

Right to Mental Health in India: A Judicial Perspective

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Abstract

The right to mental health in India has evolved through judicial interpretation and legislative reforms, recognizing mental well-being as an integral part of the right to life under Article 21 of the Constitution. The judiciary has played a pivotal role in expanding this right by emphasizing state responsibility in providing adequate mental healthcare services, ensuring dignity, and protecting individuals with mental illness from discrimination. Landmark judgments, such as *Sheela Barse v. Union of India* and *Shantistar Builders v. Narayan Khimalal Totame*, have reinforced the importance of humane treatment and rehabilitation for mentally ill individuals. The Mental Healthcare Act, 2017, further strengthens these judicial pronouncements by guaranteeing access to mental health services and decriminalizing suicide. Despite progressive rulings, challenges persist in implementation due to infrastructural and societal barriers. This paper explores the judicial trajectory of mental health rights in India, analysing key rulings that have shaped legal and policy frameworks in the country related to mental health.

1. Introduction

The Indian Supreme Court has taken a very positive view of a human rights-based approach in the sense that it believes in upholding all the principles which are in favour of justice. The most laudable achievement of the courts in upholding a human rights-based approach is the extensive jurisprudence created on Article 21 of the Constitution. The principles enshrined in the Constitution under Directive Principles of State Policy were mere goals of the government, it is the judiciary which has made them actionable by declaring them as rights. This is definitely a step towards a human rights-based approach towards development. These judicial interventions that have to some extent, shaken off the inertia in mental health-care reform in the form of Public Interest Litigations.

2. Right to Mental Health as a Fundamental Right

In *Francis Coralie v. Union of Delhi*,¹ it was held “the right to life enshrined in Article 21 cannot be restricted to mere animal existence. It means something much more than just physical survival.” In another case of *Bandhua Mukti Morcha v. Union of India*,² the court held that although the Directive Principles of State Policy hold persuasive value, they should be duly

¹ 1981 AIR 746

² 1984 AIR 802

implemented by the state; and it was in this case also that the court had interpreted the dignity and health within the ambit of life and liberty under Article 21 of the Constitution of India.

The Court in *Vincent Panikurlangara v. Union of India*,³ stated that “a healthy body is the very foundation for all human activities” and in a welfare state it is the obligation of the state to ensure the creation and sustenance of conditions congenial to good health. *C.E.S.C. Ltd. Etc v. Subhash Chandra Bose And Ors*,⁴ expanded the understanding of this right to health as “a state of complete physical, mental and social wellbeing and not merely the absence of disease or infirmity.” The Supreme Court relied on international instruments and concluded that right to health is a fundamental right. They observed that the medical and health facilities work as incentives for workers to work with best productivity both in physical and mental terms. In *Consumer Education and Research Centre v. Union of India*,⁵ the court opined that the right to health and medical care is a fundamental right and makes the life of the workman meaningful and purposeful highlighting dignity of person.

In *State of Punjab v. Ram Lubhaya Bagga*,⁶ while examining the revolving around the issue of right to health under Article 21, 41 and 47 of the Constitution of India, the Court regarded health to be a sacrosanct, sacred and valuable right. They also held that the Court⁷ has time and again emphasised to the Government and other authorities for focussing and giving priority and other authorities for focussing and giving priority to the health of its, citizen, which not only makes one's life meaningful, improves one's efficiency, but in turn gives optimum output.

As discussed above, the judiciary has provided a broad interpretation to the concept of health, thereby securing the citizen's right to a life of dignity, which incorporates stable physical as well as mental health. Unfortunately, the right to mental health hasn't been afforded the same standalone celebratory recognition as the right to health by the judiciary. It is important to note here that though it may seem that the right to health includes mental health, in practice and policy it demands very different and unique treatment. Below is a thematic discussion of how the judiciary has handled issues under mental health and the depth and accuracy with which they have referred to the normative frameworks and the human rights obligations.

³ 1987 AIR 990

⁴ 1992 AIR 573

⁵ 1995 AIR 922

⁶ (1998) 1 SCR 1120

⁷ *Kirloskar Brothers Ltd vs Employees' State Insurance Corpn* 159 1996 SCALE (2)1 – echoed all these principles as well.

3. Mental Health Establishments

In *Rakesh Chandra Narayan v. State of Bihar*⁸ the Court held that the right of a mentally ill person to food, water, personal hygiene, sanitation and recreation is an extension of the right to life as in Article 21 of the Constitution. While holding the authorities responsible for the deplorable condition of the Hospital, the Court observes:

“Running of the mental hospital, therefore, is in the discharge of the State's obligation to the citizens and the fact that lakhs of rupees have been spent from the public exchequer (perhaps without or inadequate return) is not of any consequence. The State has to realise its obligation and the Government of the day has got to perform its duties by running the hospital in a perfect standard and serving the patients in an appropriate way. The reports and affidavits of the Government of Bihar and its officers (not the reports furnished to the Court by the judicial officers) have not given us the satisfaction of the touch of appropriate sincerity in action.”

