
CONSTITUTIONALIZING DIGITAL SILENCE: MENTAL HEALTH, HUMAN DIGNITY, AND PERSONAL AUTONOMY IN THE SHADOW OF ARTICLE 21

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ABSTRACT

The digital uprising has inaudibly done something that centuries of authoritarian governance could never quite manage: it has occupied the last remaining quiet spaces of the human mind. Notifications do not knock before they enter. Algorithms do not ask for consent before influencing moods. Employers do not pause before the clock strikes twelve midnight to send that urgent message. Against this backdrop, this paper scans the constitutional architecture existing under Article 21 of the Constitution of India to protect what this paper terms as digital silence i.e. the right of every individual to periods of unaffected psychological rest, freedom from forced digital engagement, and control over the most delicate frontier of their private self: their mental health.

Drawing on the momentous judgment in Justice K.S. Puttaswamy (Retd.) And Anr. v. Union of India And Ors. (2017), the Mental Healthcare Act, 2017, the Digital Personal Data Protection Act, 2023, the Supreme Court's 2025 ruling in Sukdeb Saha v. State of Andhra Pradesh clearly constitutionalizing mental health, and the proposed Right to Disconnect Bill, 2025, this paper argues that the right to digital silence is not a luxury of the advantaged but a constitutional necessity for all. The paper touches the growth of Article 21 from a bare protection against illogical withdrawal of life and liberty to a rich, functional assurance of dignity, autonomy, and psychological integrity.

The paper further critiques the execution gaps in existing frameworks, evaluates comparative models and suggests a path forward for India to constitutionalize the right to be left alone: digitally, psychologically, and constitutionally.

Keywords: Digital uprising, Digital silence, Mental health, Psychological rest, Dignity, Personal autonomy, Integrity, Right to Disconnect, Right to be left alone, Private self.

INTRODUCTION

There is something severely paradoxical about modern democratic life. The same epoch that gave us constitutions solemnly promising dignity, liberty, and the freedom to live as one has also given us the smartphone, a device that makes these promises structurally problematic to keep. The right to life is meaningless, if the mind that animates that life is chronically exhausted, and deprived of rest. The freedom of thought is hollow if one's digital track reveals one's psychiatric diagnoses, emotional states, and psychological weaknesses to employers, insurers, marketers, and the State itself.

The Constitution of India, through Article 21, promises that “no person shall be deprived of his life or personal liberty except according to procedure established by law.”¹ For much of its initial history, this was read only just as a protection against bodily confinement, against bodily harm, and against the exact deprivation of life.

The Supreme Court's transformative jurisprudence, starting with *Maneka Gandhi v. Union of India*² and climaxing in the nine-judge bench verdict in *Justice K.S. Puttaswamy (Retd.) And Anr. v. Union of India And Ors.*,³ has radically lengthened this promise. Life, the Court has told us repetitively, means live with dignity. Liberty means the free will to make choices that are one's own.

But it has been observed that a different significant characteristic of modern existence is the way digital systems give connectivity to one another, challenging the meaning of dignity when an employee receives work messages at 2 a.m. and fears the consequences of not answering. The situation involves a person on the lookout for therapy who must hand over sensitive mental health data to represent autonomy, though the background contains information sharing with insurers or employers. Moreover, the face of privacy contains behavioral data that algorithms use to foresee psychological disorders without a person ever consenting to be so assessed.

The digital silence, interpreted within the framework of Article 21, is among the most famous constitutional necessities in India. The legal system protects digital silence due to its fascination with the way genuine psychological rest appears on mental health information. The concept

¹ The Constitution of India, art.21

² AIR 1978 SC 597

³ (2017) 10 SCC 1

involves a half-body portrait of personal sovereignty, and the enigmatic freedom from bound digital engagement reflects the legal idea of the connection between nature and humanity. The excellent and beautiful digital silence contains various elements of law, such as privacy and liberty, as well as the principles, for instance, dignity and livelihood. This right belongs within Article 21 just as assuredly as the right to a fair hearing, to livelihood, to shelter, to die with dignity.

THE LIVING CONSTITUTION: ARTICLE 21'S JOURNEY FROM PROCEDURE TO DIGNITY

Article 21 did not attain its present expansive form; it was constructed, case by case, through decades of judicial valour and constitutional mind. This section traces that progress from the stiff proceduralism of the early Supreme Court to the rich, practical understanding of life and liberty that now explains Indian constitutional law, classifying the key moments and judgments that cemented the way for digital silence to find its constitutional home.

