

Mental Health Laws: From Social Welfare to Human Rights

Responsible Faculty Instructor:

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Assistant Professor and Assistant Dean

Credits: 4

Credits Type: Law

Cross-registration: No

Pre-requisites: None

COURSE DESCRIPTION (COURSE VISION):

What does it mean for the State to decide when a person can be confined, treated, or declared incapable of making decisions? Who defines mental illness and who controls the consequences of that definition?

Mental health has long stood at the uneasy intersection of law, medicine, and morality in India. For centuries, colonial legislation framed mental illness as “lunacy,” justifying custodial confinement and stripping individuals of autonomy. Even after independence, the law largely adopted a welfare-driven approach, viewing persons with mental illness as subjects of care rather than citizens with enforceable rights.

The Mental Healthcare Act, 2017 changed the language of the law. By aligning India’s framework with the UN Convention on the Rights of Persons with Disabilities, it recognised mental health as a matter of dignity, autonomy, and entitlement. Concepts such as advance directives, nominated representatives, and the right to access services promise a rights-based future. Yet the real question remains: *Has the shift on paper translated into transformation on the ground?*

This elective will, *inter alia*, explore this question.

Through historical inquiry, comparative analysis, case studies, and conversations with practitioners and advocates, this course examines how mental health law operates in lived reality. It situates doctrine within larger debates on equality, stigma, access to justice, and institutional accountability. The aim of this course is to challenge learners to think deeply about how law shapes vulnerability and how it can be redesigned to protect dignity. The focus is not merely to understand the law, but to question it, critique it, and imagine what a genuinely rights-respecting mental health framework for India could look like.

TEACHING METHODOLOGY:

The course adopts a blended methodology, combining theoretical foundations with practical, comparative, and interdisciplinary perspectives

Case Studies & Media Analysis: Students will analyze judicial decisions, statutory provisions, and news reports to understand how mental health law operates in practice. Classroom discussions will draw on documentaries, op-eds, and social media to unpack the cultural narratives that reinforce or dismantle stigma.

Guest Lectures and Practitioner Engagement: The elective will feature guest sessions with clinical psychologists and/or activists and lawyers. These perspectives will ground classroom debates in professional and community realities.

Simulations and Group Activities: Students will participate in drafting exercises (such as advance directives or policy briefs), moot-style arguments, and structured debates. This hands-on approach will enable them to apply legal reasoning to real-life contexts.

Empirical and Research Projects: Participants will be encouraged to examine workplace mental health policies, compliance with MHCA 2017 obligations, or community-level perceptions of stigma. These projects will strengthen research skills and foster evidence-based advocacy.

Safe Space and Inclusion: The course explicitly adopts a Safe Space Pledge, ensuring respect and openness in classroom discussions. Given the sensitivity of mental health discourse, the pedagogical approach prioritizes compassion, inclusivity, and critical reflection.

INTENDED LEARNING OUTCOMES:

By the end of this course, students will be able to:

1. Explain and critically analyse the historical evolution of mental health legislation in India, including colonial-era laws and post-independence reforms, with specific reference to concepts such as abnormality, lunacy, and institutionalisation.
2. Compare and evaluate key features of mental health legislation in selected common law jurisdictions, including the United Kingdom and Australia, and assess their relevance for the Indian legal framework.
3. Interpret and apply supporting domestic and international legal instruments including the Rights of Persons with Disabilities Act, related government policies, and the United Nations Convention on the Rights of Persons with Disabilities in understanding contemporary mental health governance.
4. Assess the development and implementation of a rights-based approach to mental health law in India, including the role of mental health activists, civil society organisations, and lived-experience advocacy.
5. Engage with practical dimensions of mental health law by analysing case studies, evaluating real-world implementation challenges, and reflecting on insights shared by practitioners and experts.

READING LIST (upto 10 select readings):

1. Key provisions of: (i) Indian Lunacy Act, 1912; (ii) The Mental Health Act, 1987; (iii) National Mental Health Policy, 2014; (iv) Mental Healthcare Act, 2017; (v) United Nations Convention on the Rights of Persons with Disabilities (A/RES/61/106)

