



CHAPTER - 3

DIGITAL STIGMA AND MENTAL HEALTH: LEGAL NARRATIVES OF SHAME, RESISTANCE, AND ACTIVISM

Manisha Naskar

Assistant Professor, Brainware University, Barasat

*mn.law@brainwareuniversity.ac.in

Abstract

Life in the digital age has changed the nature of stigma surrounding mental health and fostered a new set of shamed, excluded, and resistant voices. Online spaces can be spaces of solidarity and activism, but can also serve to fuel negative practices like cyberbullying, cancel culture, and reputational shaming and heighten psychological distress and contribute to marginalisation. In this chapter, the intersection of digital stigma and mental health is from a legal perspective, placing classical theories of stigma within contemporary challenges of cyberspace. It looks at coping strategies like memes and funny videos, as well as activism networks and communities of peers, that are rallying behind digital campaigns to challenge the stigma, and call for recognition of rights. It identifies constitutional provisions, laws and international human rights instruments that together state that dignity, privacy, and inclusion are recognized. Judicial responses to online stigma are highlighted through case studies in India, Europe and the United States, each with a tension between freedom of expression and the protection of reputation. The chapter ends by highlighting the importance of creating more comprehensive legal frameworks, restorative justice and digital literacy programs to make cyberspace a space of healing, empowerment and promotion of mental health rights.

Key Words:

Digital stigma, Cyberbullying, Mental health rights, Cancel culture, Right to dignity, Right to privacy.

Introduction

In the digital era, the expression, amplification, and resistance to mental health stigma has changed. While spaces for solidarity and activism arise online, they also have become spaces of cyberbullying, online shaming and cancel culture, resulting in high levels of psychological suffering and social exclusion (Kågstöm et al., 2025). Stigma in online environments is not just about negative attitudes, but also takes the form of discriminatory behaviours which limit opportunities, undermine dignity, and perpetuate marginalisation (Link & Phelan 2001).

On a legal perspective, mental health is now considered as an integral part of the right to life and personal liberty with dignity as guaranteed by Article 21 of the Indian Constitution (Singh 2026). It was a pivotal moment towards a rights-based approach with the Mental Healthcare Act, 2017, which focused on autonomy, informed consent and non-discrimination (Khan, Sandhu, & Kaushal, 2024). However, even with evolving laws, stigma remains in online environments, with anonymity and virality exacerbating the risk.

While the laws in India are not consolidated, the Information Technology Act, 2000 and Bharatiya Nyaya Sanhita, 2023 offer protection against defamation, stalking and online harassment, which are usually considered cyberbullying offences (Ghosh, 2025). The conflict between the protection of freedom of speech and protection of the people from digital harm has been underscored by judicial pronouncements such as Shreya Singhal v. Union of India (2015). Such a combination of law and mental health highlights the need to create constitutional safeguards, privacy protections and restorative justice frameworks to reduce stigma in cyberspace (Venkateswarlu, 2025).

In this way, one should approach the subject of digital stigma and mental health from an interdisciplinary perspective that draws from the fields of sociology, psychology and law to understand how narratives of mental health shame are created; how resistance occurs through activism; and how mental health laws can be written to protect dignity and inclusion in the digital era.

Theoretical Foundations

Research on stigma in mental health has its roots in classic sociological theories, particularly the theory of stigma as a social process proposed by Erving

Goffman (1963), who saw stigma as a way to transform individuals from “whole and usual” to “tainted, discounted ones”. This labelling process is exclusionary, and it generates stereotypes, and a form of discrimination. Stigma was later expanded upon in scholarship, which focused on the interaction between stigma labelling, stereotyping, separation, loss of status, and discrimination in power structures (Link & Phelan, 2001).

These processes are amplified in the digital age by the anonymity, the virality and the permanency of the online communication. Stigmatizing narratives have the ability to spread rapidly on digital platforms, with a lack of accountability and accountability for the consequences of such spread leading to reputational damage and psychological trauma (Kågström et al., 2025). Stigma is not just interpersonal, it is also algorithmic, with the content that is harmful rising to the top of the platform as a result of platform dynamics (Marwick, 2018).

