a Ph. D. in Cyber Law from Gujarat National Law University. He also has an LLM (Pro) (with specialization in IPR) as well as three PG Diplomas from the National Law University, Delhi- one in Urban Environmental Management and Law, another in Environmental Law and Policy and a third one in Tourism and Environmental Law. He also holds a post-graduate diploma in IPR from the National Law School, Bengaluru and

a professional diploma in Public Procurement from the World Bank.

### **Dr. R. K. Upadhyay**

Dr. R. K. Upadhyay is Registrar, University of Kota (Raj.), Dr Upadhyay obtained LLB, LLM degrees from Banaras Hindu University & PHD from university of Kota. He has successfully completed UGC sponsored M.R.P for the work in the Ares of the various prisoners reforms in the state of the Rajasthan.



## **Senior Editor**

### **Dr. Neha Mishra**



Dr. Neha Mishra is Associate Professor & Associate Dean (Scholarships) in Jindal Global Law School, OP Jindal Global University. She was awarded both her PhD degree and Associate Professor & Associate Dean M.A.; LL.B. (University of Delhi); LL.M.; PH.D. (NLSIU, Bangalore) LLM from National Law School of India University, Bengaluru; she did her LL.B. from Faculty of Law, Delhi University as well as M.A. and B.A. from Hindu College and DCAC from DU respectively. Neha has been a Visiting Fellow, School of Social Work, Michigan State University, 2016 and invited speaker Panelist at Global Conference, Whitney R. Harris World Law Institute, Washington University in St. Louis, 2015.

### **Ms. Sumiti Ahuja**

Ms. Sumiti Ahuja, Assistant Professor, Faculty of Law, University of Delhi,

Ms. Sumiti Ahuja completed her LL.M. from the Indian Law Institute with specialization in Criminal Law and Corporate Law, and has over nine years of teaching experience. She has done her LL.B. from the Faculty of Law, University of Delhi. She is currently pursuing PH.D. in the area of Forensics and Law. Prior to joining the teaching profession, she has worked as Research Assistant for projects funded by different agencies of Govt. of India. She has developed various audio-video teaching modules under UGC e-PG Pathshala programme in the area of Criminology, under the aegis of an MHRD Project. Her areas of interest are Criminal Law, Law of Evidence, Interpretation of Statutes, and Clinical Legal Education.



### **Dr. Navtika Singh Nautiyal**

Dr. Navtika Singh Nautiyal presently working as an Assistant Professor in School of law, Forensic Justice and Policy studies at National Forensic Sciences University, Gandhinagar, Gujarat. She has 9 years of Teaching and Research Experience. She has completed her Philosophy of Doctorate in 'Inter-country adoption laws from Uttarakhand University, Dehradun' and LLM from Indian Law Institute, New Delhi.

### **Dr. Rinu Saraswat**



Associate Professor at School of Law, Apex University, Jaipur, M.A, LL.M, PH.D,

Dr. Rinu have 5 yrs of teaching experience in renowned institutions like Jagannath University and Apex University. Participated in more than 20 national and international seminars and conferences and 5 workshops and training programmes.

### **Dr. Nitesh Saraswat**

E.MBA, LL.M, PH.D, PGDSAPM

Currently working as Assistant Professor at Law Centre II, Faculty of Law, University of Delhi. Dr. Nitesh have 14 years of Teaching, Administrative and research experience in Renowned Institutions like Amity University, Tata Institute of Social Sciences, Jai Narain Vyas University Jodhpur, Jagannath University and Nirma University. More than 25 Publications in renowned National and International Journals and has authored a Text book on CR.P.C and Juvenile Delinquency law.



### **Subhrajit Chanda**



BBA. LL.B. (Hons.) (Amity University, Rajasthan); LL. M. (UPES, Dehradun) (Nottingham Trent University, UK); PH.D. Candidate (G.D. Goenka University)

Subhrajit did his LL.M. in Sports Law, from Nottingham Trent University of United Kingdoms, with international scholarship provided by university; he has also completed another LL.M. in Energy Law from University of Petroleum and Energy Studies, India. He did his B.B.A.LL.B. (Hons.) focussing on International Trade Law.

## ***ABOUT US***

WHITE BLACK LEGAL is an open access, peer-reviewed and refereed journal provide dedicated to express views on topical legal issues, thereby generating a cross current of ideas on emerging matters. This platform shall also ignite the initiative and desire of young law students to contribute in the field of law. The erudite response of legal luminaries shall be solicited to enable readers to explore challenges that lie before law makers, lawyers and the society at large, in the event of the ever changing social, economic and technological scenario.

