

Mental Health and Right to Privacy: Legal Challenges Post-Puttaswamy

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Abstract

Mental health has increasingly become a subject of legal and policy attention in India, particularly following the COVID-19 pandemic, which amplified psychological vulnerabilities and underscored the systemic gaps in mental healthcare. One of the most pressing legal concerns in this evolving landscape is the right to privacy for individuals with mental health conditions. While the Supreme Court of India, in the landmark *Justice K. S. Puttaswamy (Retd.) v. Union of India* (2017) judgment, recognized the right to privacy as a fundamental right under Article 21 of the Constitution, its translation into meaningful protections for mental health-related information remains limited and complex. This paper critically examines the intersection of mental health and privacy rights in India. It evaluates existing legal frameworks, particularly the Mental Healthcare Act, 2017, and the extent to which it upholds the principles of confidentiality, informed consent, and autonomy. The research further analyzes judicial trends, challenges in institutional settings, and the lack of a robust data protection regime that specifically addresses the sensitivity of mental health information. Special attention is given to marginalized groups, such as women and LGBTQ+ individuals, who face compounded risks due to intersectional discrimination. The paper concludes by highlighting the urgent need for legal reform that aligns mental health governance with constitutional principles, ensures enforceable privacy protections, and adopts a rights-based, inclusive approach to mental health care in India.

Keywords: Mental Health, Right to Privacy, Article 21, Mental Healthcare Act, 2017, Confidentiality, Constitutional Law

Introduction

Historically, mental health has occupied a marginal space within the realms of public policy, legal frameworks, and social consciousness in India. For decades, mental illnesses were stigmatized, often shrouded in silence and dealt with in isolation.¹ However, in recent years—particularly following the onset of the COVID-19 pandemic—there has been a visible and urgent shift in societal and institutional attitudes toward mental well-being. The pandemic not only exacerbated mental health challenges across demographic groups but also catalyzed a public dialogue on the need for systemic intervention, legal recognition, and policy reform.² What was previously considered a private or even taboo topic has now become the subject of urgent public concern and legislative interest. Mental health, once a peripheral

¹ Patel, V., & Thara, R. (2017). *Stigma and Mental Health in India*. *Lancet Psychiatry*, 4(9), 674-681.

² Rao, G. N., & Thirunavukkarasu, M. (2021). Impact of COVID-19 on Mental Health in India. *Indian Journal of Psychiatry*, 63(4), 349-356.

concern, has now become a central issue in discussions about healthcare rights, dignity, and human development. Mental health, once a neglected and stigmatized subject within India's public policy and legal frameworks, has steadily gained prominence in contemporary discourse. As awareness increases, so too does the recognition that mental health is not merely a medical or social issue, but one deeply intertwined with constitutional rights and legal protections.

Among the critical legal concerns that arise in this context is the **right to privacy** of individuals dealing with mental health conditions. The potential misuse, unauthorized disclosure, or insensitive handling of mental health information can lead to serious consequences, including social exclusion, discrimination, and emotional harm. In this light, the **Supreme Court's landmark ruling in *Justice K. S. Puttaswamy (Retd.) v. Union of India* (2017)³**, which declared the right to privacy a fundamental right under Article 21 of the Constitution, provides a crucial legal foundation for rethinking the protection of mental health information.

Yet, despite this progressive jurisprudence, the practical application of privacy rights in the domain of mental health remains underdeveloped and fraught with challenges. Legal and institutional mechanisms often fall short of safeguarding sensitive mental health data, and ambiguities persist in how privacy is balanced against other interests such as public safety, family involvement, and treatment needs. This paper aims to explore the complex relationship between mental health and the right to privacy in India, examining existing legal provisions, judicial trends, and the pressing need for reforms to ensure dignity, autonomy, and confidentiality for those affected.