Stigma is related to rights discourses from a legal perspective. Under Article 21 of the Indian Constitution, there is a constitutional protection for dignity and privacy, which also enables constitutional protection against degrading treatment (Singh, 2026). The United Nations Convention on the Rights of Persons with Disabilities (CRPD) globally highlights the principles of ‘non-discrimination’ and ‘equal participation’ in the digital world (United Nations, 2006). Therefore, the theoretical discourse on stigma needs to be revisited to understand the mechanisms of regulation and resistance to stigma in the online domain in the context of cyber law, constitutional protection and digital governance (Venkateswarlu, 2025).

The narratives of Shame in Cyberspace

Stigma has been central to the building and spread of stigma through digital platforms, and shame is a strong social sanction. Stigma can now take the form of shame and social condemnation in public discourse, in the collective digital practice of online shaming, cancel culture, and cyberbullying (Marwick, 2018). The practices are likely to cause harm to mental health and are likely to have disproportionate impacts on those with mental health vulnerabilities, causing reputational harm, psychological trauma and social exclusion (Kågström et al., 2025).

Digital communities, specifically, offer examples of how they use shame to hold others accountable, but, often, the distinction between valid criticism and stigmatizing harassment is lost (Ng, 2020). This can worsen mental health issues for people with mental illnesses, such as depression or anxiety, which can lead to cycles of exclusion (Corrigan et al., 2016). The effects of cyberbullying only compound these harms, as anonymity and virality allow the cyberbully to cause

ongoing psychological harm (Hinduja & Patchin, 2019).

The legal framework has been a focus point of the dilemma from the Indian perspective with the balance between the freedom of speech guaranteed by Article 19(1)(a) of the Constitution of India and safeguarding against online harm. The controversial Section 66A of the Information Technology Act, 2000 was struck down in *Shreya Singhal v. Union of India* (2015) on the ground that it was too general and infringed freedom of expression, but it failed to address the issue of how to protect against online harassment. There are partial remedies in the *Bharatiya Nyaya Sanhita*, 2023, with regard to defamation and stalking that are limited in scope (Ghosh, 2025). The European Court of Human Rights (ECHR) has also stated that there must be a balance between freedom of speech and the right to dignity, with the unchecked shaming of people online being a possible violation of their human rights (European Court of Human Rights, 2021).

Consequently, narratives of shame in cyberspace emphasize two problems: first, digital platforms increase the voice and accountability of citizens; and second, they continue to spread stigma and exclusion, requiring the development of legal protection for dignity while ensuring the freedom of expression.

How to resist and work with a coping mechanism

In cyberspace, stigma is sometimes magnified, but it can also be resisted and coped with. People and communities have devised ways to fight narratives of shame and take back control. Another way of resistance is through memes and dark humour communities, where individuals suffering from depression and anxiety find support and normalize their lived experiences by using dark humour (Sharma & Gupta, 2024). While these may be contentious, they can be used as collective coping strategies that can create shared narratives of resilience (Milner et al. 2019).

Digital communities also provide a space for healing, with offerings of peer support, anonymity, and validation. Forums and social media support groups for mental health provide a platform for people to share their experiences without immediate judgment or stigma, reducing internalized stigma (Naslund et al., 2016). These communities can turn into activists platforms and launch campaigns for discrimination and policy change. For instance, #EndTheStigma and #MentalHealthMatters have led to transnational campaigns against exclusion and recognition of mental health rights (Robinson et al., 2020).

Resistance also relates to the discourse of rights from a legal perspective. In

India, the Mental Healthcare Act, 2017, upholds the right to care in the absence of discrimination, thereby aligning with a digital activism that aims to break the stigma (Khan, Sandhu, & Kaushal, 2024). The United Nations Convention on the Rights of Persons with Disabilities (CRPD) internationally recognises the right to take part and to be included, including in digital spaces (United Nations, 2006). The protection of dignity in online communities has also started to gain recognition by courts, which has focused on how to ensure that vulnerable groups are protected from harassment, while respecting freedom of association (European Court of Human Rights, 2021).

Therefore, resistance and coping strategies in digital environments are examples of how people turn stigma into activism, humour and healing, and legal tools offer the normative underpinning in order to achieve dignity and inclusion.

