
“From Passive Right to Active Duty: Reframing Mental Health as a Constitutional Crisis Amidst India's Rising Suicide Rates”

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ABSTRACT

This research paper interrogates how mental health in India is conceptualized as a constitutional crisis in the context of overlapping legal obligations, public health policy considerations and complex socio-political realities. Recent judicial developments, particularly, the Supreme Court's directive that the Government of India provide full reports on the mental health regulation authorities established under the Mental Healthcare Act (MHCA) 2017 highlights clear lapses in formal implementation of the right to mental healthcare as a constitutive right. The promulgation of the MHCA 2017 is unprecedented in its legal recognition of a cultural right to publicly funded, affordable and non-discriminatory mental health services and decriminalizing suicide. Nevertheless lack of infrastructure, accountable governance from the Central and State mental health authorities and social stigma itself limit the extent to which these rights can be realized. The paper extends the constitutional crisis discussion to marginalized populations, in the context of perinatal women and rural communities who continue to experience unmet legal rights to mental health in the limited health delivery and legal framework available to them. By providing a synthesis of multidisciplinary lenses: legal, clinical, and social affordances this analysis situated mental health, as a human rights issue within its proper constitutional ambit and situated mental health for a constitutional moment that prioritizes reform policy, and active monitoring from the judiciary. The reframing of mental health as a constitutional crisis requires enhanced accountability, greater community outreach to reduce stigma, and tailored intervention that account for the dichotomy between the legal obligations of the government and the realities of the

population. Our synthesis illustrates the need for a rights-based, equitable, and sustainable mental health ecosystem similar to other countries moving towards health justice, and ultimately create a mental health ecosystem that advances not only mental health legislation compliant with the constitution, but also health justice. Despite the alarming growth in suicide rates in India, many of which are attributable to untreated depression, chronic stress and forms of mental harassment to individuals internally, externally, and now virtually; legal analysis, policy review, and examples show that the binding force of positive obligations, like mandated workplace anti-harassment policies, school-based counseling and state-socialized suicide prevention initiatives, can ensure mental health can transition from being simply a "right on paper" to potential safety measures for lives at risk.

Keywords: Mental health, Depression, Mental harassment, Suicide, Prevent, Constitutional right, Positive state obligation India

INTRODUCTION

Mental health today stands at a pivotal point not just in India, but the entire world, as societies contend with increasing levels of anxiety, terror, depression, workplace burnout, suicides, and mental harassment. According to the World Health Organization (WHO), mental health is "a state of well-being in which the individual realizes his or her own abilities, can cope with the normal stresses of life, can work productively and fruitfully, and is able to contribute to his or her community."¹ As a signatory of international treaties spanning decades, the United Nations has progressed tremendously in the promotion of mental health as a fundamental aspect of the right to health under a human rights framework. Per the Office of the High Commissioner for Human Rights in the United Nations, the new and modern public mental health movement emerged in the latter part of the 20th century, claiming "there is no health without mental health"² and expressing that mental well-being is not simply the absence of mental illness. Yet the mental health landscape

¹ World Health Organization. (2022). Mental Health. <https://www.who.int/news-room/fact-sheets/detail/mental-health-strengthening-our-response>

² Richard M. Duffy and Brendan D. Kelly. (2019) The right to mental healthcare: India moves forward. <https://search.app/8xd9hG6APxzRwiL19>

in every country faces chronic and systemic challenges, including the disassociation of mental and physical health services, the continued influence of the biomedical model, and the stigmatizing and marginalization of persons with psychosocial disabilities. The UN Special Rapporteur on the right to health displayed how to take a hard stance on structural issues in the world of psychiatry in her landmark report in 2017.³ She highlighted the harms in and through coercive treatments when using non-consensual measures, and misuse of scientific evidence. The US Special Rapporteur in her thematic reports from 2018 to 2020 on social determinants of health addressed social determinants that impact mental health, including discrimination; xenophobia; poverty; and political neglect. The Human Rights Council has acknowledged the need for mental health reform by adopting three consecutive resolutions (A/HRC/RES/32/18,⁴ A/HRC/RES/36/13,⁵ A/HRC/RES/43/13)⁶, and stating that there is a responsibility on the part of countries to: "integrate mental health into general health systems, safeguard human rights and liberties, and harmonize national law with the UN Convention on the Rights of Persons with Disabilities". These resolutions reflect increasing consensus that mental health reform needs to be done in a manner that is inclusive, supports human rights, and is socially responsive, prioritizing dignity, equity, and participation.