With this thought, we hereby present to you

# **CONSTITUTIONAL ANALYSIS OF THE NATURE AND ENFORCEABILITY OF MENTAL HEALTH RIGHTS IN INDIA**

AUTHORED BY - RUTHRESH KUMARAN.M

## **Abstract**

Mental health has increasingly gained recognition as an essential component of human dignity and overall well-being, especially in the context of evolving constitutional jurisprudence in India. Although the Constitution of India does not explicitly recognize mental health as a fundamental right, judicial interpretation of Article 21 has incorporated it within the ambit of the right to life and personal liberty. Statutory developments, most notably the Mental Healthcare Act, 2017 (MHCA), have further strengthened this recognition. Yet, the enforceability of mental health rights remains limited due to systemic barriers, poor infrastructure, stigma, and weak implementation. This article critically examines the constitutional status of mental health rights in India, tracing their historical development, statutory evolution, judicial interpretation, international influences, and enforcement challenges.

**Keywords:** Mental Health Rights, Article 21, Constitutional Law, Mental Healthcare Act, 2017, Fundamental Rights, Judicial Interpretation

## **Introduction**

The World Health Organization (WHO) estimates that nearly one billion people globally suffer from some form of mental disorder, with depression and anxiety alone costing the global economy over one trillion dollars annually in lost productivity.<sup>1</sup> In India, mental health issues affect nearly 15% of the population, according to the National Mental Health Survey (2015–16).<sup>2</sup> Despite this, mental health has historically remained neglected in policy, law, and constitutional discourse.

---

<sup>1</sup> World Health Organization, *Mental Health and COVID-19: Early Evidence of the Pandemic's Impact* (2022).

<sup>2</sup> National Institute of Mental Health and Neurosciences (NIMHANS), *National Mental Health Survey of India, 2015–16*.

The Indian Constitution does not explicitly mention “mental health.” Nevertheless, Articles 14, 15, 19, and 21 collectively provide a constitutional framework for its recognition. The Supreme Court has expanded Article 21 to include the right to health and dignity, thereby incorporating mental health as a protected interest. Landmark judgments such as *Francis Coralie Mullin v. Administrator, Union Territory of Delhi*<sup>3</sup> and *Bandhua Mukti Morcha v. Union of India*<sup>4</sup> emphasized the right to live with dignity, paving the way for mental health jurisprudence.

The enactment of the Mental Healthcare Act, 2017 marked a watershed moment, explicitly recognizing mental health care as a right and aligning Indian law with the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD). Yet, implementation gaps and stigma undermine its effectiveness.

## **Historical Development of Mental Health Laws in India**

### **A. Colonial Period: The Indian Lunacy Act, 1912**

British colonial laws such as the Lunacy Acts of 1858 and the Indian Lunacy Act, 1912 focused on custody and segregation rather than treatment.<sup>5</sup> These legislations prioritized public order and property management over patient rights.

### **B. Post-Independence: The Mental Health Act, 1987**

Replacing colonial laws, the Mental Health Act, 1987 shifted toward treatment and rehabilitation, but remained paternalistic and failed to integrate a rights-based approach.<sup>6</sup>

### **C. Modern Era: The Mental Healthcare Act, 2017**

The MHCA, enacted in line with India’s UNCRPD obligations, represents a paradigm shift. It guarantees rights to community living, autonomy, advance directives, and legal aid.<sup>7</sup> Crucially, Section 115 decriminalizes suicide, recognizing it as a mental health concern rather than a crime.<sup>8</sup>

---

<sup>3</sup> *Francis Coralie Mullin v. Administrator, Union Territory of Delhi*, (1981) 1 S.C.C. 608.

<sup>4</sup> *Bandhua Mukti Morcha v. Union of India*, (1984) 3 S.C.C. 161.

<sup>5</sup> Lunacy (Supreme Courts) Act, No. 32 of 1858; Indian Lunacy Act, No. 4 of 1912.

<sup>6</sup> Mental Health Act, No. 14 of 1987.

<sup>7</sup> Mental Healthcare Act, No. 10 of 2017, §§ 18–20.

<sup>8</sup> Id. § 115; see also Indian Penal Code, No. 45 of 1860, § 309 (decriminalized).