A. The Foundational Moment

When *A.K. Gopalan v. State of Madras*⁴ was decided, the Supreme Court read Article 21 with a conspicuous pedantry. The “procedure established by law” meant any procedure that had been enacted by a capable governing body. Whether that procedure was just, fair, or humane was, the Court held, immaterial to the constitutional review. This was a noteworthy judicial obscurantism, it meant that the State could refute a person of life or liberty through any law it chose to pass, however illogical or dictatorial, so long as Parliament had enacted it.

This interpretation rendered Article 21 a comparatively thin guard. It put forward procedural shelter but no substantive warmth. It protected against the absenteeism of law but not against the cruelty of law. For nearly three decades, this remained the dominant approach.

B. The Revolution

The change came with *Maneka Gandhi v. Union of India* in 1978. The case concerned the impounding of a passport, apparently a mundane administrative matter. But the Supreme Court used it to perform a constitutional transformation. Justice P.N. Bhagwati, writing for a seven-

⁴ AIR 1950 SC 27

judge bench, held that Article 21 must be read in conjunction with Articles 14 and 19, generating what scholars have labelled as a “golden triangle” of fundamental rights.⁵

The word life, Justice Bhagwati held, “does not merely connote the animal existence or continued drudgery through life.” It means the right to live with dignity, to have all the limbs and faculties through which life is relished.⁶ Any procedure that robs a person of this, must not only be authorized by law but must also be just, fair, and reasonable. This single shift opened the floodgates of what Article 21 could contain.

Over the next four decades, the Supreme Court discovered within Article 21 the right to livelihood, health, education, clean environment, speedy trial, legal aid, and to die with dignity. Each of these was created through a course of purposive, contextual, humanistic interpretation, understanding the Constitution not as an iced up text but as a breathing instrument that must keep pace with budding human wants and challenges.

C. Privacy as Constitutional Infrastructure

The most momentous step in this journey came on August 24, 2017 in *K.S. Puttaswamy (Retd.) And Anr. v. Union of India And Ors*,⁷ when a nine-judge constitutional bench of the Supreme Court with one mind held that the right to privacy is a fundamental right under the Indian Constitution, sheltered primarily under Article 21 but also under Articles 14 and 19.

The constitutional issues were much bigger as the facts of the case emerged when one appealed against the Aadhaar scheme. The government claimed relying on some previous cases such as *M.P. Sharma v. Satish Chandra*⁸ and *Kharak Singh vs. State of Uttar Pradesh*,⁹ that it did not provide any fundamental right to privacy in the Constitution. The nine-judge court however differed vehemently and its verdict was unanimous.

According to the plurality opinion written by Justice Y. Chandrachud, privacy is within the interior of personhood: he has pointed out that privacy is not an elitist term but rather a fundamental human right, which is available to all. According to his explanation, privacy protects the inner being of a person against the state and non-state infiltrations. It provides us

⁵ Supra note 2 at 4

⁶ Francis Coralie Mullin v. Administrator, Union Territory of Delhi, (1981) 1 SCC 608

⁷ Supra note 3 at 4

⁸ AIR 1954 SC 300

⁹ AIR 1963 SC 1295

with the freedom to make our personal decisions without any form of external coercion and questioning.

Some of the aspects of privacy that the Court put forward include: spatial privacy, decisional autonomy, bodily privacy, relational privacy and informational privacy. It indicated that one of the basic components of the right to privacy is the right to control personal information. The personal information of an individual is a part of him or her and the manner of its collection, utilization or disclosure should be regulated by the constitution.

Lastly, the Court established a three-pronged test of any state intrusion into privacy, namely, legality, necessity and proportionality. Now this test is used to rule all the challenges on the privacy related to the constitutional issues in India including those that arise in the digital world.

MENTAL HEALTH AS A CONSTITUTIONAL RIGHT: FROM WELFARE TO ENTITLEMENT

It has not been a smooth and quick ride towards the ultimate realization of treating mental health as a constitutional right rather than a mere welfare problem. Primarily, this section follows the way in which legal changes, international conventions, and a flock of court decisions that grew more aggressive over the decades brought mental health to be treated not as an ancillary subject matter in the constitution but instead as the location of all the other rights in the constitution, to the point that mental health is declared to be included in the right to life under Article 21.

A. The Constitutional Silence and Judicial Response

Whereas the right to privacy emerged gradually because the Court had to excavate it out of Articles 14, 19 and 21,¹⁰ the constitutional claim of mental health has developed gradually as a result of a combination of legislations and international obligations.