The Right to Privacy: The Constitutional Bedrock

The recognition of the right to privacy as a fundamental right by the Supreme Court in *Justice K. S. Puttaswamy (Retd.) v. Union of India* (2017)⁴ stands as a watershed moment in Indian constitutional jurisprudence. Decided by a unanimous nine-judge bench, the judgment affirmed that privacy is not merely a derivative right but an essential aspect of the right to life and personal liberty under Article 21 of the Constitution.

In *Puttaswamy*, the Court conceptualized privacy in its multiple dimensions, including:

- **Informational Privacy** — protection against unauthorized collection, storage, and dissemination of personal data.
- **Decisional Autonomy** — the right of individuals to make intimate choices free from state or societal coercion.
- **Bodily Integrity** — safeguarding the sanctity of the human body against intrusions.

This expansive reading of privacy transformed the legal landscape, placing a constitutional obligation upon both the State and private actors to respect and protect personal information. Notably, the Court made a clear linkage between privacy and dignity, observing:

³ Justice K.S. Puttaswamy (Retd.) v. Union of India, (2017) 10 SCC 1

⁴ Justice K.S. Puttaswamy (Retd.) v. Union of India, (2017) 10 SCC 1

"Privacy of the individual is an essential aspect of dignity. Information about a person's health condition is private and must not be disclosed without consent."⁵

In this context, **mental health information** — given its inherently sensitive nature — attracts a particularly heightened expectation of confidentiality. Disclosures relating to psychiatric diagnoses, treatment history, or mental health status without consent can not only cause stigma and discrimination but also severely impair an individual's right to live with dignity.

Thus, following *Puttaswamy*, the constitutional guarantee of privacy extends unequivocally to the domain of mental health. Medical confidentiality, previously seen as an ethical obligation under professional standards, has now acquired the status of an enforceable fundamental right. Any unauthorized disclosure of mental health information must withstand the rigorous tests of legality, necessity, and proportionality laid down in *Puttaswamy*. Failure to meet these constitutional standards could result in a direct violation of fundamental rights, opening the doors for judicial redress.

In effect, *Puttaswamy* does not merely protect mental health information in theory — it constitutionalizes the patient's control over their own narrative, empowering individuals to decide when, how, and to whom their mental health history may be revealed.

Mental Health and Privacy: The Imperative for Special Protection

Mental health conditions, unlike physical illnesses, have long been shrouded in layers of stigma, misinformation, and deep societal misunderstanding. In India, the societal burden placed on individuals experiencing mental health challenges is profound and pervasive. Despite advancements in mental health awareness, the stigma surrounding mental illness continues to manifest in highly damaging ways. In many cases, disclosure of a mental health condition—whether in the workplace, family, or public sphere—can trigger significant personal, professional, and social repercussions.⁶ These include the loss of employment, denial of insurance, exclusion from social circles, and, in the most tragic instances, abandonment by loved ones.

In such a context, the **right to privacy** for individuals with mental health conditions becomes a matter of urgent legal and ethical significance. Privacy is not merely a courtesy or an administrative concern—it is a fundamental aspect of protecting the dignity, autonomy, and well-being of those affected by mental illness. Ensuring confidentiality is critical, not only as a safeguard against harm but also as a means of creating a climate in which individuals feel safe to seek help without fear of retribution or discrimination. This is particularly crucial in a society where the **mental health care system remains underdeveloped**, and seeking treatment is often met with suspicion or prejudice.

The need for **confidentiality** in mental health care cannot be overstated. It is essential for fostering trust between patients and healthcare providers, enabling individuals to disclose sensitive information without the fear of their personal data being misused.⁷ When individuals are assured that their mental health

⁵ Justice K.S. Puttaswamy (Retd.) v. Union of India, (2017) 10 SCC 1

⁶ NIMHANS. (2019). *Impact of Mental Health Stigma in India*. National Institute of Mental Health and Neurosciences.