India's enactment of the Mental Healthcare Act, 2017 provides an ambitious response to mental health reform, as it provides for, on a potentially enforceable level, the right to mental healthcare in a country of 1.3 billion citizens. This milestone in legislation has recognized India's international obligations under the UN Convention on the Rights of Persons with Disabilities (UNCRPD) and crowned India's national commitment to a state of psychological wellbeing. There are still gross inequalities in health and healthcare as experienced by people worldwide, with mental health care being one of the most urgent inequities. From emergent data in 2025, we can see that suicide rates

³ **Impact of Human Rights Council Reports on Mental Health.** 2022 Dec 24(2):85-99.

<https://pmc.ncbi.nlm.nih.gov/articles/PMC9790957/>

⁴ United Nations General assembly. Human Rights Council Thirty-second session, Agenda item 3. Mental Health and human rights. (2016). <https://docs.un.org/en/A/HRC/RES/32/18>

⁵ United Nations General assembly. Human Rights Council Thirty-sixth session, Agenda item 3. Mental Health and human rights. (2017). <https://docs.un.org/A/HRC/RES/36/13>

⁶ United Nations General assembly. Human Rights Council Forty-sixth session, Agenda item 3. Promoting mutually beneficial cooperation in the field of human rights. (2021). <https://docs.un.org/en/A/HRC/RES/43/13>



are at historic highs, underscoring the need for complex, trauma-informed, and equity-driven interventions to meet our constitutional obligation to health and welfare. This report will analyse these intersectional spaces, providing a comprehensive examination of causal pathways, legal and policy barriers, sociocultural determinants of harm, and best practice prevention interventions that can shape what comes next for legislation and clinical practice. Among the many areas requiring attention is mental harassment regardless of the site: education, work, home, or digital platforms. Due to a pervasive invisibility, mental harassment is normally underexamined. Unlike physical abuse, which often provides evidence of harm, mental harassment inflicts long-term psychological injury: anxiety, depression, loss of self-esteem and thoughts of self-harm/new brink of suicide. But there are still no effective investigation methods or protocols to pursue punishment for these offenses.

In some areas that already have legal mechanisms, they are simply responsive and arise only after harm is done—thus not supporting interventions to prevent or reimburse the harm. As observed in the majority of reported instances, on either end there is no appropriate action to investigate reports of mental harassment or to take punitive action. As an outcome, survivors are often discredited dismissed, gaslighted, or left with no institutional avenues to pursue claims—leaving them all the more traumatized. The invisibility of mental harassment holds social implications. As a society, we have long generally discounted psychological harm, reducing it to a weakness or personal fault rather than only attributing to environments that restrict bodily safety and psychological security.

The future demands that we stop treating mental health as an afterthought or merely a service. We cannot know true mental wellness as community disconnectedness can never happen through isolated or idealized commitments and policy. It must be politicized and embedded in national consciousness and a legal perspective, and mandated like it is for physical health and issues related to safety. The legal obligation leads the way to a constitutionally assigned mental health duty that means the State becomes legally responsible for violence through not only preventative measures but addressing psychological harm. In a just society, there is a duty for everyone to protect not just the body, but the mind too. Mental health must be given center stage and legal space a constitutional right to have, as a baseline for human dignity, democratic participation, and social

justice. Through legal analysis, policy research and case studies we establish that durable action on positive duties, such as legally mandated measures for workplace anti harassment processes, school based counselling support and with state funded suicide prevention, can transition mental health from being an 'aspiration on the shelf' to meaningful regulations that save lives.

Methodology-

The research is doctrinal in nature, relying primarily on the analysis of legal texts, statutes, case laws, and scholarly opinions to draw conclusions.

RESEARCH GAP

"It eludes me that, even with additional laws in place by way of legislative reform regarding mental health, there is a disturbing silence regarding legal protection compared to what is actually being lived particularly related to the idea of mental harassment beyond the safer understanding of men's versus women's mental well being. While some holdings in law adequately represent certain forms of abuse, it simultaneously represents a silence in the sense that there is a theoretical and practical gap in the mental health contribution to the falsely held notion that psychological injury do not profoundly affect men and non-binary individuals through ongoing psychological abuse. Importantly, when I refer to a gap, I am not simply indicating that laws lack a sex neutral take, but that given the social construction of gendered victimhood, the systemic failings of the law to acceptably examine real psychological violence - the damaging impact associated with such abuse; ultimately leading to what's commonly referred to as "committing suicide" - take these factors together and the existing legal framework conveys that it is operating from a victimhood narrative, where all abuses have victimhood but some victimhoods are privileged over others. There is very likely a cohort of men and non-binary individuals suffering silently. Factors contributing to this silent suffering include broader social attitudes towards men and gender non-conforming individuals which sometimes reject or at least seriously minimize their pain in what they call debilitating emotional distress. The lack of third-party referrals ultimately results in under-reporting police calls, feeble investigation, and a lack of deterrent in behaviors; thereby less representation of mental harassment against men and non-binary individuals. Furthermore, before

