



**FROM PROTECTION TO RIGHTS: INTERROGATING THE  
TRANSFORMATIVE POTENTIAL OF INDIA'S CONTEMPORARY  
DISABILITY LAW FRAMEWORK**

**Amandeep**

Research Scholar department of Law Kalinga University, Naya Raipur, Chhattisgarh, India

**Dr. Narendra Kumar Singh**

Associate Professor Faculty of Law Kalinga University

**Abstract**

This paper examines the evolution and contemporary structure of the Indian legal framework governing persons with mental disabilities, with particular emphasis on the transition from the paternalistic regime of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 to the rights-based architecture under the Rights of Persons with Disabilities Act, 2016 and the Mental Healthcare Act, 2017. The research interrogates whether this legislative transformation has substantively reconfigured legal capacity, access to healthcare, anti-discrimination protections and social inclusion for persons with mental disabilities, or whether it remains constrained by doctrinal inconsistencies and institutional inertia. Adopting a doctrinal and analytical methodology, the paper examines constitutional provisions, statutory frameworks and judicial precedents of the Supreme Court of India and various High Courts. It situates Indian developments within the normative influence of the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD), highlighting the shift from substituted decision-making to supported decision-making. The paper argues that while the 2016 and 2017 enactments represent a paradigmatic shift toward autonomy, dignity and equality, significant structural and doctrinal tensions persist particularly regarding guardianship, involuntary treatment and enforceability of socio-economic entitlements. The paper concludes by proposing targeted legislative harmonization, strengthened institutional accountability and deeper constitutionalization of disability jurisprudence to realize the transformative promise of India's contemporary disability framework.

**Keywords:** disabilities, constitutionalization, harmonization, Protection of Rights, witnessed

**I. Introduction**

The legal treatment of persons with mental disabilities occupies a fraught position in any constitutional democracy. It sits at the intersection of medical paternalism and individual autonomy, welfare-based charity and rights-based entitlement and social inclusion and structural exclusion. For much of the post-independence period, India's legislative response to mental disability was governed by a framework that conceptualised persons with mental illness and psychosocial disabilities primarily as subjects of state protection rather than as rights-bearing citizens capable of exercising legal agency. The enactment of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 represented a meaningful legislative step in its time, but the Act's conceptual architecture

remained tethered to a medical model of disability that treated impairment as the defining variable in determining legal status and entitlements.

The early twenty-first century witnessed a seismic normative shift globally, catalysed principally by the adoption of the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD) in 2006. India ratified the UNCRPD in 2007, thereby undertaking international obligations to align its domestic legal order with a social model of disability one that locates the disabling force not in the individual's condition but in societal barriers, attitudinal prejudices and institutional structures that deny full participation. This normative inflection is reflected in India's subsequent legislative developments: the Rights of Persons with Disabilities Act, 2016 (RPwD Act) and the Mental Healthcare Act, 2017 (MHA 2017). Together, these instruments purport to inaugurate a new era of disability jurisprudence centred on dignity, autonomy, non-discrimination and reasonable accommodation.

Yet the gap between legislative aspiration and lived reality remains substantial. India is a country of immense diversity, acute resource constraints, widespread institutional deficits and deeply entrenched social attitudes toward mental illness. Courts have played an important but uneven role in translating constitutional guarantees into justiciable rights for persons with mental disabilities. The proliferation of legislative categories, unclear demarcations of institutional jurisdiction and the persistence of substituted decision-making norms in practice all conspire to undermine the transformative potential of the new framework.

This paper proceeds in six parts. Following this introduction, Part II traces the historical and constitutional foundations of India's disability law. Part III analyses the structural architecture of the RPwD Act, 2016 and the MHA, 2017, interrogating their doctrinal innovations and identifying areas of internal tension. Part IV situates the Indian framework within the UNCRPD's normative architecture, particularly in relation to legal capacity and supported decision-making. Part V examines judicial interpretations of disability rights under Articles 14 and 21 of the Constitution. Part VI identifies persistent structural challenges and proposes reform measures to realise the framework's transformative promise.