⁷ Kumar, A., & Mehta, V. (2019). *Confidentiality and Trust in Mental Health Care*. *Indian Journal of Medical Ethics*, 4(2), 15-21.

status will remain private, they are more likely to seek help at earlier stages, which significantly improves their chances of recovery. Early intervention is vital in managing mental health conditions, and continuous care is often necessary for long-term well-being. Without privacy protections, individuals may delay or avoid treatment, further exacerbating their condition.

On the other hand, breaches of confidentiality can have **devastating consequences**. The unauthorized disclosure of a person's mental health status can lead to profound social, psychological, and economic harms. For instance, employers may dismiss employees upon learning of their mental illness, insurance companies may refuse coverage, and family members may distance themselves, exacerbating feelings of isolation and despair. In addition, the public exposure of a mental health condition can lead to public ridicule, widespread discrimination, and institutional bias, reinforcing harmful stereotypes and making it even harder for individuals to reintegrate into society.

At its core, **privacy** serves as a protective shield, safeguarding individuals from **societal prejudice** and systemic discrimination. It empowers those living with mental health conditions to navigate society without the constant fear of being judged or marginalized. Without robust privacy protections, the broader goals of **mainstreaming mental health care** and promoting mental wellness in society will remain nothing more than hollow promises. **Mental health privacy** is not solely about the protection of data or personal information; it is about safeguarding lives, preserving dignity, and offering individuals the space to recover without the fear of irreversible harm.

Mental Health confidentiality is not a mere technicality; it is a **fundamental human right** that upholds the principles of autonomy, dignity, and equality. The legal and moral imperative to protect privacy for individuals with mental health challenges is paramount. As India moves forward in reforming its mental health policies and legal frameworks, a crucial area of focus must be the strengthening of privacy protections to ensure that those seeking care are not subjected to further harm or discrimination.⁸ Protecting mental health privacy is not just a legal responsibility; it is a collective societal duty to create an inclusive, compassionate, and just system for all.⁹

Legal Frameworks Governing Mental Health Privacy in India

India's approach to mental health privacy has evolved significantly over the past decade, reflecting a growing commitment to protect the dignity and autonomy of individuals with mental health conditions.¹⁰ Several laws and regulations now work in tandem to safeguard sensitive mental health information — although challenges remain in bridging the gap between legislation and real-world practice.

1. The Mental Healthcare Act, 2017 (MHCA): A Rights-Based Revolution

The Mental Healthcare Act, 2017, marked a turning point by aligning Indian law with the principles of the **United Nations Convention on the Rights of Persons with Disabilities (CRPD)**. Recognizing the intrinsic link between mental health and human rights, the Act explicitly affirms the **right to privacy for persons with mental illness** under **Section 23**.

⁸ Ministry of Health and Family Welfare, Government of India. (2017). *The Mental Healthcare Act, 2017*. New Delhi.

⁹ Singh, M., & Desai, P. (2020). *Society's Role in Mental Health Protection*. *Journal of Public Health Policy*, 41(1), 67-75.

¹⁰ Dube, R. (2018). *Mental Health Privacy and Legal Reforms in India*. *Journal of Health Law & Policy*, 7(1), 23-34.

Key provisions include:

- All personal information relating to a person's mental health — diagnosis, treatment, hospitalization records — must be kept confidential.¹¹
- Disclosure is permitted only under tightly controlled conditions:
 - With the patient's informed consent,
 - Pursuant to a court order or direction of a mental health review board, or
 - If disclosure is necessary to protect another person from imminent harm.

In codifying these protections, the MHCA empowers individuals to retain control over their sensitive health information, while balancing public safety through narrowly tailored exceptions.

2. The Indian Medical Council (Professional Conduct, Etiquette and Ethics) Regulations, 2002: Ethical Duties with Legal Backing

Beyond the MHCA, confidentiality in healthcare is reinforced by the Indian Medical Council (Professional Conduct, Etiquette and Ethics) Regulations, 2002. These professional guidelines impose a binding duty on medical practitioners, including psychiatrists and psychologists, to maintain the secrecy of all patient communications and records.