In the very heart-breaking case, *Death of 25 Chained Inmates in Asylum Fire in TN In re v. Union of India*,⁹ 25 mentally challenged patients housed in a mental asylum at Ervadi in Ramanathapuram district were charred to death because the patients could not escape the blaze as they had been chained to poles or beds. In light of the provisions of Mental Health Act, 1987 the Supreme Court issued directions for its implementation including requiring the Governments to take stock of the asylums in the country, establishing Mental Health Hospitals across the country; and requiring systematic submissions of affidavits by authorities regarding their implementation progress.¹⁰ This monitoring mechanism set up by the Court is indeed

⁸ 1989 AIR 348

⁹ (2002) 3 SCC 31

¹⁰ (i) Every State and Union Territory must undertake a district-wise survey of all registered/unregistered bodies, by whatever name called, purporting to offer psychiatric/ mental health care. All such bodies should be granted or refused licence depending upon whether minimum prescribed standards are fulfilled or not. In case licence is rejected, it shall be the responsibility of SHO of the concerned police station to ensure that the body stops functioning and patients are shifted to government mental hospitals.

(ii) Chief Secretary or Additional Chief Secretary designated by him shall be the nodal agency to coordinate all activities involved in implementation of the Mental Health Act, 1987, the Persons with Disabilities (Equal Opportunities, protection of rights and full participation) Act, 1995 and National Trust for Welfare of Persons with Autism, Cerebral Palsy, mental Retardation and Multiple Disability Act, 1999. He shall ensure that there are no jurisdictional problems or impediments to the effective implementation of the three Acts between different Ministries or Departments. At the Central level, Cabinet Secretary, Government of India or any Secretary designated by him shall be the nodal agency for the same purpose.

(iii) The cabinet Secretary, Union of India shall file an affidavit in SC within one month from the date of this order indicating: a) The contribution that has been made and that is proposed to be made under Section 21 of the 1999 Act which would constitute corpus of the National Trust.

b) Policy of the central Government towards setting up at least one Central Government-run mental hospital in each State and union Territory and definite time schedule for achieving the said objective. c) National policy, if any framed under Section 8(2)9b) of the 1995 Act.

praiseworthy and also a step towards applying the human rights monitoring mechanism. However, merely submitting affidavits with no consequence does as much an Act does without implementation.

4. Treatment

In *Dr. Upendra Baxi v. State of Uttar Pradesh*,¹¹ the Apex court ordered a medical panel to be set up, duly examining the Agra Home inmates and submitting a timely report. This report revealed that thirty-three out of the fifty mentally ill patients had differing levels of mental illness that had not been examined during their admission into the facility. Therefore, the treatment that these inmates were recipients of was not tailored to their particular illness, thus leading to a flood of flawed treatments. Further, fourteen patients had been let out of the facility without assessing their mental state/status. Lamentably, many of these patients did not even possess sufficient financial resources to traverse back to their homes. The Supreme Court considered this to be a grave violation of the constitutional provisions that ensured the right to life and public health. The facility members' actions were deemed inappropriate, and the Supreme Court adopted a rights-based approach. At this juncture, it is imperative to delve into a detailed analysis with regards to specific mental health care legislation in India for understanding the preparedness level of our country in dealing with and handling mental health issues, which are only bound to multiply due to the lockdown imposition, owing to the Coronavirus pandemic.¹²

d) In respect of the States/UT that do not have even one full-fledged State Government-run mental hospital, the Chief Secretary of the State/UT must file an affidavit within one month from date of this Order indicating steps being taken to establish such full-fledged State Government-run mental hospital in the State/UT and a definite time schedule for establishment of the same. e) Both Central and State Governments shall undertake a comprehensive awareness campaign with a special focus to educate people as to provisions of law relating to mental health, rights of mentally challenged persons, the fact that chaining of mentally challenged persons is illegal and mental patients should be sent to doctors and not to religious places for treatment.

(iv) Every State shall file an affidavit stating: a) Whether the state Mental Health Authority under Section 3 of the 1987 Act exists in the State and if so, when was it set up. b) If it does not exist, the reason thereof and when such an Authority is expected to be established and operationalised.

c) The dates of meetings of those Authorities, which already existed, from the date of inception till date and a short summary of the decisions taken. d) A statement that the State shall ensure that meetings of the Authorities take place in future at least once in every four months or at more frequent intervals depending on exigency and that all the statutory functions and duties of such Authorities are duly discharged. e) The number of prosecutions, penalties or other punitive/coercive measures is taken, if any, by each State under the 1987 Act.

¹¹ (1983) 2 SCC 308.