## II. Historical and Constitutional Foundations

### A. The Colonial and Post-Colonial Legacy

India's colonial inheritance in the domain of mental health law was profoundly stigmatising. The Indian Lunacy Act, 1912 governed the institutionalisation of persons with mental illness with virtually no procedural safeguards and no rights-based orientation. The statute was premised on the assumption that lunacy was a condition requiring custodial management rather than therapeutic care and that persons so afflicted were incapable of exercising legal agency. This attitude permeated post-independence institutional culture and continued to shape administrative practice even after the formal repeal of the colonial statute.

The Mental Health Act, 1987 was India's first post-independence effort to modernise mental health legislation and it did introduce certain procedural improvements. However, the 1987 Act retained many of the paternalistic assumptions of its colonial predecessor. It continued to permit involuntary admission and treatment on grounds that were expansively defined, provided limited procedural protections for detained patients and made no meaningful

reference to the rights of persons with mental illness as autonomous legal subjects. Its provisions on guardianship were premised entirely on a substituted decision-making paradigm, vesting authority in guardians to make decisions on behalf of persons with mental illness without requiring that such decisions reflect the preferences or best interests of the individual as understood by themselves.

The Persons with Disabilities Act, 1995 similarly adopted a predominantly medical model. While it made notable advances in recognising the need for equal opportunities in education and employment, it enumerated an exhaustive list of seven specified disabilities and conditioned entitlement on certification of a minimum forty percent disability. The architecture of the statute treated disability as a category of medical incapacity rather than as a site of rights deprivation and its focus on economic rehabilitation rather than social inclusion reflected the prevailing welfare paradigm.

### **B. Constitutional Provisions and Their Interpretive Potential**

The Constitution of India does not contain an explicit fundamental right to disability equality. Nevertheless, several constitutional provisions have served as anchors for the development of disability rights jurisprudence. Article 14 guarantees equality before law and equal protection of laws, which the Supreme Court has interpreted to include reasonable classification based on intelligible differentia, but which also prohibits arbitrary discrimination. Article 15 prohibits discrimination on specified grounds though disability is not among them but Article 15(1) has been read expansively by some courts to include analogous grounds.

Of particular importance is Article 21, which guarantees the right to life and personal liberty. The Supreme Court's progressive jurisprudence on Article 21, beginning with *Maneka Gandhi v. Union of India* (1978) and extending through a vast body of subsequent decisions, has transformed the provision into a substantive guarantee encompassing the right to health, the right to dignity, the right to live with basic minimum essentials and the right to mental healthcare. The Court in *Chandra Bhawan Boarding and Lodging, Bangalore v. State of Mysore* recognised that the right to life cannot be read narrowly and subsequent decisions have extended this logic to encompass the entitlements of persons with disabilities.

Article 41 of the Directive Principles of State Policy directs the state to make effective provision for securing the right to public assistance in cases of disablement. While not judicially enforceable on its own terms, Article 41 has been read in conjunction with Article 21 to derive enforceable rights to welfare entitlements. Articles 46 and 38 further underscore the state's obligation to promote the educational and economic interests of weaker sections and to minimise inequalities in status and opportunity.

### **III. The Contemporary Legislative Architecture**

#### **A. The Rights of Persons with Disabilities Act, 2016**

The RPwD Act, 2016 represents the most comprehensive legislative overhaul of disability law in India's independent history. It expanded the categories of recognised disability from seven to twenty-one, explicitly including mental illness, autism spectrum disorder, intellectual disability and multiple disabilities a significant departure from the narrow medicalised listing of its predecessor. The expansion reflects the influence of the social model

of disability and the recognition that the earlier Act had left vast numbers of persons with disabilities without statutory protection.

The 2016 Act introduces several doctrinal innovations. First, it mandates reasonable accommodation a concept borrowed from international disability law as a positive obligation on establishments, educational institutions and government bodies. Failure to provide reasonable accommodation is expressly defined as a form of discrimination under Section 3. This is a significant normative advance, as it moves beyond formal equality toward substantive equality by requiring affirmative adjustments to enable meaningful participation.