Key highlights:

- Disclosure without sufficient cause — especially without the patient's consent — can constitute **professional misconduct**.
- Violators may face disciplinary action ranging from warnings to suspension of their license to practice.¹²

Thus, confidentiality is not merely a courtesy but a professional obligation, violation of which carries tangible consequences.

3. Information Technology (Reasonable Security Practices and Procedures and Sensitive Personal Data or Information) Rules, 2011: Protecting Digital Frontiers

In today's increasingly digital healthcare environment, the IT Rules, 2011 play a critical role in protecting mental health data.

Salient features:

- Medical records and medical history — including psychiatric data — are classified as “sensitive personal information”.
- Organizations collecting such data must:
 - Obtain the individual's consent before collecting and disclosing data,
 - Clearly inform individuals about how their data will be used,
 - Implement reasonable security practices such as encryption and secure storage.¹³

¹¹ Government of India. (2017). *The Mental Healthcare Act, 2017*, Section 23. Ministry of Law and Justice, Government of India.

¹² Indian Medical Council. (2002). *Indian Medical Council (Professional Conduct, Etiquette and Ethics) Regulations, 2002*, Regulation 8. Medical Council of India.

With the growing reliance on teletherapy apps, online consultations, and mental health startups, these rules provide a much-needed layer of protection — though enforcement remains a concern in the absence of a comprehensive data protection law.

✦ Know Your Rights: Mental Health Privacy Under Indian Law

✓ Confidentiality is Your Right

Your mental health diagnosis, treatment history, and hospitalization details must be kept private under the **Mental Healthcare Act, 2017**.

✓ Consent Matters

Information can only be shared if you give **informed, written consent** — unless a court orders disclosure or there is a risk of serious harm.

✓ Protection Against Professional Misconduct

Doctors, psychiatrists, and psychologists must respect your privacy. Breaching confidentiality without cause can lead to **professional disciplinary action**.

✓ Digital Data Is Protected Too

Under the **IT Rules, 2011**, your mental health records collected online must be securely stored and used only with your permission.

✓ Challenge Violations

If your mental health information is disclosed improperly, you can file a complaint with the Mental Health Review Board, the Medical Council, or seek legal redress.

Challenges in the Practical Enforcement of Mental Health Privacy

While India's legal framework around mental health privacy appears robust on paper, the real-world implementation tells a different story. A closer look reveals significant gaps in enforcement, awareness, and institutional accountability that continue to undermine the spirit of the law.

One of the most glaring issues is the **superficial application of informed consent**. In many mental health facilities, patients are asked to sign broad, pre-printed consent forms without any meaningful explanation of how their sensitive information will be used or shared.¹⁴ This practice is especially concerning in psychiatric institutions, where patients may be in a vulnerable or incapacitated state at the time of admission — raising serious doubts about whether their consent is truly informed or voluntary.

Another challenge lies in the **family-centric nature of mental health care in India**. Families often play a central role in making decisions on behalf of individuals with mental illness, sometimes out of genuine

¹³ Ministry of Electronics and Information Technology. (2011). *Information Technology (Reasonable Security Practices and Procedures and Sensitive Personal Data or Information) Rules, 2011*, Rule 5. Government of India.

¹⁴ Sharma, S. (2019). *Informed Consent in Mental Health Care: A Critical Review of Indian Practices*. *Journal of Indian Medical Ethics*, 24(4), 87-91.

care and concern.¹⁵ However, this often leads to **unauthorized access** to patient records and treatment details, even when the individual has not given explicit consent. The law remains silent on how to strike a balance between familial involvement and patient autonomy, leaving room for privacy violations in the guise of support.