India's Constitution does not particularly mention mental health. The Directive Principles of State Policy in Articles 38, 39, 42, and 47¹¹ gestures towards state obligations regarding public health, welfare, and living standards, but these are non-justiciable directives rather than

¹⁰ The Constitution of India, arts. 14,19,21

¹¹ The Constitution of India, arts. 38,39,42,47

enforceable rights. The transformative move was reading these directives together with Article 21's assurance of life with dignity.

The Supreme Court had, in a series of cases, established that the right to health, both physical and mental is an essential component of the right to life under Article 21. In *Paschim Banga Khet Mazdoor Samity v. State of West Bengal*,¹² the Court held that the State has a constitutional responsibility to make available satisfactory medical facilities for people. In *State of Punjab v. Mohinder Singh Chawla*,¹³ it reiterated that the right to health is vital to the right to life. But for much of this jurisprudence, mental health remained at the margins and it was physical health that commanded judicial consideration.

B. A Statutory Breakthrough

The legislative response came with the Mental Healthcare Act, 2017 (MHCA),¹⁴ which signified a fundamental shift in how Indian law understood mental illness and mental healthcare. Where prior legislation, the Indian Lunacy Act, 1912 and the Mental Health Act, 1987 had come close to mental illness primarily from a custodial and administrative perspective, the MHCA adopted a rights-based framework.

Section 18 essentially states that all people have the right to receive mental health services through government-funded or government-run services. It is a positive privilege, which means that the state cannot simply abandon us to ourselves. This is important because the percentage of those with some form of mental disorder stands at 13.7 % and considering that 0.75 psychiatrists per lakh of population are only available, this may be critical.

The act also came up with the Advanced Directive, which is a form of legal practice that permits individuals to determine in advance what they want to see in case of a crisis. This is significant as far as autonomy is concerned: it demonstrates that mental health patients can still make decisions irrespective of the fact that they are in a crisis. The concept is based on the Article 21 that provides life with dignity.¹⁵

Section 115 decriminalized suicide attempts which was a massive win both symbolically and

¹² (1996) 4 SCC 37

¹³ (1997) 2 SCC 83

¹⁴ The Mental Healthcare Act, 2017 (Act 10 of 2017)

¹⁵ *Ram Jethmalani v. Union of India*, (2011) 8 SCC 1

practically. The legislation has taken the position that a person who tries to commit suicide is going through extreme stress and is not supposed to be punished but assisted. That is shifting away to viewing it as an ethical or criminal concern to viewing it as a healthcare crisis that needs empathy.

MHCA equally prohibits insensitive care of mentally ill individuals, ensures their right to live as part of the community and be with families, requires mental and physical diseases be treated equally and requires the government to make mental health as part of all levels of general health care. Nevertheless, five years later, following the passing of the act, the implementation of the same is still spotty.

C. Constitutional Crystallization

The moment of constitutional crystallization came in July 2025, when the Supreme Court of India, in *Sukdeb Saha v. State of Andhra Pradesh*,¹⁶ clearly held that mental health is an essential constituent of the right to life under Article 21 of the Constitution.

The case arose from a public interest petition emphasizing the hurtful toll of academic pressure and institutional negligence on students preparing for competitive examinations. The proximate cause was the death of a 17-year-old student, but the Court's answer was structural. It declared that state inaction on mental health is no longer merely poor policy but is also a breach of fundamental rights under the Constitution, enforceable through judicial intervention.

Drawing on *Shatrughan Chauhan v. Union of India*¹⁷ and *Navtej Singh Johar v. Union of India*¹⁸, the Court continued emphasizing that mental health, psychological autonomy, and the right to a dignified treatment are all aspects of living a dignified life. It established fifteen required standards to schools and colleges, in essence, schools need to establish mental-health policies, employ counsellors, and establish mechanisms to hold themselves accountable.

The Sukdeb Saha judgment has impact that extends well beyond educational institutions. The Court has served as the first step in making mental health squarely a matter of Article 21, which has led to a flood of other claims, including the possibility of claiming that the digital conquest

¹⁶ 2025 INSC 893

¹⁷ (2014) 3 SCC 1

¹⁸ (2018) 10 SCC 1

of our inner lives is a constitutional matter, not a vexing regulation.