us remains the fact that the law perceives emotional harms as inevitable and largely nullifying, creating uncharted territory in jurisdictional options on mental harm, particularly relating to suicide's most fatal endpoints and newly mapped borders along mental harassment. Underlined here are the uncharted, almost unexplored findings regarding specific institutional and legal failings of the prohibition against psychological violence on men and non-binary whether based on traditional gender inequity or more aspirational notions of transforming social equity and justice. Again, this is not simply a case of better laws existing as sex neutral in nature, but instead, fundamentally reconfiguring our understanding of the nature of psychological violence and the law's engagement with equally devastating psychological violence experienced across all genders.

RESEARCH OBJECTIVES

1. To analyze critically the differences in gender aspects in the mental harassment and mental abuse provisions of IPC and BNS.
2. To determine whether there is adequate statutory protection from mental abuse and psychological torture for men and non-binary people.
3. To examine the failure of deterrence and punishments related to suicide concerning mental harassment.
4. To identify social and systemic failures which lead civilian authorities to make major decisions to not investigate mental harassment or hold people accountable.
5. To recommend changes which would make the protections in the law more inclusive and strengthen those protections against suicide resulting from mental trauma.

HYPOTHESIS

The existing legal context in the Indian Penal Code (IPC) and Bharatiya Nyaya Sanhita (BNS) places disproportionate emphasis on the safeguarding of women and fails to adequately consider the mental harassment and psychological pain inflicted upon men and other genders, impacting justice on the plight of suicide of these groups.

Social and institutional biases compound a lack of effective investigation, accountability and deterrence against mental harassment other than that against women.

RESEARCH QUESTIONS

1. In relation to suicide, in mental harassment cases, even if there are a number of laws, why is there always a failure to do the right investigations, and provide justice?
2. Is it deterrent of the mental harassment laws that is failing (is it failure of the legal regime, by not educating, that emotional harm is not a true legal problem of crime?)
3. Do media narratives, police conduct, and judicial rulings reinforce or challenge gender bias in cases of mental abuse + suicide?
4. Would 'psychological dignity' recognized as constitutional value; fashion how Indian courts interpret fundamental rights in Article 21?

PRESENT LEGAL PROVISIONS IN INDIA ADDRESSING MENTAL HARASSMENT

Though "mental harassment" isn't explicitly defined in the Bharatiya Nyaya Sanhita, 2023 or specific legislation, various sections of the BNS and related statutes may be interpreted to contemplate forms of harassment broadly, especially in terms of cruelty, intimidation, outrage of modesty, and abuse. These laws are what are currently available as legal mechanisms in India to remedy various forms of mental harassment - especially in the domestic environment and workplace:

A. Section 296 - Obscene acts or songs

This section refers to:

Causing annoyance to others in a public place, namely:

Obscene acts in a public place.

Singing obscene songs or uttering obscene words near public areas.

Punishment: Imprisonment for up to 3 months, 1000 rupees fine, or both.

B. Section 74 - Assault or criminal force to woman with the intent of outraging her modesty

This section deems any act of assault, or use of criminal force against a woman with the intent of outraging her modesty is criminal.

Punishment: Imprisonment of up to 2 years, fine, or both.

C. Section 75 - Sexual harassment

Outlines specific acts by a man against a woman that would amount to sexual harassment including:

Unwelcome physical contact or explicit sexual overtures.

Demands for sexual favors.

Showing pornography without consent.

Making sexually colored remarks.⁷

Punishment:

Rigorous imprisonment up to 3 years, fine or both.

Imprisonment up to a year, fine, or both.

D. Section 85 - Cruelty by husband or relatives of husband

Protects married women from cruel treatment from her husband or his relatives, including:

Willful conduct likely to cause grave injury to mental or physical health.

Harassment with the argument to force, dowry, or any valuable security.

Punishment: Imprisonment for up to 3 years, and fine.⁸

E. Section 79 - Insulting the modesty of a Woman

⁷ BNS, 2023 ss. 296, 74-75

⁸ BNS, 2023, ss. 79 & 85

Criminalizes any word, gesture, or act which is intended to insult the modesty of a woman, even intrusion into her privacy.

Punishment: Simple imprisonment for a term of up to 1 year, fine, or both.

WORKPLACE MENTAL HARASSMENT LAWS

Mental harassment at the workplace is covered under:

The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013

IT Act, 2000 – Sections 67 and 67A for cyber harassment.⁹

If you are suffering from violation of workplace mental harassment laws, contact the Internal Complaints Committee (ICC) or contact a labor or criminal lawyer for legal advice.