¹² A Critical Review Of India's Mental Healthcare Law by Harikumar Pallathadka, European Journal of Molecular & Clinical Medicine Volume 07, Issue 08, 2020, 5896-907.

5. Criminal Justice System

In the case of *Sheela Barse v. Union of India*,¹³ and others the apex Court observed the following pertaining to the failing prison system and its impact on mentally ill prisoners:

- Admission of non-criminal mentally ill persons in jails is illegal and unconstitutional;
- All mentally ill persons kept in various central, district and sub jails must be medically examined immediately after admission;
- Specialised psychiatric help must be made available to all inmates who have been lodged in various jails/sub jails;
- Each and every patient must receive review or reevaluation of developing mental problems;
- A mental health team comprising clinical psychologists, psychiatric nurses and psychiatric social workers must be in place in every mental health hospital.

On the issue of compensation to victims in criminal matters, the Jharkhand High Court in *Sumit Kumar Shaw v. State Of Jharkhand* held that:

“Since rights of victim were sought to be recognised by this Amendment Act, hence it can be said that the Amending Act is an instance of a rights- based approach and it guarantees certain rights to the victims of crime, including the right to receive compensation and it also provides for an inclusive approach which builds up on the idea of access to justice for all. The provision is victim centric and has nothing to do with the offender. The spotlight is on the victim only. This is made clear by the provision itself as it entitles an eligible victim to receive compensation thereunder even in cases where the offender is not identified, or even if the accused is acquitted or discharged. The object of victim compensation is also to create mechanisms for rehabilitation measures by way of medical and financial aid to certain victims.”¹⁴

It is well established that right to a speedy trial, a fundamental right, is implicit in the guarantee of life and personal liberty enshrined in Article 21 of the Constitution.¹⁵ Still, a number of cases have come to light where mentally ill persons who have been facing trial for an offence have been undergoing incarceration for long periods till their plight and predicament

¹³ 1986 AIR 1773

¹⁴ Cr. M.P. No. 2194 of 2020, decided on on 11 February, 2021, para 12.

¹⁵ *Hussainara Khatoon (No.1) v. Home Secretary, Bihar* 1979 AIR 1369; *AR Antuley vs. R.S. Nayak* 1984 AIR 684.

surfaced through public interest litigations and much needed relief was provided by the Apex Court. In the case of *Ajoy Ghosh vs State of West Bengal*,¹⁶ before the Calcutta High Court, a Ajoy Ghosh was arrested in 1962 on the charge of murdering his brother and was subsequently certified insane. After his mother died in 1968, there was no one to visit him. While he remained an undertrial, the trial judge and all the witnesses died. He could not be acquitted unless tried and since he was declared to be of “unsound mind” he could not be tried. Finally, in November 1999, 37 years after he first stepped into a prison, the Supreme Court ordered his transfer from the Presidency Jail in Kolkata to a home run by the Missionaries of Charity.

In *Veena Sethi v. State of Bihar*,¹⁷ a letter was sent to Justice Bhagwati by the free Legal Aid Committee on the basis on an article in a newspaper on 17/12/1981. The Legal Aid Committee, Jamshedpur, through its lawyer Veena Sethi, directed that all charges be dropped against 16 prisoners kept in the Hazaribagh jail for over 25 years because they were of “unsound mind”. This case has also brought to the fore the cases of individuals who were ordered to be kept in detention after their trials were postponed, as they were incapable of defending themselves on ground of ‘unsoundness of mind’. In all cases, the period of detention was longer than what might have been awarded if they had been punished for the offence with which they were charged. The case also showed that this indefinite duration confinement may have continued without remission unless the Supreme Court intervened.

To fully apply mental health as a right it must be implemented by the judiciary impartially as well in its procedures. For instance, counselling should not be limited to only marital and family matters; it’s a cause of grave and usually psychiatric concern when heinous crimes are committed. Therapy should be a mandate for not just the perpetrator of the crime but also the victims, family of the perpetrator and victims.

6. Disability

The discussion of disability in this context is twofold. First, the issues of mental health of the persons with disability being a vulnerable group themselves. Second, the rights of people with a mental disability and have a direct connection with the right to mental healthcare. The judiciary has only dealt with mental health issues of the persons with disabilities in India and hence, the analysis from the judicial perspective below will be only of the former category.

¹⁶ 2008 CriLJ 276

¹⁷ AIR 1983 SC 339

In *State Of Tamil Nadu vs J. Vibin*,¹⁸ the Madras High Court held that in the light of the right of PWD Act, 2016 and the United Nations Convention on the Rights of Persons with Disabilities, the recent guidelines of MCI are unfair, discriminatory and unlawful. The United Nations Convention on the Rights of Persons with Disabilities, 2007 was accepted and ratified by India, as per which, it was mandatory to harmonize all its existing legislations in line with its provisions. Accordingly, PWD Act was passed in 2016 and brought to force in 2017. The intention of the legislature was to move from a charity approach to a right-based approach and safeguard the human rights of the Persons with Disabilities. As per the Act, any person with benchmark disability, i.e., minimum of 40% of a specified disability, is entitled, as a matter of right, to avail the benefits under the PWD Act including 5% reservation in higher education.”