THE DIGITAL COLONIZATION OF PSYCHOLOGICAL LIFE

Before the constitutional framework can answer back to the digital threat to mental health, one must honestly reckon with what that threat actually looks like on the ground. This section maps three distinct but interrelated dimensions of that threat: the structural erosion of work-life boundaries through always-on culture, the extraordinary vulnerability of mental health data in digitized systems, and the growing practice of inferring psychological states from behavioural data without consent.

A. The Always-On Culture

To understand what is at stake constitutionally, one must first realize empirically what has happened. The digital transformation of work and social life over the past two decades has formed what researchers call an “always-on” culture, a condition in which the boundary between work time and private time, between public and private, and between the sphere of one’s responsibilities and the sphere of one’s freedom has been systematically eroded.

The Right to Disconnect Bill of 2025,¹⁹ proposed by MP Supriya Sule of the NCP cites the studies which state that 88% of Indian workers receive ping after hours and that most of us feel that is an unnegotiable reality of life particularly in large sectors. An Australian study of workers in 2025 also revealed that nearly 2/3 of their workers report mental-health problems as a result of workplace stress due to expectations of being available 24/7.

In India, the consequences have been documented in human terms. The demise of Anna Sebastian Perayil, a 26-year-old chartered accountant at Ernst and Young, Pune, in July 2024, widely attributed to workplace overwork and the pressure of continuous availability ignited a national conversation that gave the Right to Disconnect Bill its most powerful emotional impetus. Her case was not exceptional but was representative of a pattern.

The index of Work trends by Microsoft reveals a gradual but impressive rise in late-night meetings, weekend logins and after-hours messages. Scientists came up with the term ‘telepressure’, to refer to this compulsive, anxiety-related desire to respond instantly, despite

¹⁹ The Right to Disconnect Bill, 2025 (Bill No. 51 of 2025)

the fact that you are not on duty.²⁰ This syndrome is associated with burnout, sleeping difficulties, depression, and anxiety.

B. The Mental Health Data Problem

In addition to the problem of constant work culture, there is an even greater danger to our psychological freedom, the drastic exposure of mental-health information in the digital sphere.

The Indian turn to digitizing health care, such as the Ayushman Bharat Digital Mission and drive toward a universal health ID, has now linked health data, including mental-health data, to the Aadhaar ecosystem. The action raises constitutional issues of urgency. The intention of the government to provide unique health ID number (UHID) that connects to Aadhaar has established centralized data centres where psychiatric diagnoses, drug record, and treatment history are stored.

Mental-health information is hyper sensitive. Depressive, anxiety, schizophrenic and bipolar disorder diagnosis can impact your employment opportunities, insurance coverage, custody proceedings, applications to the visa commission, and personal relationships. Mental illness stigma in India remains very massive and therefore any leakage, unauthorized access or commercial exploitation of the same may have life altering effects.

India's first data-protection law, the Digital Personal Data Protection Act of 2023,²¹ has no special consideration of mental-health data needing additional protection, as does the EU data-protection law, the GDPR, which explicitly demands consent to health data. Although the DPDPA establishes general rules of consent and limitation of purpose, the failure to close the loopholes of state actors and the ineffective enforcement creates a protection gap where the constitutional privacy should be the most powerful.

The remarks made by the Supreme Court in Puttaswamy case are useful. The Court opined that the ability to regulate information on self, or informational privacy, is a main aspect of the right to privacy. It further clarified that personal data ought to be handled by state actors with constitutional care. The most intimate aspect of informational privacy is mental-health data which not only tells what you have done, but also who you are, how you feel, and what you

²⁰ Mark Derks, "A Diary Study on Work-Related Smartphone Use, Psychological Detachment and Exhaustion" 23(5) *Journal of Occupational Health Psychology* 1 (2014).

²¹ The Digital Personal Data Protection Act, 2023(Act No. 22 of 2023)

fear.

C. Algorithmic Profiling and the Loss of Mental Sovereignty

The threat has developed beyond simple data breaches. Algorithms now regularly infer psychological states from behavioural data: browsing histories, purchasing patterns, social media engagement, sleep data from wearable's, and communication patterns without a person ever having unveiled a mental health diagnosis or sought treatment. Mental health profiling is being conducted commercially, often without meaningful consent, and the interpretations drawn are being used in employment screening, credit scoring, and insurance pricing.