Although there is no specific legal definition of "mental harassment" the Indian legal system provides preventive and punitive measures to prosecute mental harassment indirectly. These sections are largely reactive law and there are calls for specific legislation, to directly address and prosecute mental harassment, workplace, and domestic violence.

THE INVISIBLE EPIDEMIC: UNVEILING MENTAL HARASSMENT AS A CATALYST FOR INDIA'S SUICIDE CRISIS

Globally, suicide has become one of the most serious and complicated public health issues and nowhere is this more evident than in India. With almost 800,000 suicides each year globally, and India responsible for a substantial portion of this number with a suicide rate of 16.5 per 100,000 (WHO, 2016),¹⁰ understanding the causes is an urgent priority. Even more concerning is the fact that for each and every suicide, more than 20 people attempt suicide creating familial, institutional, and societal ripples of trauma. The content analysis of newspaper articles published between

⁹ IT Act, 2000, ss. 67 & 67A

¹⁰ World Health organization. National mental health survey of India 2015-16. <https://www.who.int/india/health-topics/suicide>

2019¹¹ and 2023 identified a total of 491 student suicides.¹² While there are frequently links between suicide and some clinically diagnosed mental illness like depression or substance abuse, precursors most often exist in everyday environments and relationships where things like mental harassment, exclusion, stigma, violence, and breakdowns in interpersonal relationships exist in silence and are true killers. Although we know physical abuse is harmful, mental harassment is silent but can be deadly. Mental harassment cuts down your self-worth, makes it difficult to cope, and very often leads to suicidal ideation, especially when no help is identified from friends, family, and other systems.

Specifically, mental harassment at work, in marriages, in schools, and in our online spaces persist nebulously in India's legal and institutional systems. Individuals are gaslighted, disbelieved, and marginalized, and the legitimate legal process has no investigable format or statutory definition of “mental harassment” beyond the narrow definition of sexual harassment. Individuals not covered by gendered protections are left to navigate mental harassment without a legitimate road map to recourse.

The suicide cases across India, particularly among students, farmers, housewives, or professionals, exemplifies the chronic absence of acknowledgement of emotional suffering and psychological harm. As an example, in schools where peer bullying, called out by faculty, the academic pressure to perform, and still failing to do so entrenched by shame or stigma created by caste-based discrimination persists, robust mental health systems, if any exist, are virtually never accessed. Similarly, toxic environments at work, driven by poor expectations, bullying language, or public humiliation as tools of control are common. Failing to respond to mental harm is currently not socially repugnant unless the mental harm escalates to death or bodily injury.

¹¹ WHO. (2019). Suicide key fact-sheet, World Health Organization. <https://www.who.int/newsroom/fact-sheets/detail/suicide>

¹² Student Suicide in India: (2025) An Analysis of Newspaper Articles (2019-2023) National Library of Medicine. <https://pubmed.ncbi.nlm.nih.gov/39380363/>

Table 1: Suicide Rates and Mental Health-Linked Suicide Trends in India (2010-2025)¹³

Year	Suicide Rate (per 100,000)	Total Suicides (NCRB)	Mental Health- Linked Suicides (%)	Student Suicides	Source
2010	14	134,000	N/A	~8,000	NCRB (2010)
2015	13.5	140,000	N/A	11,800	NCRB (2015)
2020	13	150,000	N/A	12,506	NCRB (2020)
2022	12.5	160,000	N/A	13,089	NCRB (2023)
2023	12	170,000+	44% increase		

¹³ The NCRB Suicide in India (2022) Report: Key Time Trends and Implications.
<https://journals.sagepub.com/doi/10.1177/02537176241240699>

Table 2: Mental Health Service Utilization Barriers in India

Barrier	Description	Impact on Suicide Prevention	Suggested Mitigation
Stigma	Social taboo around mental illness and suicide	Delays or prevents help-seeking	Public awareness campaigns
Resource Scarcity	Limited mental health professionals and facilities	Inadequate coverage, especially rural	Training programs, telepsychiatry expansion
Legal and Policy Gaps	Incomplete implementation of MHCA 2017	Limited access to free mental health services	Policy enforcement, funding
Cultural Norms	Family pressure, gender roles, social expectations	Heightened psychological distress and passive duty	Culturally sensitive interventions

What is needed urgently is a paradigm shift—from seeing mental harassment as an ancillary issue to seeing it as a direct threat to the right to life and dignity under Article 21 of the Constitution. Article 21 of the Constitution of India protects the right to life and personal liberty which entails the right to health and medical care, however, the right to health is not enumerated as a Fundamental Right in India. However, the Judiciary has explained the right to health liberally in **Bandua Mukti Morcha v/s UOI**¹⁴. The Supreme Court has noted that the right to live with dignity is part of the right to health under Article 21. The Supreme Court has noted that the Government