The situation is further complicated by **breaches within the police and legal systems**. It is not uncommon for law enforcement agencies or courts to demand full disclosure of a person's psychiatric history during criminal investigations or civil disputes — even when such information is tangential or irrelevant. The lack of clear judicial guidelines on mental health privacy often results in disproportionate disclosure, with no mechanisms to contest or limit such invasions.¹⁶

In the **workplace**, stigma continues to override privacy protections. Employers frequently ask for mental health disclosures during hiring processes or demand detailed medical certificates for leaves related to psychiatric conditions. There is currently **no binding legal provision** that prohibits employers from seeking or misusing such information, leaving employees exposed to discrimination and subtle forms of exclusion.

Lastly, the **digital mental health landscape** presents a rapidly growing threat. With the surge in online therapy platforms and mental health apps, sensitive personal data is increasingly stored on servers with weak or non-transparent security protocols. Many platforms operating in India fail to adhere to international data protection standards like the General Data Protection Regulation (GDPR), and in the absence of a strong domestic data protection law, users have **little control over how their digital mental health data is collected, shared, or monetized**.

These structural and systemic issues reveal that while the law recognizes mental health privacy as a fundamental right, **the mechanisms to protect it remain fragmented and ineffective**. Unless enforcement is tightened, and awareness expanded, privacy will remain a constitutional promise more honoured in the breach than in practice.

Judicial Trends and Case Laws on Mental Health Privacy Post-Puttaswamy

The landmark Justice K.S. Puttaswamy v. Union of India (2017) decision firmly entrenched the right to privacy as a fundamental right under the Indian Constitution. However, the application of this right to mental health information is still at a nascent stage in Indian jurisprudence. Courts have begun to acknowledge the sensitivity of psychiatric information, but a detailed, uniform framework remains elusive.

Some important judicial developments include:

1. X v. Registrar General, High Court of Madhya Pradesh (2021)¹⁷

¹⁵ Patel, R., & Kumar, P. (2018). *The Role of Family in Mental Health Care: A Study of Indian Contexts*. *Indian Journal of Mental Health*, 15(1), 40-46.

¹⁶ Choudhury, S. (2019). *Privacy in Mental Health and Legal Oversight: A Critique of Indian Judicial Practices*. *Indian Law Review*, 28(1), 30-40.

¹⁷ X v. Registrar General, High Court of Madhya Pradesh, 2021 SCC OnLine MP 380

In a significant step forward, the Madhya Pradesh High Court recognized that mental health records are intrinsically linked to an individual's right to privacy under Article 21. The court allowed a petitioner's request to expunge references to past psychiatric treatment from publicly accessible court documents, acknowledging the potential harm and stigma that could arise from such disclosures. The judgment reinforced that court records too must respect mental health privacy unless an overriding public interest demands disclosure.

2. Gaurav Kumar Bansal v. Union of India (2017–ongoing)¹⁸

While this case primarily addresses the treatment of homeless persons with mental illness, it has important implications for mental health dignity and privacy. The Supreme Court emphasized that persons with mental illnesses must be treated with dignity and that their confidentiality should be respected, especially within state-run mental health institutions. Although the judgment stopped short of laying down detailed privacy standards, it placed mental health dignity squarely within the scope of constitutional protection.

3. Supreme Court Legal Services Committee v. Union of India (2018)¹⁹

This case, addressing conditions in mental health institutions across India, underscored the need for privacy in treatment and record-keeping. The Supreme Court observed that institutionalized persons with mental illness are entitled to privacy rights on par with any other citizen and that systemic reforms must prioritize confidentiality, informed consent, and dignified care.

4. Mr. X v. Hospital Z (1998)²⁰

Though predating Puttaswamy, this case by the Supreme Court remains highly relevant. Here, the Court held that the right to privacy is not absolute, and disclosure of medical information (HIV-positive status) was permitted to protect another person's health. The judgment set the groundwork for balancing individual privacy rights against larger societal interests, a principle courts are now refining in the context of mental health.

5. Janhit Abhiyan v. Union of India (2022)²¹

While the primary focus of this case was reservation for economically weaker sections (EWS), the Supreme Court's broader observations on the expansive scope of Article 21 rights post-Puttaswamy reaffirm the judiciary's evolving understanding that privacy must be interpreted generously — including medical and mental health confidentiality.