Activism and Legal Reform

In digital spaces, individuals and communities are able to become powerful agents of mental health activism, rising to confront stigma and raise awareness about rights. Social media campaigns, including #EndTheStigma and #MentalHealthMatters, have resulted in transnational movements that have given a voice to the marginalized, that have normalised conversations about mental illness and that held governments to account for reform (Robinson et al., 2020). These acts of activism are not just symbolic but are a form of collective resistance to exclusion and help to change the public conversation about mental health.

Activism and constitutional rights in India, Article 21, right to life and personal liberty, has been interpreted in courts to also include the right to dignity, mental health, thus offering a constitutional basis of activism in removing stigma (Singh, 2026). The Mental Healthcare Act, 2017 has further codified this rights-based approach that includes non-discrimination, informed consent, and access to care (Khan, Sandhu, & Kaushal, 2024). These provisions in the law are frequently invoked by activist groups to ensure accountability of institutions and draw attention to its shortcomings in implementation.

The United Nations Convention on the Rights of Persons with Disabilities (CRPD) has been a key document in shaping the concept of mental health as a human right and highlighting the need to include persons with disabilities in all aspects of life, such as participation and accessibility in both physical and virtual settings (United Nations, 2006). Additionally, comparative legal frameworks, including European Union's General Data Protection Regulation (GDPR) have intersections with mental health activism, regarding privacy protection and the

prevention of reputational harm resulting from digital stigma (European Union, 2018).

Other examples of judicial interventions shed light on the changing nature of the role of law in overcoming stigma. *Navtej Singh Johar v. Union of India* (2018) is an important landmark in the fight against gendered and identity based stigma online in India and the Supreme Court of India's decision to decriminalise homosexuality for LGBTQ+ people. In the same vein, international courts have highlighted that unchecked online harassment can constitute a human rights violation, further strengthening the need for legal reforms (European Court of Human Rights, 2021).

Activism and legal reform are intrinsically linked; the first creates pressure for change, and the latter creates a framework and norms for dignity, privacy and inclusion. Their combined approach is a strategy for desegregating digital stigma and promoting mental health rights in the digital age.

Regulatory Challenges

Policymakers, courts and civil society are faced with complex challenges in regulating digital stigma. The conflict is between the right to freedom of speech and the right to dignity and privacy. The freedom of expression guaranteed to the Indian people by Article 19(1)(a) of the Indian Constitution enjoys reasonable restrictions under Article 19(2) such as defamation, decency and public order. The unchecked online harassment has been repeatedly acknowledged as a threat to dignity and mental health, while over regulation is a risk to legitimate expression (Singh, 2026).

Indian Cyber laws are still in a disjointed state. The *Bharatiya Nyaya Sanhita*, 2023, along with the Information Technology Act, 2000, covers defamation, stalking, and online harassment, but does not have specific provisions addressing mental health stigma (Ghosh, 2025). There's no common digital rights charter, so these individuals who are the victims of online stigma now have to go through the legal system in a series of discrete ways. On the international scene, the GDPR in the European Union offers more robust protections against privacy and reputational harm, making the need to implement more robust protections in India important (European Union, 2018).

Another area of emerging debate is about the potential of AI moderation to help control harmful content. As platforms increasingly turn to automated systems for the detection and removal of stigmatizing speech, there are concerns about bias, over censorship, and a lack of transparency in automated

systems (Gillespie, 2018). Furthermore, digital platforms are international in nature, which makes enforcement more difficult because content can cross international boundaries.

Yet another hurdle of regulation is the need to strike a balance between punishment and restorative justice. Although criminal sanctions for cyberbullying and harassment are required, researchers state that programs that might help to address stigma and promote healing, like mediated dialogue, community accountability, and digital literacy programs, may be more effective (Braithwaite, 2002). They are in line with the international human rights agenda, which focuses on dignity, inclusion, and rehabilitation rather than retribution.

As such, the regulatory considerations for combating digital stigma highlight the importance of multilevel legal frameworks that align free speech and dignity, incorporate AI regulatory frameworks and consider restorative justice as an alternative to punitive justice.