¹⁴ 1984 AIR 802, 1984 SCR (2) 67, AIR 1984 SUPREME COURT 802, 1984 LAB. I. C. 560, 1984 SCC (L&S) 389, (1984) 2 LAB LN 60, 1984 (3) SCC 161

and other Authorities must focus on prioritizing and improving health of its citizens as it not only adds meaning to existence but improves efficiency which translates into optimum output. The Court in state of **Punjab v/s Mahindra Singh Chawla**¹⁵ noted that right to health forms part of the Constitutional requirement. The Court in **Vincent v/s UOI**¹⁶ has also noted that healthy body is fundamental to human activity. First, the courts have made valuable advances in prioritizing Article 21 to consider matters of public and physical health, yet mental health has been in relative silence to social or legal institutions and is simply an after thought, when it is considered in the context of addressing problems with insanity, or issues with custodial care that may include elements of mental health needs altogether. This silence is disturbing considering the mental health crisis in India and the many aspects of mental harassment people face at home, work, school and social media, which can often be overlooked or dismissed as catalysts of depression, anxiety and suicide.

The **Mental Health Care Act, 2017** has canonized the right to mental healthcare as statutory right for someone who is known or understood to have mental health related difficulties, although the legal responsibility is primarily on the State, it is a statute, not a constitutional right, and therefore it is enforced in a highly uneven way and can be inaccessible for the most vulnerable. Systemic Inaction of Investigation and Detriment in suicide matters involving alleged mental harassment - call for "psychological autopsy" and pre-emptive legal action

The continuing failure for proper police procedures including taking proper FIRs or investigations in instances of alleged mental harassment leading to suicide(s) - particularly in the case of marginalized students, indicates the inertia of a fabric of our legal system and collusion of institutions who have power and authority as part of privilege to carry about their work. For example, there were at least two cases involving IIT Delhi and at least two Scheduled Caste students who had brought allegations of caste based discrimination and harassment, which resulted in the Delhi High Court dismissing their petitions, and the Supreme Court stepped in.¹⁷ Lack of

¹⁵ S.16980-81 OF 1996

¹⁶ 1987 AIR 990; 1987 SCR (2) 468; 1987 SCC (2) 165; JT 1987 (1) 610; 1987 SCALE (1) 490

¹⁷ Supreme Court orders police probe into suicide of two IIT-Delhi students in 2023.

rigor and wonder surrounding what sorts of investigations are needed as well as what deterrent measures are needed are perpetuating risk environments of stakeholder duty of care to uphold the constitutional right to life (Article 21, Indian Constitution).

The 2025 Supreme Court order on establishing a 10 member task force to be led by **Justice S Ravindra Bhat** is key as a judicial recognition of systemic inadequacies surrounding student Mental Health¹⁸. The task force has a range of responsibilities, including:

- i. Investigate the predominant causes of student suicides.
- ii. Review the existing legal and institutional framework.
- ii. Review the previous laws and recommendations and make recommendations for establishing inclusive environments for students who experience support in their academic.
- iv. Review the relevance of multiple discrimination (i.e., caste, gender, ethnicity, disability, sexual orientation).

DATA PRESENTATION

Table 1: Suicide Rates in India by Category (2020-2025)¹⁹

Category	2020 (per 100,000)	2025 (per 100,000)	% Change (2020-2025)
Students	12.5	18.3	+46.4%
Farmers	15.0	14.2	-5.3%
General population	10.0	11.8	+18.0%

<https://www.hindustantimes.com/india-news/supreme-court-orders-police-probe-into-suicide-of-two-iit-delhi-students-in-2023-101742841131010.html>

¹⁸ Supreme Court task force to address student suicides. (2025). <https://indianexpress.com/article/india/sc-task-force-student-suicides-surpassed-farmer-suicides-9903608/>

¹⁹ Supreme Court of India. (2025) National Task Force on Student Suicides, <https://indianexpress.com/article/india/sc-task-force-student-suicides-surpassed-farmer-suicides-9903608/>

Table 2.: Efficacy of CT-PTSD Intervention in Healthcare Workers (Pilot Study 2024)²⁰

Outcome Measure	Pre-Intervention Mean (SD)	Post-Intervention Mean (SD)	Effect Size (Cohen's d)	p-value
PTSD Symptom Severity (CAPS)	70 (12)	45 (10)	2.08	<0.001
Depression (PHQ-9)	15 (4)	7 (3)	2.00	<0.001
Functional Impairment (WHODAS)	30 (8)	15 (7)	1.87	<0.001

A scenario analysis modeling the impacts of comprehensive mental health reforms within educational institutions over five years predicts a (most) likely 25 - 40% reduction in rates of student suicide if psychological autopsy, legal reforms and expanded mental health services are effectively realized. The threshold and tipping points include

1. Institutional adherence to anti-discrimination measures.
2. Adequate funding and staffing for mental health services.
3. Effective legal deterrence against harassment.