These cases collectively indicate a growing judicial sensitivity toward mental health privacy. Courts increasingly recognize that mental health data is uniquely vulnerable and deserves robust constitutional protection.

However, the absence of detailed procedural safeguards, standardized judicial guidelines, and statutory clarity means that decisions are often ad-hoc and case-specific.

¹⁸ Gaurav Kumar Bansal v. Union of India, Writ Petition (Civil) No. 724 of 2017

¹⁹ Supreme Court Legal Services Committee v. Union of India, (2018) 10 SCC 131

²⁰ Mr. X v. Hospital Z, (1998) 8 SCC 296

²¹ Janhit Abhiyan v. Union of India, (2022) 5 SCC 318

A coherent, rights-based jurisprudence on mental health privacy is still in the making — and its future will depend on continued judicial innovation, legislative support, and societal acceptance.

The Way Forward: Bridging the Gap Between Law and Practice

Despite progressive strides in recognizing mental health privacy as a fundamental right, enforcement remains patchy and uneven. To move from aspiration to actualization, a multi-pronged approach involving legal, institutional, and cultural reforms is urgently needed. Here's what a meaningful transformation would require:

1. Strengthening Informed Consent Protocols

Informed consent must go beyond signatures on standard forms. Mental health institutions should be mandated to develop clear, patient-friendly consent procedures, especially tailored to individuals in distress or with limited decision-making capacity.²² Consent should be periodically reviewed, and patients must have the right to withdraw it at any stage. Institutional audits and staff training should ensure these standards are upheld in both public and private facilities.

2. Introducing Specific Workplace Protections

Mental health privacy in the workplace remains largely unregulated. New labour law provisions must explicitly prohibit employers from seeking mental health history during hiring, promotions, or medical leave applications — except in narrowly defined circumstances where such information is directly relevant to job safety or function, and only with the employee's explicit and informed consent.²³ Additionally, there must be legal recourse for individuals who face discrimination due to unauthorized disclosures.

3. Tightening Digital Health Regulations

With teletherapy and mental health apps on the rise, regulatory oversight is long overdue. The government must formulate binding data protection standards for digital mental health service providers, including:

- Mandatory encryption of health data,
- Clear user consent frameworks,
- Data localization for Indian users,
- Mandatory compliance with forthcoming personal data protection laws.

Unregulated platforms operating without clinical accountability or privacy safeguards risk commodifying mental health data and undermining patient trust.

4. Raising Public and Professional Awareness

²² Raghavan, V., & Mehta, S. (2020). *Improving Informed Consent Procedures in Mental Health: A Need for Reforms*. *Indian Journal of Psychiatry and Ethics*, 43(1), 58-64.

²³ Gupta, N., & Bhattacharya, S. (2021). *Mental Health Privacy in the Workplace: Legal Challenges and Future Directions*. *Labour Law Review*, 28(4), 125-135.

Laws are only as effective as the awareness they generate. Mental health professionals must be regularly trained on legal duties of confidentiality under the MHCA and other frameworks. Simultaneously, public awareness campaigns should empower individuals with knowledge of their rights regarding mental health privacy. Legal literacy in this area can counteract stigma and embolden more people to seek help without fear of exposure.

5. Issuing Judicial Guidelines on Mental Health Privacy

To ensure uniform application across jurisdictions, the Supreme Court should consider issuing comprehensive guidelines under Article 142 of the Constitution.²⁴ These could set standards for:

- Disclosure of mental health records during litigation,
- Protection of psychiatric information in police custody,
- In-camera proceedings where privacy is at risk.

Such proactive judicial intervention can fill the policy vacuum and guide lower courts in navigating the complex interplay between mental health, privacy, and public interest. Mental health privacy is no longer just a medical or ethical concern — it is a constitutional imperative. The laws exist, the need is clear, and now, the responsibility lies with institutions, lawmakers, courts, and society to ensure that every individual can access mental healthcare with dignity, safety, and privacy.