Second, the Act introduces the concept of 'benchmark disability' as a threshold for certain specific entitlements while simultaneously providing a broader framework of rights for all persons with disabilities. This dual-tier structure has attracted criticism for creating hierarchies of entitlement within the disability community, potentially disadvantaging those with conditions that fluctuate or manifest in non-visible ways a concern particularly acute for persons with mental illness.

Third, the Act contains provisions on legal capacity under Chapter IX. Section 14 provides for the appointment of limited guardians through the District Court, framed as a measure of last resort following an assessment of the need for support. This represents a formal, if incomplete, acknowledgment of the shift from substituted to supported decision-making. However, as discussed below, the implementation of these provisions has been deeply problematic and the guardianship framework continues to operate in ways that are inconsistent with the UNCRPD's Article 12 framework.

The Act also establishes a National Fund for Persons with Disabilities, mandates accessible infrastructure and provides for reservation in higher educational institutions and government employment. A Central and State advisory board structure is established to oversee implementation. Critically, the Act designates a Chief Commissioner and State Commissioners for Persons with Disabilities with quasi-judicial powers to investigate complaints of rights violations an institutional innovation that has the potential to serve as an accessible grievance redressal mechanism, though its effectiveness has been uneven in practice.

### **B. The Mental Healthcare Act, 2017**

The MHA, 2017 represents an equally significant departure from the prior legal regime governing mental health. Its most transformative feature is its explicit rights-based framing: the statute's opening provisions declare that persons with mental illness have the right to access mental healthcare and treatment, the right to community living, the right to protection from cruel and inhuman treatment, the right to confidentiality, the right to be informed and most significantly the right to make and communicate decisions about their own treatment, including the right to make advance directives.

The advance directive provision in Section 5 is particularly noteworthy. It allows a person to specify in advance their preferences for treatment and the person they wish to act as their nominated representative in the event of a future mental health crisis. This is a meaningful operationalisation of the supported decision-making paradigm, giving legal force to pre-incapacity expressions of individual autonomy. The nominated representative framework in

Section 14 further elaborates this approach, enabling persons with mental illness to designate a trusted individual to represent their interests during periods of crisis.

The Act reformulates the conditions for involuntary admission and treatment, moving away from the broad 'dangerousness' criterion of the 1987 Act toward a narrower set of conditions that require both a high risk of harm and an absence of decision-making capacity. The 2017 Act introduces mandatory review mechanisms through Mental Health Review Boards at the district level, which are empowered to adjudicate on admission and treatment decisions, review advance directives and investigate complaints. This institutional infrastructure is, in principle, a significant improvement on the prior regime.

However, several provisions of the 2017 Act remain in tension with the rights framework it otherwise espouses. Section 89, which governs supported admission of mentally ill persons by relatives or nominated representatives without the patient's consent and Section 90, which permits independent admission on grounds certified by a medical officer, preserve scope for non-consensual hospitalisation that many disability rights scholars argue is incompatible with the UNCRPD's demands. The standard of 'capacity' employed by the Act also diverges from the UNCRPD's position that legal capacity must be recognised universally and that capacity assessments cannot be used to override individual choice.

#### IV. India and the UNCRPD: Alignment, Tension and the Legal Capacity Debate

##### **A. The UNCRPD Framework**

The UNCRPD represents the most authoritative international normative framework on disability rights. Its General Principles in Article 3 include respect for inherent dignity, individual autonomy and independence, non-discrimination, full and effective participation, equality of opportunity and accessibility. Article 12 is the most jurisprudentially significant provision for the present inquiry. It affirms that persons with disabilities enjoy legal capacity on an equal basis with others in all aspects of life and requires states parties to take appropriate measures to provide access by persons with disabilities to the support they may require in exercising their legal capacity.