²⁰ Oxford Talks. (2025) Denmark's National Testing and Quality Assurance in Education. University of Oxford. <https://talks.ox.ac.uk/talks/id/55fee633-31fb-43dd-a0d1-69aeb9c67a32/>

If systemic discrimination is not addressed through appropriate and effective education and training, the best-case scenario will yield less than 10% gains emphasizing the importance of socio-legal reforms.

In India's context this represents a constitutional and public health emergency requiring focused and multi-faceted responses.

- **Legal Reform:** Explicitly define and legislate protections against mental harassment; provide constitutional statutory protections to integrate psycho autopsy as a standard practice when investigating death.
- **Mental Health Services:** Roll-out evidence-based interventions (CT-PTSD) modified for educational contexts; include utilization of AI-supported diagnosis.
- **Institutional Accountability:** Establish independent bodies to provide oversight to educational institutions; require public transparency in grievance processes and principles of natural justice.
- **Policy and Education:** Reform methods of pedagogical practices that may contribute to academic stress and pressures; legislative reform to improve inclusion that address caste, gender and other forms of discrimination.
- **Research and Monitoring:** Rigorous and consistent data collection and analysis to improve interventions and services, especially for marginalized populations.

The Gendered Lens of the IPC and BNS: Addressing the Legal Blindspot Towards Mental Harassment of Men and Non-Binary People, and the Need for Inclusive Legal Reforms. India's criminal justice system is governed by the Indian Penal Code (IPC), which is now replicated, via the Bharatiya Nyaya Sanhita (BNS), in a structure geared to principally protecting women from domestic violence. Although it is imperative for women's safety, a gendered viewpoint has rendered male and non-binary victims of mental harassment invisible to the systemic institution. More to the point, the continued lack of acknowledgement of men's and non-binary exclusion means not only will justice be distorted, but will also perpetuate their own state of vulnerabilities.

The National Crime Records Bureau (NCRB) reveals that there were approximately 809,506 men who died by suicide between the years of 2015-2022, or more than 2 times that of women. So on average, 101,187 men die by suicide each year.²¹ The most common cause of suicide was recorded to be "family problems" (23.06%) and illness (23.05%), with marriage-related suicide reasons accounting for 3.28% (among men).²² Nevertheless, the legal dispositions, or sections, that instantiate family problems such as "cruelty by spouse," (under Section 498A) and now sections 85 and 86 by the BNS, which only provide remedy for women.

The discussion about **Atul Subhash**²³, a 35-year-old techie from Bengaluru who died by suicide and left video notes for speculation by the media, has had thoughtful discussions abounding. Atul's death was taken up by Men's Rights Activist (MRA) discussions to push for changes including the omission of gendered language from sections 85 and 86 of the BNS.²⁴ They argued that it was wrong for the law to be misused therefore perpetuating divorces of marriages and increasing scrutiny of suicidal ideations based on evidence of unproven claims of harassment and mental cruelty, particularly during marital disputes.²⁵ Therefore there has been an argument that the growing number of suicides of men accused should be evidence of the misuse of any language in the law.

These kinds of concerns have subsequently led to the courts. Case in point, Hench Supreme Court advocate Vishal Tiwari filed a Public Interest Litigation (PIL) before the Supreme Court on December 13, 2023 on the premise that misuse of the provision of Section 498A and the sections of the Dowry Prohibition Act has led to suicide on account of social discord. He quoted the Supreme Court discussion of the case **Preeti Gupta v. State of Jharkhand (2010)**²⁶, wherein it

²¹ Takeaways from the NCRB data on suicide for 2022: insights from 6 charts.

<https://cmhlp.org/imho/blog/takeaways-from-the-ncrb-data-on-suicide-for-2022/>

²² Azeefa Fathima and Shivani Kava. The reasons for male suicides in India Source: The News Minute.(2024).

<https://www.thenewsminute.com/news/the-reasons-for-male-suicides-in-india-what-the-numbers-tell-us>

²³ Accused in Atul Subhash death case granted bail. (2025). <https://search.app/5cfhsiHsrWLQKasS7>

²⁴ Geeta Pandey. A man's suicide leads to clamour around India's dowry law. (2024).