## Constitutional Dimensions of Mental Health Rights

### A. Article 21 and the Right to Health

The judiciary has expansively interpreted Article 21 to include health. In *Consumer Education & Research Centre v. Union of India*,<sup>9</sup> the Court emphasized occupational health as integral to the right to life. By extension, mental health is a component of the right to live with dignity.

### B. Articles 14 and 15: Equality and Non-Discrimination

These provisions prohibit arbitrary treatment and discrimination against persons with mental illness. Structural inequities, however, continue to deny equal access to services.<sup>10</sup>

### C. Directive Principles of State Policy

Though non-justiciable, Articles 38, 39(e), and 41 reinforce the state's obligation to provide public assistance for sickness and disability, extending to mental health.

### International Influence on Indian Mental Health Law

India's ratification of the UNCRPD in 2007 has significantly shaped the MHCA. Article 12 of the UNCRPD—equal recognition before the law—inspired provisions on advance directives and nominated representatives.<sup>11</sup> International jurisprudence has also encouraged deinstitutionalization and community-based care.

### Judicial Role in Advancing Mental Health Jurisprudence

The Indian judiciary has been instrumental in recognizing and enforcing mental health rights.

- In *Sheela Barse v. Union of India*,<sup>12</sup> the Court mandated humane treatment for mentally ill prisoners.
- The *Erwadi tragedy* (2001), where 28 mentally ill persons were burned alive while chained, led the Supreme Court to order reforms in mental health institutions.<sup>13</sup>
- In *Gaurav Kumar Bansal v. Union of India*,<sup>14</sup> the Court emphasized implementation of the MHCA, directing governments to establish rehabilitation and community care systems.

---

<sup>9</sup> *Consumer Educ. & Research Ctr. v. Union of India*, (1995) 3 S.C.C. 42.

<sup>10</sup> R.V. Baru & A. Mukherji, *Inequities in Access to Health Services in India*, 45 *Econ. & Pol. Wkly.* 49 (2010).

<sup>11</sup> *Convention on the Rights of Persons with Disabilities*, Dec. 13, 2006, 2515 U.N.T.S. 3.

<sup>12</sup> *Sheela Barse v. Union of India*, (1983) 4 S.C.C. 204.

<sup>13</sup> *In re Death of 25 Mental Asylum Patients at Erwadi*, (2001) S.C.C. (Cri) 1505.

<sup>14</sup> *Gaurav Kumar Bansal v. Union of India*, Writ Petition (Civil) No. 439 of 2016 (Sup. Ct. of India).

Through such cases, the judiciary has embedded mental health within Article 21 and demanded accountability from the state.

### **Enforcement Challenges of the Mental Healthcare Act, 2017**

Despite its progressive framework, the MHCA faces structural and administrative barriers:

- 1. Workforce deficit** – India has only 0.3 psychiatrists per 100,000 people, far below global averages.<sup>15</sup>
- 2. Urban-rural divide** – Over 75% of infrastructure is concentrated in cities.
- 3. Non-functional oversight bodies** – Mental Health Review Boards remain absent or ineffective in several states.<sup>16</sup>
- 4. Inadequate funding** – Less than 1% of India's health budget is allocated to mental health.<sup>17</sup>
- 5. Stigma and discrimination** – Cultural taboos discourage treatment-seeking and awareness of legal rights.

These factors create a gap between legal recognition and enforceability.

### **Conclusion**

The constitutional recognition of mental health rights in India has evolved through judicial activism and statutory reform. Article 21's interpretation as encompassing dignity, health, and autonomy provides a strong constitutional basis. The MHCA, 2017 codifies these principles, aligning India with international norms.

Yet, enforceability remains limited. For rights to be meaningful, they must be justiciable, supported by adequate infrastructure, funding, awareness, and judicial oversight. Bridging the gap between law and practice requires integrating a rights-based approach into healthcare delivery, improving inter-sectoral coordination, and ensuring accountability.

A constitution is more than an aspirational document—it is a guarantee of justice. Realizing the constitutional promise of mental health rights demands not only progressive laws but their effective implementation across India.

---

<sup>15</sup> World Health Organization, *Mental Health Atlas* (2020).

<sup>16</sup> Parliamentary Standing Committee on Health & Family Welfare, *Implementation of the Mental Healthcare Act, 2017* (2021).

<sup>17</sup> Ministry of Health & Family Welfare, Government of India, *Union Budget 2022–23: Expenditure on Health*.