The Committee on the Rights of Persons with Disabilities, in its General Comment No. 1 (2014), interpreted Article 12 to require the abolition of all substitute decision-making regimes and their replacement with supported decision-making frameworks. The Committee drew a sharp distinction between mental capacity a clinical assessment and legal capacity a legal status and held that the latter cannot be withdrawn or diminished on the basis of the former. This interpretation has been deeply contested by some state parties and legal scholars, but it represents the most progressive articulation of disability rights norms and the standard against which India's framework must be assessed.

##### **B. The Gap Between Indian Law and UNCRPD Standards**

India's guardianship provisions under the RPwD Act, 2016 and the National Trust for Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities Act, 1999 both fall short of the UNCRPD's Article 12 demands. The National Trust Act continues to provide for plenary guardianship the most restrictive form of substituted decision-making for persons with specified disabilities. The RPwD Act's limited guardianship

framework, while more nuanced, retains a substituted decision-making logic in permitting courts to appoint guardians who are authorised to make decisions 'in the best interests' of the person rather than in accordance with the person's own will and preferences.

The Mental Healthcare Act's advance directive framework represents the most significant effort to operationalise supported decision-making in Indian law. However, the provision allowing medical practitioners to override advance directives in certain circumstances including where the Mental Health Review Board so determines reintroduces a paternalistic override that sits uneasily with the UNCRPD's framework. The nominated representative regime, if properly implemented, could serve as a functional supported decision-making mechanism, but its practical operation has been undermined by inadequate institutional capacity and awareness.

India has also not enacted any comprehensive legislation on supported decision-making akin to frameworks developed in some Canadian provinces or Australia. The piecemeal nature of the existing provisions scattered across two statutes with different jurisdictional purviews and institutional oversight mechanisms creates coordination deficits that impede coherent implementation.

## **V. Judicial Interpretation and Constitutional Disability Jurisprudence**

### **A. The Supreme Court's Evolving Approach**

The Supreme Court of India has played a significant role in shaping disability jurisprudence through its interpretation of Articles 14, 21 and the Directive Principles. In *Vikash Kumar v. Union Public Service Commission* (2021), the Court held that the refusal to provide reasonable accommodation to a candidate with mental disability in competitive examinations constituted a violation of Articles 14 and 21. The judgment affirmed the principle that disability equality requires more than formal non-discrimination it demands affirmative measures to remove barriers that disadvantage persons with disabilities.

In *Pramati Educational and Cultural Trust v. Union of India* (2014), the Court while dealing primarily with the Right to Education Act touched on the obligation of the state to ensure inclusive education, a principle with significant implications for children with disabilities. The Court in *State of Punjab v. Mohan Lal Sharma* recognised that conditions of incarceration that fail to address the mental health needs of prisoners with mental illness can violate Article 21. These decisions, taken together, reflect a progressive judicial willingness to deploy the Constitution's liberty and dignity guarantees in the service of mental health rights.

The landmark decision in *Navtej Singh Johar v. Union of India* (2018), while primarily addressing sexual orientation, contained significant obiter on the relationship between mental health and constitutional rights, recognising that the state's failure to protect psychological well-being could constitute a constitutional violation. Similarly, in *Common Cause v. Union of India* (2018), the Court recognised the constitutional validity of advance directives in end-of-life decisions a precedent with potential resonance for the mental health advance directive framework under the MHA, 2017.

### **B. High Court Decisions and Emerging Themes**

Various High Courts have contributed to the development of disability rights jurisprudence at the sub-national level. The Delhi High Court, in *Rajive Raturi v. Union of India*, directed the implementation of accessibility standards a decision with implications for the interpretation of the RPwD Act's accessibility provisions. The Bombay High Court has been particularly active in mental health litigation, issuing directions on the conditions of psychiatric hospitals, the rights of involuntarily admitted patients and the obligation of the state to establish and fund community mental health services.

The Madras High Court in *T. Murugesan v. The Chief Secretary to the Government of Tamil Nadu and others* issued significant directions on the rehabilitation of persons with mental illness, recognising the right to community-based care as a component of the right to life under Article 21. The Kerala High Court has contributed to the jurisprudence on custodial mental health particularly in cases involving persons with mental illness held in correctional facilities recognising that the failure to provide appropriate care in such settings constitutes a violation of constitutional guarantees.