<https://www.bbc.com/news/articles/c33d6161z3yo>

²⁵ "Family Will Die By Suicide If...": Atul Subhash's Father On Grandson's Custody. (2024).

<https://search.app/rN7fT8jkzdHC3iEH6>

²⁶ 2010 9 S.C.R. 1168

stated, "allegations are exaggerated". Moreover, the court pushed for a "legislative solution" as the majority of instances of dowry and dowry deaths plead the victim-women party to injustices of fashioned dowry laws. He also pointed to the case **Achin Gupta v. State of Haryana**²⁷, to show how nothing has changed by way of new legislation named BNS provisions that leave unheeded in case of non-gendered language.

As a "solution", Tiwari proposed a process whereby parties provide affidavits that track what is exchanged in the institution of marriage in order to follow through on claims of any fraudulent dowry. He also recommended an expert committee composed of jurists to review laws in terms of inclusivity. Numerically, despite 1.43 lakh cases being lodged for section 498A as of 2022,

the conviction rate stood at merely 15.7%. Scholar Srimati Basu, in *The Trouble with Marriage*, observes that the floor conviction rate marks systemic failures,- not misuse, women's ability to prove mental cruelty or giving into social pressures to settle or withdraw cases. Either way feeds MRA narratives that persist at evidence of the misuse of well-intended legal provisions. Clearly, "cruelty of spouse" helps to provide a remedy for women. However the inability of other gendered parties to mobilize legal remedies for instances of harassment or psychological abuse create inequality. In fact, suicide prevention professionals state, and many male suicides are based not on mental illness but based on situational disappointments of, economic disappointment and fragmentation of relationship, isolationism, etc. There is a need for a legal framework surrounding mental harassment that is remedied across all genders, and with a cautious overview of possible misuse. There is an urgent need to introduce legal gender movements towards taking measure and accountability in remedying issues of harassment. If incomplete, India risks continuing with a justice system that fail to provide accountability for all, and only protects some, while serving to silence many.

A WAKE-UP CALL FOR INDIA: THE GLOBAL STANDARD ON MENTAL HARASSMENT DEMANDS URGENT LEGAL REFORM

²⁷ Criminal Appeal No. 2379 of 2024

Around the globe, several progressive policies are emerging to help respond to the complexity and urgency of mental harassment—and not limited to victims who identify as women. India is falling short, in particular in the context of emotional and psychological journeys towards abuse of men and non-binary identifiers as victims. While the IPC and the BNS are written from a gender perspective and rightly so, their negligence towards non-mental harassment and other-gendered* individuals is a dangerous blind spot in our justice system.

Comparative International law illustrates the decisive and inclusive approaches by other jurisdictions:

United Kingdom: The Protection from Harassment Act 1997 provides both civil and criminal remedies. If a 'course of conduct' amounts to harassment, any individual will commit an offence if they intend to harass another person, this unambiguously guides the assessment to determine harassment, based on what a reasonable person would consider harassment. Civil non-harassment orders can also be issued in cases that have been prosecuted, ensuring more systemic protection for victims.

New Zealand: The Harassment Act 1997 criminalizes an intentional act that causes fear and allows victims to seek restraining orders. A tort called intrusion upon seclusion has evolved in New Zealand, allowing financial compensation for mental trauma or disturbance without a physical act of harassment.

Singapore: The Protection from Harassment Act 2014 criminalizes stalking and allows civil protection orders (including third-party no-time removal orders to counter the harms of offensive communications in the online environment) to serve public interest in providing equal protection from harassment and components.

Also per the recently available data from INDIA and DENMARK it can be summarized that

Comparative Legal Frameworks for Mental Harassment (India vs. Denmark)²⁸

Source- Oxford Talks. (2025). Denmark's National Testing

Aspect	India (2025)	Denmark (2025)
Legal Recognition	Limited explicit provisions	Comprehensive anti-discrimination laws
Investigation Protocols	Ad hoc, inconsistent	Standardized, independent bodies
Institutional Accountability	Weak enforcement	Robust external oversight
Mental Health Integration	Emerging	Established in educational policy and Quality Assurance in Education.

These models acknowledge that mental harassment is real, pervasive and harmful, and that legal response must not discriminate against an individual based on gender or method of communication (either offline or digital) when it comes to legal redress. Unlike these models, India currently has no gender-neutral legal remedy for mental harassment outside of domestic violence laws specifically aimed at women; in fact, the data speaks for itself, with over 1 lakh men dying by suicide each year with primary reasons cited as family and marital distress. Tragic examples such as that of Atul Subhash from Madhya Pradesh who died by suicide over what he claimed were

²⁸ Oxford Talks. (2025). Denmark's National Testing and Quality Assurance in Education. University of Oxford, <https://talks.ox.ac.uk/talks/id/55fee633-31fb-43dd-a0d1-69aeb9c67a32/>

false accusations of domestic violence and legal trauma, exemplify just how harmful this legal shortcoming can be.