In *Selvi v. State of Karnataka*,²² the Supreme Court had event to observe that mental privacy is distinct from physical privacy. Exposing a person to techniques like narco-analysis, polygraph testing that forcibly extract psychological information, violates the right against self-incrimination under Article 20(3) and the right to privacy under Article 21. The Court held that “an individual’s decision to make a statement is the product of a private choice” and that there must be “no scope for any other individual to interfere with such autonomy.”²³

The algorithmic inference of mental states from behavioural data is, in principle, no different. The State and private actors are successfully reading mental states without consent, without disclosure, and without any of the constitutional protections that the courts in previous cases said, must apply. The absence of explicit compulsion does not make this process voluntary when the alternative is exclusion from digital services on which participation in modern life rests on.

INFORMATIONAL PRIVACY AND MENTAL HEALTH DATA: A CONSTITUTIONAL ANALYSIS

Having established that, mental health data faces a distinctive and severe threat in the digital ecosystem, this section subjects that threat to a formal constitutional analysis. It asks whether current legal frameworks measured against the Puttaswamy proportionality test, the therapeutic necessity of confidentiality, and the emerging right to be forgotten, adequately protect the

²² (2010) 7 SCC 263

²³ Shoshana Zuboff, *The Age of Surveillance Capitalism: The Fight for a Human Future at the New Frontier of Power* (Profile Books, 2019).

informational privacy that Article 21 now demands.

A. Mental Health Data and the Puttaswamy framework

The constitutional test established in Puttaswamy case for evaluating encroachments on privacy requires three things: legality, necessity, and proportionality. Applied to the gathering and dealing out of mental health data in the digital ecosystem, this test reveals the structural insufficiency of the current legal framework.

On legality: the DPDPA, 2023²⁴ provides a legal basis for data processing, but its failure to designate mental health data as a special category means that it is processed under the same legal framework as, say, one's buying history or navigation likings. The constitutional principle that the sensitivity of data should define the stringency of the legal protection is not reflected in the current statutory architecture.

On necessity: the aggregation of mental health data across healthcare platforms, insurance systems, and government registries often surpasses what is essential for the stated purpose of treatment. The principle of data minimization recognized in the DPDPA demands that only data strictly essential for the stated purpose be collected. In practice, the integration of mental health data into Aadhaar-linked health ID systems serves administrative ease more than it serves the patient's interest.

On proportionality: the harm that can result from the revelation of mental health data, discrimination, stigma, violence, denial of services, is disproportionately severe when measured against the administrative benefits of centralized digital health records. A constitutional analysis must tackle this asymmetry. The most vulnerable patients are those with severe mental illness, those from stigmatized communities, and those who fear discrimination. They are precisely the ones who bear the greatest risk from a system that treats their most delicate data with the same protective framework applied to their grocery purchases.

B. The Right to Confidentiality and Therapeutic Trust

The constitutional dimension of mental health data privacy is also always together from the clinical dimension. In *Mr X v. Hospital Z*,²⁵ the Supreme Court confronted the tension between

²⁴ Supra Note 21 at 11

²⁵ (1998) 8 SCC 296

a patient's right to medical privacy and other competing interests. While that case ultimately found that public health interests could override individual confidentiality in extreme circumstances, it equally declared that medical confidentiality is rooted in the right to privacy under Article 21.

For mental health in particular, confidentiality is not merely a clinical nicety, it is a therapeutic precondition. Patients who fear that their mental health disclosures will be easily available to their employers, insurers, or the state are patients who will not seek treatment. The constitutional guarantee of the right to mental health post Sukdeb Saha judgement is therefore hollow if it is not accompanied by an equally robust guarantee of the right to seek that health in sureness.

The DPDPA's provisions permitting patients the right to appoint nominated persons to act on their behalf in cases of impaired capacity signify a thoughtful statutory recognition of autonomy in mental health contexts. But the Act's broad exemptions for state data processing which allow government agencies to collect and use personal data for "undefined functions of the State" without the approval requirements that bind private entities, create an asymmetry that is constitutionally upsetting.

A person's right to privacy, the Court in Puttaswamy case held, is not diminished simply because it is asserted against the State rather than a private actor. The State's digital infrastructure for mental health, however well-meant, must be measured against the same constitutional standard as any other encroachment on fundamental rights.

C. The Right to Be Forgotten and Mental Health History

One dimension of digital silence that asks for specific constitutional attention is the right to be forgotten, the right of individuals to look for the erasure of personal data that is out-dated, irrelevant, or whose continuous retention causes them on-going harm.

For persons with mental illness, the right to be forgotten is not an abstract internet right. It is a clinical and social need. A person who has recovered from a depressive episode or a psychotic break does not carry that history into every future contact unless digital records make it so. Employment screening algorithms, insurance underwriting systems, and social scoring platforms that incorporate historical mental health data punish recovery and make the past

lasting in ways that are deeply erratic with the constitutional promise of life with dignity.