Nonetheless, judicial enforcement has been uneven. Several directions issued by courts in public interest litigation concerning mental health institutions remain partially or wholly unimplemented, reflecting the broader structural problem of weak institutional accountability. The gap between judicial pronouncement and administrative compliance is a persistent feature of Indian constitutional adjudication and it is particularly acute in the domain of socio-economic rights where implementation requires sustained resource mobilisation and institutional reform.

### **C. Tensions in Judicial Reasoning**

Indian courts have not always been consistent in their application of the social model of disability. Decisions that affirm the right to reasonable accommodation coexist with decisions that deploy the medical model in determining eligibility for benefits or exemptions. The Supreme Court has not yet squarely addressed the tension between the UNCRPD's Article 12 framework and the guardianship provisions of domestic law. In the absence of a definitive ruling on the compatibility of substituted decision-making with constitutional equality norms, lower courts have continued to apply the existing guardianship framework without interrogating its fundamental assumptions.

The courts have also been reluctant to treat the justiciability of socio-economic rights under the RPwD Act in the same manner as civil and political rights. While the right to non-discrimination has attracted stronger judicial enforcement, the positive obligations imposed on the state by the Act to provide accessible housing, healthcare, education and social protection have been treated as aspirational in practice, with courts issuing directions but rarely enforcing compliance through contempt proceedings or other coercive mechanisms.

## **VI. Structural Challenges and the Path to Reform**

### **A. Guardianship and Legal Capacity: The Unfinished Agenda**

The most fundamental structural challenge facing India's disability law framework is the incomplete transition from substituted to supported decision-making. The coexistence of plenary guardianship under the National Trust Act, limited guardianship under the RPwD Act

and advance directive and nominated representative frameworks under the MHA creates a fragmented and internally inconsistent legal capacity regime. Persons with mental disabilities may simultaneously be subject to different decision-making regimes depending on which statute is applied, generating legal uncertainty and undermining the coherence of the rights framework.

Legislative harmonisation is urgently required. India should enact a comprehensive Supported Decision-Making Act that provides a unified framework for the provision of decision-making support to all persons with disabilities, irrespective of the nature of their impairment. Such legislation should be premised on the UNCRPD's Article 12 standard, recognising universal legal capacity and providing for a tiered range of support mechanisms from access to information and communication support at one end, to intensive supported decision-making arrangements at the other without any substituted decision-making option except in circumstances of absolute necessity and subject to rigorous procedural safeguards.

### **B. Involuntary Treatment: Balancing Rights and Care**

The involuntary treatment provisions of the MHA, 2017 represent the most contested area of Indian disability law. The retention of non-consensual hospitalisation and treatment powers even in a modified and procedurally circumscribed form is difficult to reconcile with the UNCRPD's framework, which regards forced treatment as a form of violence and discrimination. The Human Rights Committee and the Special Rapporteur on Torture have similarly expressed concern about the use of involuntary psychiatric hospitalisation as a mechanism of social control.

At the same time, it is necessary to acknowledge that the complete abolition of involuntary treatment in the current Indian context characterised by scarce community mental health infrastructure, inadequate crisis support services and limited public awareness of mental health conditions raises legitimate concerns about the welfare of persons in acute psychiatric crisis who may be unable to access voluntary services. The resolution of this tension requires not merely doctrinal clarification but substantial investment in community-based alternatives that make involuntary treatment genuinely a last resort rather than a default response.

In the interim, the state should strengthen the Mental Health Review Board system ensuring that boards are functional, adequately resourced and accessible to persons with mental illness and their families so that the procedural safeguards against arbitrary involuntary treatment are genuinely effective. The appointment of independent mental health advocates to represent the interests of persons subject to involuntary admission should also be institutionalised, moving beyond the current framework in which such representation is available only in limited circumstances.