The Bharatiya Nyaya Sanhita (BNS) was drafted to update the Indian Penal Code; however, there are still gendered constructs within the prescribed abuse under Sections 85 and 86. The elements and limits of Sections 85 and 86, drew from existing limits of Section 498A, and increasingly the mental health needs of men and non-binary persons are not being adequately addressed.

India has to start acting now: and start recognizing psychological abuse as relevant to all humans, criminalize serious mental harassment, civil remedies for serious mental harassment like restraining/ no contact orders, injunctions and damages. Mental harm delivered through cyber-harassment, emotional manipulation, stalking, and false allegations must be established as enforceable violations of law and must be prevented.

We live in a country where rising suicide rates and worsening mental health outcomes exist while not yet implementing appropriate laws to address these concerns suggest that not adopting the suggested approach is potentially negligent and most certainly complicit.

SUGGESTIONS:

1. Enact a new “Mental Harassment Prevention Act”

Introduce an independent, gender-neutral statute which describes and will punish psychological abuse in different contexts - interpersonal, work, education, online. Include but not limit to:

- Repeated verbal humiliation's, manipulation, and gaslighting
- Workplace harassment and exclusion
- Emotional coercion in participants and marriages
- Cyber harassment and reputational attacks
- Institutional and bureaucracy indifference in respect of complaints of mental harassment

2. Appropriate “Psychological Violence” as a Constitutional Wrong by- way of a Mental Integrity Index.



Introduce a “Mental Integrity Index (MII)” - a constitutional index which addresses violations of psychological dignity, autonomy, and freedom from coercion, agencies can use this index to help measure and model the hidden impact of situations on mental integrity, paralleling how we conduct environmental impact assessments, would assist: in high stress institutions (schools, prisons and workplaces) explain the importance in courts of MII in respect of courted deaths connected to suicide or harassment and establish a measure of state’s Article 21 duty regarding mental dignity

3. AI-Based 'Psyche Governance' protocol with ethical oversight

Develop and support a public-appropriated method of AI use, that utilizes masked behavioral indicators (posts on social media, tone of voice analyses, digital biomarkers, etc.) to alert to places or persons this could, or could correlate towards high-risk environments or people in an emotional crisis. There would be a consent element for each of: Employers or Universities must use the indicators to take action on systemic harassment behaviors flagged by the AI. Public defenders are allowed to request previously gathered digital behaviors to be utilized to analyze and reconstruct emotional abuse for a "psychological autopsy" to establish context. There will be a Psyche Ethics Council to monitor the activities and inform of inappropriate use of any AI. India has the unique opportunity to do a lot more than catch up to the rest of the world in the field of mental health but could lead the way for the world, and perhaps even re-imagine law into the previously invisible contexts of the human mind.

CONCLUSION

The increasing rates of suicide among men in India, particularly among ignored outliers such as non-binary persons, provide evidence of a hidden epidemic that is more than simply clinical pathology; it is born out of untreated psychological trauma, ongoing mental harassment, and a legally blind structure. India's Mental Healthcare Act (2017) was a watershed moment in that mental health is now a statutory right in India, yet it is powerless to mandate prevention as it lacks the constitutional and institutional heft to do so. The Indian Penal Code (IPC) and the new Bharatiya Nyaya Sanhita (BNS) continue to allow a binary, gendered view of victimhood whereby women are protected from cruelty and invisible and unlegislated psychological suffering by men



and non-binary persons is not seen and considered. Looking at what other countries like the UK, New Zealand, Singapore, and Canada have already done to enact rehabilitation laws with respect to harassment by way of criminalizing psychological abuse against victims, mandating it as a civil remedy, and whether physically men and non-binary individuals suffer, complying with the protection and the inherent duty to protect mental well-being is an obligation of duty of care. There is an understanding that psychological harm, like stalking, gaslighting, coercive control, or vilification through digital media, is as harmful and actionable as physical violence. The current law in India acts reactively while creating the veneer of creating a remedy when in reality they require the proof of abetting suicide or the modesty claim on gendered harm which does not accommodate the chronic, cumulative experiences of mental harassment.

This research posits that a legal response to eliminate mental harassment must be not only inclusive but also a creative exercise in recognizing non-visible injury or harm, addressing victims not previously recognized or unexplored, including passive non-victims created by institutional neglect. The cost of inaction should not be measured by an unrealistic dependency on constructed legal concepts, but rather the reality of lives lost, justice not served, and the continuing trauma of inaction.

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