The DPDPA, 2023 includes provisions for the removal of personal data upon withdrawal of consent. However, its application to mental health data held by government agencies remains inexact, and its enforcement mechanisms are untested. The constitutional argument for a robust right to be forgotten in mental health contexts rests on the same foundations as the broader right to informational privacy, and demands a legislative answer that goes further than the current statutory framework provides.

DIGITAL SILENCE AS A CONSTITUTIONAL RIGHT

The right to disconnect has been commonly treated as a labour law matter, a query of working hours, hire conditions, and workplace regulation. This section argues for a more motivated reading: that the right to disconnect is at its centre a constitutional right, grounded in Article 21's promises of mental health, privacy, and human dignity, and that its enforcement should not hang on wholly on legislative goodwill.

A. From Labour Law to Constitutional Argument

The Right to Disconnect Bill, 2025, presented in the Lok Sabha on December 5, 2025,²⁶ has been principally talked over as a labour law proposal. Its direct provisions, the right of employees to ignore work-related communications after office hours without fear of penalty, mandatory organizational charters governing digital communication, an Employees' Welfare Authority to oversee compliance, are firmly within the labour legislation tradition.

But the bill's proponents and critics have both recognized that the question it raises is fundamentally constitutional. MP Supriya Sule, in presenting the bill, connected the right to disconnect explicitly to the right to live with dignity. Legal commentators have argued that the constitutional foundation of the bill lies in Article 21's guarantee of mental health and human dignity.

The right to digital silence understood as the right to periods of genuine psychological rest, freedom from the compulsion of continuous connectivity, and sovereignty over one's off-duty mental life, is not simply a reasonable labour policy. It is a constitutional compulsion that flows

²⁶ Supra note 19 at 13

from the convergence of three constitutional guarantees given under Article 21: the right to health, the right to privacy, and the right to dignity that runs through the entire constitutional scheme.

B. Telepressure and the Architecture of Harm

The constitutional argument begins with harm. “Telepressure”, the compulsive anxiety that comes with perceived urgency to respond to work communications, has been empirically linked to sleep disruption, emotional exhaustion, burnout, depression, and anxiety.²⁷ These are not speculative harms rather are documented medical consequences of a definite structural arrangement: the collapse of boundaries between professional obligation and personal time.

When a person cannot rest, cannot think easily, cannot experience silence without the interruption of professional demands, their psychological integrity is compromised. This is precisely what the Supreme Court in *Selvi* case meant, when it spoke of the constitutional protection of “mental processes” from “forcible interference.” The meddling is not narco-analysis in this case; it is the quieter but equally relentless intrusion of the always-on work culture.

The constitutional analysis is straightforward: if mental health is now explicitly an element of Article 21, and if the always-on culture causes obvious harm to mental health, then state regulation of that culture is not merely permitted, it is constitutionally required. The State’s duty to protect the right to life extends to protecting the conditions essential for mental flourishing. An employer who forces an employee to remain perpetually available is not merely managing their time; they are encroaching upon their constitutional right to psychological integrity.

C. Autonomy, Dignity, and the Constitutional Case for Regulated Disconnection

The autonomy dimension of the argument is similarly powerful. Autonomy, in its constitutional sense, means the unaffected capacity to make choices about one’s own life, choices that are not extracted by power imbalance, economic coercion, or structural pressure. When an employee chooses to respond to a midnight message from their employer, this is formally a choice but substantively a capitulation, to the threat of career consequences, to the power differential

²⁷ *Supra* note 20 at 14

between employer and employee, to a culture that treats unresponsiveness as unfaithfulness and disloyalty.

The DPDPA's framework for consent recognizes a similar problem in data contexts: consent that is obtained through "notice fatigue" where users automatically click "Accept" on lengthy consent forms without reading them is not a genuine consent. It is coerced obedience dressed in the language of choice. The same analysis applies to digital overwork: an employee who cannot realistically reject after-hours communications without career consequences is not exercising autonomy. They are working under coercion.

Constitutional dignity demands more. The right to disconnect is, at its core, the right to insist that one's off-duty hours belong to oneself, to one's family, one's rest, and one's inner life.²⁸ It is the right to say, without penalty, that the time after the working day is the time that the employer has not bought. It is the right to psychological sovereignty.