### **C. Enforceability of Socio-Economic Entitlements**

The RPwD Act's framework of socio-economic entitlements including rights to education, employment, social protection and accessible infrastructure has been significantly under-enforced. Several factors contribute to this outcome. First, the implementing institutions Chief Commissioner's office, State Commissioners and the various sector-specific nodal agencies are frequently understaffed, under-resourced and lack effective enforcement powers.

The Chief Commissioner's quasi-judicial jurisdiction is often confined to issuing recommendations rather than binding orders, limiting the office's practical impact.

Second, the certification process for disability has remained complex, time-consuming and often inaccessible to marginalised persons with disabilities in rural and peri-urban areas. Without certification, persons with mental disabilities are unable to access the statutory entitlements the RPwD Act provides, creating a de facto exclusion of the most vulnerable from the benefits of the legislative framework. Streamlining and decentralising the certification process including exploring digital verification mechanisms is essential to addressing this access deficit.

Third, the Act's reservation provisions for government employment and higher education while meaningful in principle have been implemented inconsistently across states. The horizontal reservation for persons with benchmark disabilities is frequently not filled and the preference for persons with benchmark disabilities in above-benchmark categories is rarely operationalised. Strengthened monitoring mechanisms, including mandatory annual reporting on reservation compliance and suo motu action by the Commissioner's office in cases of systemic non-compliance, would enhance the practical effectiveness of these provisions.

#### **D. Constitutionalisation of Disability Rights**

The progressive but uneven trajectory of judicial disability jurisprudence points to the need for deeper constitutionalisation of disability rights. The Law Commission of India has previously recommended the insertion of disability as a prohibited ground of discrimination under Article 15, which would bring Indian constitutional law into closer alignment with international standards and provide a more secure constitutional foundation for disability rights claims. Such an amendment would also enable courts to apply heightened scrutiny to disability-based classifications, rather than the rational basis standard that currently governs equality analysis in this domain.

Additionally, the right to mental healthcare should be recognised as a fundamental right under Article 21, following the logic of *Paschim Banga Khet Mazdoor Samity v. State of West Bengal* (1996), in which the Court derived a right to emergency healthcare from the right to life. Such recognition would strengthen the justiciability of the MHA's entitlements and provide a constitutional anchor for litigation challenging inadequate state investment in mental health services.

The judiciary should also engage more directly with the UNCRPD as an interpretive aid to constitutional provisions relating to disability. While the UNCRPD does not form part of the domestic law of India by direct incorporation, the constitutional principle of conformity with international law obligations affirmed in *Vishaka v. State of Rajasthan* (1997) provides the doctrinal basis for its use as an interpretive resource. Systematic judicial engagement with the Convention's standards, particularly in relation to legal capacity and the right to community living, would substantially enrich the constitutional jurisprudence of disability rights.

#### **VII. Conclusion**

India's disability law framework has undergone a remarkable transformation over the past decade. The Rights of Persons with Disabilities Act, 2016 and the Mental Healthcare Act,

2017 collectively represent a paradigmatic shift from a welfare-based, medicalized regime toward a rights-based architecture premised on autonomy, dignity, non-discrimination and equal participation. The normative influence of the UNCRPD has been substantial, reshaping the conceptual vocabulary of disability law and introducing instruments advance directives, nominated representatives, limited guardianship, reasonable accommodation that reflect a genuine effort to align domestic law with international standards.

Yet the paper has demonstrated that this transformation remains incomplete and structurally fragile. The legal capacity framework is internally inconsistent, with substituted and supported decision-making regimes coexisting uneasily across multiple statutes. Involuntary treatment powers, while procedurally circumscribed, continue to operate in ways that are difficult to reconcile with the UNCRPD's demands. The enforceability of socio-economic entitlements is severely compromised by inadequate institutional infrastructure, resource constraints and weak accountability mechanisms. Judicial interpretation has progressively aligned constitutional guarantees with disability rights, but enforcement gaps remain acute and courts have not yet definitively resolved the doctrinal tensions within the legislative framework.