Case Studies

Knowledge of the digital stigma and mental health challenges in the context of case law is essential. The Supreme Court in India has taken a gradual stride to extend the meaning of Article 21 of the Indian Constitution, viewing dignity and mental health as part of the right to life. The Court in *Shreya Singhal v Union of India* (2015) declared unconstitutional Section 66A of the Information Technology (IT) Act, 2000, which criminalised the use of internet for speech, speech alone and speech to others in vague terms. The judgment was praised for its emphasis on the importance of freedom of speech, but it also drew attention to the challenges in reconciling freedom of speech with the protection of online harassment and stigma (Singh, 2026).

A recent case that was significant was *Navtej Singh Johar v. Union of India* (2018), which removed the criminalization of homosexuality from the Indian Penal Code with a review of Section 377. This decision marked a significant shift in upholding the dignity, privacy, and equality of LGBTQ+ people, including those who experience heightened stigma in digital environments (Khan, Sandhu, & Kaushal, 2024). It shows the potential of constitutional jurisprudence to challenge and overcome stigma on the basis of identity and to enable digital activism.

The European Court of Human Rights (ECHR) has dealt with conflicts between freedom of expression and the right to privacy in connection with the protection of reputation in the digital world internationally. In *Delfi AS v. Estonia* (2015), the Court ruled that intermediaries had a duty to prevent

reputational damage by users of their online platform, where comments posted by users were defamatory (European Court of Human Rights, 2021). This case highlights the need for platform accountability in addressing digital stigma.

Cyberbullying is causing severe psychological harm, and courts in the United States are increasingly acknowledging the psychological effects of such bullying. For instance, in *People v. Marquan M.* In 2014, the New York Court of Appeals invalidated a local cyberbullying law as too broad, but recognized that there was a need for narrowly tailored legislation to provide protection for those who are harmed by cyberbullying (Hinduja & Patchin, 2019). It is a sign of the continuing debate on the tension between constitutional free speech rights and mental health protection.

As a whole these case studies show that there is an understanding that digital stigma can harm people in different jurisdictions, but that there are varied approaches to addressing it. Indian jurisprudence is focused on dignity and inclusion, European law on platform accountability, and U.S. courts on constitutional boundaries. The comparative views conclude the necessity for comprehensive legal instruments to ensure the protection of mental health rights, while also respecting freedom of expression in the digital age.

Conclusion

The digital stigma and mental health demonstrates that cyberspace can level the playing field, allow people to voice their opinion, and promote activism, but simultaneously can also spread shame, exclusion, and mental harm. As the above analysis shows, stigma in digital environments is not just a social attitude, rather, it is a structural process, which is enhanced by anonymity, virality, and algorithmic amplification (Marwick, 2018; Kågström et al., 2025). The shameful stories of cancel culture and cyberbullying shows how this can happen with a digital amplification of reputational harm and trauma, making people feel vulnerable, often leaving them marginalized (Ng, 2020).

However, there is resistance in the form of coping which manifests in many ways, including humour, memes and healing communities, in which stigma is replaced by solidarity and resilience (Milner et al., 2019; Naslund et al., 2016). Grassroots and transnational activism has mobilized on digital platforms to contest exclusion, highlighting the need for recognition of mental health rights, in line with constitutional protections and international conventions (Robinson et al., 2020; United Nations, 2006). Legal history highlights the changing responsibility of the judiciary in striking a balance between free speech and dignity and inclusion of all citizens by way of the landmark decisions such as that in *Navtej Singh Johar v. Union of India* (2018) and *Shreya Singhal v. Union*

of India (2015).

Regulatory issues are still very much an issue. Current legal frameworks are fragmented, AI moderation is complex, and restorative justice approaches are needed to address gaps in current legal systems (Ghosh, 2025; Gillespie, 2018). A comparative analysis of the Indian, European, and US approaches indicates various approaches, including constitutional law and platform accountability, with a shared understanding that mental health rights need to be addressed in the digital sphere.