The bill recognizes the practical difficulty by allowing organizations flexibility to negotiate terms and acknowledging the legitimacy of genuine emergencies. This proportionality regulating rather than prohibiting digital communication, echoes the constitutional test articulated in Puttaswamy case: restrictions on fundamental rights must be proportionate, not absolute, but they must exist.

COMPARATIVE PERSPECTIVES

India is not the first country to arrange with the psychological toll of digital overburden or the challenge of shielding mental health data in a connected world. This section surveys the legislative and regulatory reactions in France, Portugal, Australia, and the European Union, not to advise that India should simply transplant foreign models, but to identify the lessons that transfer and the pitfalls that must be escaped given India's own constitutional and social context.

A. France: The Legislative Pioneer

France became the leading country to legislate the right to disconnect in 2017,²⁹ when

²⁸ Hugh Collins, "Privacy and the Right to Disconnect" 45(3) *Comparative Labor Law & Policy Journal* (2025)

²⁹ Law No. 2016-1088 of 8 August 2016 on Labour, Modernisation of Social Dialogue, and the Securing of Career Paths (France).

amendments to the Labour Code required establishments with more than fifty employees to negotiate agreements with employees on the conditions under which digital tools should not be used during relaxation periods and leave. The French model is notable for its negotiated, collective approach; it does not mandate specific results but requires good-faith engagement with the question of digital boundaries.

The French experience produced diversified results. In companies where employer and employee organizations negotiated substantively, the right to disconnect has condensed off-hours contact and improved measured well-being indicators. In companies where the negotiation was perfunctory, leading to policies that recognized the right but created no enforcement mechanisms. The lesson is that, legislative recognition must be accompanied by genuine enforcement.

B. Portugal and Australia: The Prohibition Models

Portugal went further in 2021,³⁰ prohibiting employers from communicating employees outside working hours except in genuine emergencies. The Portuguese model reflects a legislative judgment that the power imbalance between employer and employee is too significant to leave to negotiation that without a clear prohibition backed by penalties, the right to disconnect will be exercised only by those with enough employment security to risk the career consequences of asserting it.

Australia passed its right to disconnect legislation in 2023,³¹ adding specific provisions to the Fair Work Act that allow employees to refuse unreasonable after-hours interaction. The Australian framework has been praised for its clarity and criticized for leaving open the question of what constitutes reasonable interaction, a gap that courts are still working to fill.

C. The European Union Framework: A Rights-Based Approach

The European Parliament's 2021 resolution calling on the European Commission to introduce a right to disconnect at EU level framed the issue clearly as a matter of fundamental rights and worker dignity. The resolution drew on the European Convention on Human Rights' Article 8 protection for private and family life, recognizing that the interference of work into personal

³⁰ Law No. 83/2021 of 6 December 2021 amending the Portuguese Labour Code (Portugal).

³¹ Fair Work Legislation Amendment (Protecting Worker Entitlements) Act 2023 (Cth) (Australia)

time is a privacy and dignity issue, not merely a labour market regulation issue.

The EU's GDPR framework, which classifies mental health data as a special category demanding heightened protection and explicit consent, also provides a model that India's DPDPA would benefit from adopting. The GDPR's requirement of a Data Protection Impact Assessment before processing sensitive health data provides a procedural safety measure against the casual collection and commercialization of mental health information.³²

D. Lessons for India

India's constitutional framework with Article 21 now explicitly encompassing mental health, privacy, and dignity, provides a robust foundation for these protections than many of the jurisdictions that have enacted right to disconnect legislation. The question is not whether India has the constitutional authority to mandate digital silence but whether it has the political will to convert constitutional principles into enforceable legal frameworks.

The failure of the Right to Disconnect Bill to become law, if it follows the pattern of prior private member's bills, would not be a let-down of constitutional mind. It would be a disappointment of legislative will. But the constitutional argument does not depend on legislative action only. Courts, including the Supreme Court under Article 32 and High Courts under Article 226, have the authority to enforce Article 21 rights regardless of legislative indecision.

GAPS, CRITIQUES, AND THE PATH FORWARD

Constitutional recognition is a start, not an end. The history of rights in India is also, in part, a history of rights that occurred on paper while the conditions they were meant to address continued on the ground. This section honestly confronts the carrying out failures, statutory gaps, and structural inequalities that stand between the constitutional promise of digital silence and its lived reality, and then offers specific, actionable recommendations for closing that distance.