2. Foucault M., “Madness and Civilization: A History of Insanity in the Age of Reason” (first published in 1961)
3. Duffy R., Kelly B., “India’s Mental Healthcare Act, 2017” (2020)
4. Getinet Ayano, “Significance of mental health legislation for successful primary care for mental health and community mental health services: A review” *Afr J Prim Health Care Fam Med.* 2018; 10(1): 1429.
5. Rachel Jenkins, “Supporting governments to adopt mental health policies”, *World Psychiatry.* 2003 Feb; 2(1): 14–19.
6. Ketki Ranade, Arjun Kapoor, and Tanya Nicole Fernandes, “Mental health law, policy & program in India – A fragmented narrative of change, contradictions and possibilities” *SM - Mental Health, Volume 2* (<https://www.sciencedirect.com/science/article/pii/S266656032200114>)
7. Choudhart Laxmi Narayan & Deep Shikha, “Indian Legal System and Mental Health” *Indian J Psychiatry.* 2013 Jan; 55(Suppl 2): S177–S181.
8. Math S., Murthy P., “Mental Health Act (1987): Need for a Paradigm Shift from Custodial to Community Care” (2011) 133(3) *Indian J Med Res* (<https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3103146/>)
9. Bhuyan A., ”Why the Mental Healthcare Bill is an Example of Health Lawmaking” (2017) *The Wire* (<https://thewire.in/government/mental-healthcare-bill-parliament>)
10. Pallathadka H., “A Critical Review of India’s Mental Healthcare Law” (2020) 7 *European Journal of Molecular and Clinical Medicine* (https://ejmcm.com/pdf_11769_ebbb594c2ceb85c3918d3f46bc1c6112.html)
11. Salekar A., “How the Celebrated Mental Healthcare Act Restricts Individual Liberty and Fails to Comply with International Standards” (*Caravan Magazine*)
12. Firdosi M.M, Ahmad Z.Z., “Mental Health Law in India: Origins and Reforms” (2016) 13(3) *BJ Psych Int.* (<https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5618879/>)

WEEKLY READING PLAN (WEEKLY OUTLINE):

MODULES	WEEK(S)
<p>MODULE 1: WHY MENTAL HEALTH AND LAW MATTER</p> <p>This introductory module situates mental health within law’s authority to regulate liberty, autonomy, and treatment. Students will examine why legal frameworks matter in shaping social responses to mental illness and how stigma influences both law-making and implementation. The session introduces the course’s central question: Is mental health in India truly rights-based today?</p>	1

<p>MODULE 2: MADNESS, LUNACY, AND ASYLUMS: A COLONIAL LEGACY AND THE MENTAL HEALTH ACT, 1987</p> <p>This module traces colonial understandings of “lunacy” and institutional confinement under the Indian Lunacy Act, 1912. Students will analyse how law constructed mental illness as a condition requiring surveillance and segregation, and how colonial psychiatry shaped governance.</p> <p>Students will also examine the Mental Health Act, 1987 as India’s first major post-colonial reform. The focus will be on its structure, regulatory mechanisms, and continued emphasis on institutional control.</p>	2-3
<p>MODULE 3: THE MENTAL HEALTHCARE ACT, 2017</p> <p>This module explores the transformative promise of the MHCA 2017. Students will analyse its alignment with constitutional values and the UNCRPD, including provisions on consent, access to services, capacity, and decriminalisation of suicide. The shift from welfare to rights will be critically examined.</p>	4-5
<p>MODULE 5: ADVANCE DIRECTIVES AND NOMINATED REPRESENTATIVES</p> <p>Students will closely study advance directives and nominated representatives as mechanisms of supported decision-making.</p>	6
<p>MODULE 6: GUEST LECTURE I: THE PRACTITIONER’S LENS</p> <p>A mental health professional will discuss how legal obligations function in practice. Students will reflect on tensions between legal compliance, medical ethics, institutional constraints, and patient care.</p>	6
<p>MODULE 7: MENTAL HEALTH, POLICY, AND SOCIETY</p> <p>This module examines government policies, workplace compliance requirements, and public mental health obligations. Students will analyse how law interacts with administrative capacity and resource allocation.</p>	7-8
<p>MODULE 8: COMPARATIVE PERSPECTIVES: UK, EU, AND AUSTRALIA</p> <p>Students will compare India’s framework with selected common law</p>	9-10

jurisdictions. Comparative insights will be used to assess strengths and gaps in the Indian model	
<p style="text-align: center;">MODULE 9: INTERSECTIONALITY IN MENTAL HEALTH LAW</p> <p>This module explores how mental health law operates differently across social locations. Students will examine how caste discrimination, gender-based violence, migration status, and poverty intersect with mental health regulation and access to justice.</p>	11-12
<p style="text-align: center;">MODULE 10: GUEST LECTURE II</p> <p>Through either an advocacy-focused lecture or a visit to a mental health institution, students will engage directly with implementation realities.</p>	12
<p style="text-align: center;">MODULE 11: MEDIA, CULTURE, AND STIGMA</p> <p>Students will analyse representations of mental illness in films, news media, and social platforms. The module will evaluate how cultural narratives shape public opinion, judicial reasoning, and policy responses.</p>	13
<p style="text-align: center;">MODULE 12: FUTURES OF MENTAL HEALTH LAW</p> <p>Students will debate contemporary issues including digital mental health platforms, AI-assisted diagnosis, data privacy, and potential amendments to the MHCA 2017.</p>	14
REVISION WEEK	Week 15