In conclusion, an interdisciplinary approach involving sociology, psychology, and law is required for the way forward. It is important that laws are strengthened to protect dignity and privacy and that activism and resistance from the community confront stigma. There is a need to focus on policy reform, digital literacy and restorative justice in the future, aiming to make cyberspace not a place of exclusion but one of healing, inclusion and empowerment.

References

1. Braithwaite, J. (2002). *Restorative justice and responsive regulation*. Oxford University Press.
2. Corrigan, P. W., Druss, B. G., & Perlick, D. A. (2016). The impact of mental illness stigma on seeking and participating in mental health care. *Psychological Science in the Public Interest*, 15(2), 37–70. <https://doi.org/10.1177/1529100614531398>
3. European Court of Human Rights. (2021). *Freedom of expression and protection of reputation in the digital age*. Strasbourg: ECHR Publications.
4. European Union. (2018). *General Data Protection Regulation (GDPR)*. Official Journal of the European Union.
5. Gillespie, T. (2018). *Custodians of the internet: Platforms, content moderation, and the hidden decisions that shape social media*. Yale University Press.
6. Ghosh, A. (2025). *Cyberbullying and legal remedies in India: A critical analysis*. The Legal Quorum.
7. Goffman, E. (1963). *Stigma: Notes on the management of spoiled identity*. Prentice Hall.
8. Hinduja, S., & Patchin, J. W. (2019). *Cyberbullying: Identification, prevention, and response*. Cyberbullying Research Center.
9. Kågström, A., Guerrero, Z., Aliev, A. A., Tomášková, H., Rüsche, N., & Ouali, U. (2025). Mental health stigma and its consequences: A systematic scoping review of pathways to discrimination and adverse outcomes. *eClinicalMedicine*, 89, 103588. <https://doi.org/10.1016/j.eclinm.2025.103588>

10. Khan, B., Sandhu, G. K., & Kaushal, R. (2024). *Mental health laws in India: Bridging the gap between legal protection and social stigma*. Starex University.
11. Link, B. G., & Phelan, J. C. (2001). Conceptualizing stigma. *Annual Review of Sociology*, 27(1), 363–385. <https://doi.org/10.1146/annurev.soc.27.1.363>
12. Marwick, A. (2018). Morally motivated networked harassment as normative reinforcement. *Social Media + Society*, 4(1), 1–12. <https://doi.org/10.1177/2056305118768305>
13. Milner, A., McClure, R., De Leo, D., & Spittal, M. J. (2019). Characteristics of suicide memes: An analysis of online content. *Crisis: The Journal of Crisis Intervention and Suicide Prevention*, 40(2), 105–112. <https://doi.org/10.1027/0227-5910/a000544>
14. Naslund, J. A., Aschbrenner, K. A., Marsch, L. A., & Bartels, S. J. (2016). The future of mental health care: Peer-to-peer support and social media. *Psychiatric Services*, 67(12), 130–133. <https://doi.org/10.1176/appi.ps.201500401>
15. Ng, E. (2020). No grand pronouncements here...: Reflections on cancel culture and accountability. *Television & New Media*, 21(6), 621–627. <https://doi.org/10.1177/1527476420918828>
16. Robinson, P., Turk, D., & Jilka, S. (2020). Hashtag activism and mental health: Social media campaigns as tools for stigma reduction. *Journal of Mental Health*, 29(5), 555–561. <https://doi.org/10.1080/09638237.2020.1714000>
17. Sharma, R., & Gupta, P. (2024). Depression memes and digital coping: Humor as resistance in Indian online communities. *Indian Journal of Cyber Psychology*, 3(1), 45–62.
18. Singh, S. (2026). Right to mental health as a fundamental right: Expanding Article 21 jurisprudence in India. *Lawful Legal Journal*.
19. United Nations. (2006). *Convention on the Rights of Persons with Disabilities*. United Nations Treaty Series.
20. Venkateswarlu, C. (2025). The constitutional safeguards for the right to privacy in the digital era. *Indian Journal of Integrated Research in Law*, 5(5), 1359–1365.
21. *Navtej Singh Johar v. Union of India*, (2018) 10 SCC 1.
22. *People v. Marquan M.*, 19 N.Y.3d 921 (2014).
23. *Shreya Singhal v. Union of India*, (2015) 5 SCC 1.