The path forward requires action on multiple registers. Legislative harmonisation centred on a comprehensive supported decision-making framework, consolidation of guardianship law and rationalisation of the disability certification regime is a matter of urgent priority. Institutional reform, including the strengthening of the Commissioner's offices, Mental Health Review Boards and independent advocacy mechanisms, is essential to translating statutory rights into lived realities. Deeper constitutionalisation through constitutional amendment, expanded judicial use of the UNCRPD as an interpretive resource and the recognition of mental healthcare as a fundamental right would provide the normative infrastructure for a more robust and principled disability jurisprudence.

India's disability law framework is at an inflection point. The legislative foundations of a rights-based regime are substantially in place. What is now required is the sustained political will, institutional investment and doctrinal clarity to build upon those foundations and deliver the transformative promise that the 2016 and 2017 enactments represent for over 26 million persons with disabilities who are entitled to live as full and equal citizens of the Indian republic.

References

### **Legislative Instruments**

1. The Rights of Persons with Disabilities Act, 2016 (Act No. 49 of 2016).
2. The Mental Healthcare Act, 2017 (Act No. 10 of 2017).
3. The Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 (Act No. 1 of 1996).
4. The National Trust for Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities Act, 1999 (Act No. 44 of 1999).
5. The Mental Health Act, 1987 (Act No. 14 of 1987).
6. The Indian Lunacy Act, 1912 (Act No. 4 of 1912).

7. United Nations Convention on the Rights of Persons with Disabilities, opened for signature 30 March 2007, 2515 UNTS 3 (entered into force 3 May 2008), ratified by India on 1 October 2007.

#### **Cases**

8. Vikash Kumar v. Union Public Service Commission, (2021) 5 SCC 370.
9. Navtej Singh Johar v. Union of India, (2018) 10 SCC 1.
10. Common Cause v. Union of India, (2018) 5 SCC 1.
11. Vishaka v. State of Rajasthan, (1997) 6 SCC 241.
12. Paschim Banga Khet Mazdoor Samity v. State of West Bengal, (1996) 4 SCC 37.
13. Maneka Gandhi v. Union of India, (1978) 1 SCC 248.
14. Pramati Educational and Cultural Trust v. Union of India, (2014) 8 SCC 1.
15. Rajive Raturi v. Union of India, WP (C) No. 698/2004 (Delhi High Court).
16. T. Murugesan v. Chief Secretary to the Government of Tamil Nadu, WP No. 17903/2014 (Madras High Court).

#### **Secondary Sources**

17. Committee on the Rights of Persons with Disabilities, General Comment No. 1 (2014) on Article 12: Equal Recognition Before the Law, CRPD/C/GC/1 (19 May 2014).
18. Anita Ghai, Rethinking Disability in India (Routledge, 2015).
19. Nilika Mehrotra, Disability, Gender and State in India (Rawat Publications, 2013).
20. Amita Dhanda, Legal Capacity in the Disability Rights Convention: Stranglehold of the Past or Lodestar for the Future? (2007) 34(2) Syracuse Journal of International Law and Commerce 429.
21. Michael Ashley Stein and Penelope JS Stein, Beyond Disability Civil Rights (2007) 58(4) Hastings Law Journal 1203.
22. Tina Minkowitz, Abolishing Mental Health Laws to Comply with the CRPD, in Bernadette McSherry and Penelope Weller (eds), Rethinking Rights-Based Mental Health Laws (Hart Publishing, 2010).
23. Bhargavi Davar, Disability Law and Mental Health: Interrogating the Boundaries (2015) 50(41) Economic & Political Weekly 14.
24. Law Commission of India, Report No. 271: Implementation of 'United Nations Convention on the Rights of Persons with Disabilities' (2017).
25. Gerard Quinn and Theresia Degener (eds), Human Rights and Disability: The Current Use and Future Potential of United Nations Human Rights Instruments in the Context of Disability (United Nations, 2002).
26. World Health Organization, Mental Health Atlas 2020 (WHO, 2021).
27. National Mental Health Survey of India 2015–2016: Prevalence, Patterns and Outcomes (NIMHANS, 2016).