A. The Implementation Gap

The steadiest theme in the story of Indian mental health law is the gap between constitutional

³² Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 (General Data Protection Regulation).

aspiration and lived reality. The Mental Healthcare Act, 2017 was hailed as transformative legislation. Five years later, most states had not established the oversight bodies the Act mandated, most people who needed mental health services still could not access them, and the ratio of mental health professionals to population had barely budged.

The Sukdeb Saha judgment is constitutionally significant. But constitutional significance has not historically been a dependable predictor of implementation in India. Rights on paper, as the Court itself has warned, must be accompanied by structural investment, political commitment, and administrative capacity. The constitutional crystallization of mental health rights is necessary, but it is not adequate.

B. The Problem of Broad State Exemptions

The DPDPA, 2023's broad exemptions for state data processing represent one of the most serious gaps in India's digital privacy framework. Section 17 of the Act exempts state actors from several of its central provisions in the concern of national security, public order, or the prevention, detection, investigation or prosecution of any offence. These exemptions are not subject to significant judicial review at the point of data collection oversight comes, if at all, after the fact.

Applied to mental health data, this creates a structural vulnerability. A person who has sought psychiatric treatment, enrolled in a government mental health scheme, or registered with an Ayushman Bharat facility may find that their mental health data is available to state actors under exceptions that were designed with national security in mind. The constitutional proportionality analysis demands a more cautious calibration, the sensitivity of mental health data must be reflected in more limited and precisely defined state exemptions.

C. The Stigma Dimension

Any constitutional analysis of mental health and digital silence must tackle honestly with stigma. India's constitutional framework prohibits discrimination and guarantees equal protection but constitutional prohibition has not eradicated the social reality that persons with mental illness face discrimination in employment, marriage, housing, and social participation.

The digital dimension of stigma is chiefly acute. Once mental health data enters a digital system, its potential for secondary use by employers, insurers, landlords, social scoring

algorithms and is hard to control even with the best-designed legal frameworks. The constitutional argument for digital silence is partly an argument against being forced into a digital system at all: the right not to have one's mental health history forever embedded in data systems that will follow one through life.

D. Recommendations

First, the legislature should categorize mental health data as a special category under the DPDPA, requiring explicit, distinct consent for collection and processing, robust data minimization requirements, and mandatory Data Protection Impact Assessments before deployment of any digital health system that processes such data.

Second, the Right to Disconnect Bill, 2025, or a successive version of it, should be enacted as central legislation, applying to all employers in organized sectors.

Third, courts should recognize the right to digital silence as a part of Article 21 in appropriate cases. The constitutional foundation exists, like Puttaswamy judgement on privacy, Sukdeb Saha judgement on mental health, and the long line of Article 21 cases on dignity and autonomy, and there is no constitutional reason to wait for legislative action before judicially enforcing what the Constitution already promises.

Fourth, the state exemptions in the DPDPA should be carefully restricted through subordinate legislation, requiring specific, documented legal basis and proportionality analysis before any state actor may access mental health data for non-clinical purposes.

Fifth, mental health literacy and constitutional awareness campaigns should be integrated into the application of the MHCA, 2017, so that people with mental illness are aware of their constitutional rights and the mechanisms offered to enforce them.

CONCLUSION

There is a moment in every person's day when the noise of obligation moves away, when the screen goes dark, when the mind has space to stroll and rest and be itself. This is not a luxury but a constitutional necessity. A life deprived of this space is not a life with dignity in any meaningful sense of the word.

India's constitutional jurisprudence has spent the better part of seven decades determining, inside Article 21, the full breadth of what a dignified human life requires. The journey has taken the Court from tiniest of procedural protection to the rich terrain of health, privacy, autonomy, and psychological integrity. The Puttaswamy judgment placed privacy at the centre of this constitutional design. The Sukdeb Saha judgment clearly placed mental health there.

What remains is the step this paper has argued is constitutionally unavoidable: the recognition that digital silence, the freedom to be psychologically unmolested, to control one's mental health data, to disconnect from the always-on culture without penalty, is not an add-on to these constitutional guarantees but an essential dimension of them.

The Right to Disconnect Bill, 2025 is one legislative expression of this constitutional need. The DPDPA's provisions on consent and data erasure are another, imperfect one. The rising body of Supreme Court jurisprudence on mental health under Article 21 is the constitutional foundation on which both rest.

The challenge for Indian law is to move from constitutional aspiration to constitutional enforcement, to ensure that the space and peace that a dignified life requires is not merely proclaimed in judgments and preambles but actually experienced by the millions of Indians who at present cannot afford it. The Constitution promises them not just life, but a life worth living. And in the digital age, that promise requires silence.