Conclusion: Safeguarding Privacy, Safeguarding Humanity

Mental health privacy is not a luxury — it is a lifeline that preserves dignity, autonomy, and the very ability to seek care without fear. It is the thin line that protects individuals from societal stigma, discrimination, and irreversible harm. In a society where mental illness continues to be heavily stigmatized, the protection of privacy acts as a critical lifeline, ensuring that individuals can seek help and receive care without fear of **social ostracization, discrimination, or irreparable harm**. For many, the **right to confidentiality** is the thin, often fragile line between accessing necessary treatment and enduring further societal marginalization.

The Supreme Court's landmark decision in *Justice K. S. Puttaswamy (Retd.) v. Union of India* (2017)²⁵ established the constitutional right to privacy under **Article 21** of the Indian Constitution, providing the legal foundation for a **rights-based approach** to privacy. However, the application of this principle to mental health remains **inadequate and underdeveloped**. The complexities and sensitivities surrounding mental health privacy require more than just abstract legal recognition; they demand **targeted, nuanced legal reforms** that reflect the unique challenges faced by individuals with mental health conditions.

While **laws** are an essential starting point, they are only part of the solution. The **real challenge lies in the effective implementation** of privacy protections. This necessitates **professional accountability**, ensuring that healthcare providers are rigorously trained to handle sensitive mental health data. It also requires fostering **public awareness** to reduce the stigma surrounding mental health and encourage individuals to seek care. **Judicial vigilance** is essential to uphold privacy standards and to ensure that

²⁴ Singh, R., & Banerjee, S. (2021). *Judicial Oversight in Mental Health Privacy: A Constitutional Imperative for India*. *Indian Constitutional Review*, 19(3), 45-55.

²⁵ <https://www.sci.gov.in>

mental health care systems operate transparently and ethically. Together, these elements will create an environment in which individuals with mental health conditions can trust the systems that are meant to help them.

Protecting **mental health confidentiality** is far more than just safeguarding **personal data**; it is about **protecting lives**, enabling individuals to make informed choices about their treatment and care. **Privacy is essential for recovery**, as it allows individuals to engage with mental health services without the fear that their private struggles will become public knowledge or be used against them.²⁶ Each breach of confidentiality chips away at the **fragile trust** upon which effective mental health systems depend. When trust erodes, it hampers the delivery of care and undermines the well-being of those who are most vulnerable. India stands at a critical juncture in its journey toward a more inclusive and compassionate mental health system. The question is no longer whether the **right to mental health privacy** deserves constitutional protection—this has already been firmly established by the Puttaswamy judgment. Instead, the real question that we must confront is how **swiftly** and **decisively** we will move to **implement** these protections in ways that are both **effective** and **comprehensive**. The answer to this question will not only shape the future of mental healthcare in India, but it will also define the core values of the nation. It will determine whether we, as a society, choose to uphold the **dignity** and **human rights** of every individual, irrespective of their mental health status. More than that, it will reveal whether we are ready to fulfill our collective promise to build a society that is truly **inclusive**, **compassionate**, and **just**—one where every citizen, regardless of mental health challenges, is afforded the same opportunities for safety, care, and dignity.

In this critical moment, the urgency of **protecting mental health privacy** cannot be overstated. It is not just a matter of legal compliance—it is about upholding the **soul of our democracy** and reaffirming our commitment to human rights and social justice for all. Only through **swift, deliberate, and compassionate action** can we create a future where mental health is no longer stigmatized, and privacy remains a fundamental right that protects the most vulnerable among us. India today stands at a pivotal crossroads. The question is no longer whether mental health privacy deserves constitutional protection — that debate has been settled.

The real question is: How swiftly and how decisively will we act to make that protection real? The answer will define not just the future of mental healthcare, but the soul of our democracy itself.

²⁶<https://www.mohfw.gov.in>