In *Nitupan Das vs The State Of Assam*,¹⁹ the Gauhati High Court noted that

“From a careful analysis of the various provisions of the National Trust Act, 1999, what is discernible is that the statutory framework in place provides for a rights-based approach and not an approach which is based on sympathy. Persons with disability are citizens of this country having their own rights and duties. The statute recognizes the need for treating them as members of the community and their entitlement to equal opportunities and full participation in employment and other avocations.”

7. Women and Children

In *Sheela Barse v. Union of India*²⁰ it was laid down that there is a need to provide special treatment to children in jail as it hampers development of the child. The case dealt with children who were kept in jails across the country for ‘safe custody’ as allegedly they are physically and mentally retarded. Though the terms ‘mental’ nor ‘health’ is mentioned specifically but the impact is obviously on both.

In the law relating to abortion in India, i.e. – Section 3 of the MTP Act and the Explanation 1 and 2 explicitly mentions mental health. The case *X vs The Principal Secretary Health and Welfare Dept, Delhi*²¹ expanded the scope of the MTP Act, 1971 by upholding the right of single and unmarried women to abort a 24-week-old foetus on account of “social stigma and harassment” attached. She said “unwanted pregnancy would involve a risk of grave and

¹⁸ W.A.(MD)No.1481 of 2018 DECIDED on 30 April, 2019, para 18-19. See also *Vandana Tyagi v. Government Of National Capital of Delhi* W.P.(C)No.11003/2019 & CM No.45428/2019 decided on 7 January, 2020; *Uma Mittal vs Union Of India* WRIT - C No. - 40096 of 2019 decided on 15 June, 2020

¹⁹ WP(C) 6636/2018 decided on 4 January, 2019

²⁰ (1986) 3 SCC 596

²¹ Civil Appeal No 5802 of 2022 decided on 29 September, 2022

immense injury to her mental health”.²² This judgement is monumental in many aspects. From a mental health perspective, the court has gone into detail on what is meant by ‘injury to mental health’. The court has recognised that the expression “mental health” has a wide connotation and means much more than the absence of a mental impairment or a mental illness.²³ This is a giant leap in the right to mental health jurisprudence which was solely rotating topics of mental health establishments, treatments and disabilities.

The Court further notes that the consideration of a woman’s “actual or reasonably foreseeable environment” becomes pertinent, especially when determining the risk of injury to the mental health of a woman. There have been numerous decisions of the High Courts where a purposive interpretation is given to the phrase mental health as used in the MTP Act.²⁴ Certain constitutional values, such as the right to reproductive autonomy, the right to live a dignified life, the right to equality, and the right to privacy have animated our interpretation of the MTP Act and the MTP Rules.²⁵

In *ABC v State of Maharashtra*,²⁶ the Bombay High Court allowed a married woman to undergo abortion of her 33-week foetus on account of “severe abnormalities”. This judgment

²² X vs The Principal Secretary Health Civil Appeal No 5802 of 2022 decided on 29 September, 2022 Para 3.

²³ X vs The Principal Secretary Health Civil Appeal No 5802 of 2022 decided on 29 September, 2022 Para 64.

²⁴ X vs The Principal Secretary Health Civil Appeal No 5802 of 2022 decided on 29 September, 2022 Para 65. In High Court on its Own Motion v. State of Maharashtra,⁸⁰ the High Court of Bombay correctly held that compelling a woman to continue any unwanted pregnancy violates a woman’s bodily integrity, aggravates her mental trauma and has a deleterious effect on the mental health of the woman because of the immediate social, financial and other consequences flowing from the pregnancy. In *Sidra Mehboob Shaikh v. State of Maharashtra*,⁸¹ the High Court of Bombay permitted the petitioner to undergo medical termination of her pregnancy on the ground that compelling her to continue with her unwanted pregnancy would be oppressive, and would likely cause a grave injury to her mental health. The petitioner, a victim of domestic violence, had approached the court to allow her to undergo an abortion as she pleaded that she did not want to raise a child in the absence of financial and emotional support from her husband; and raising a child on her own would be burdensome. The High Court observed that “mental state of a person is a continuum with good mental health being at one end and diagnosable mental illness at the opposite end. Therefore, mental health and mental illness, although sound similar, are not the same.”⁶⁷ We note the correct interpretation adopted in two other judgments from the Bombay High Court, where the Court permitted unmarried petitioners to abort, after purposively construing the effects of carrying an unwanted pregnancy on the 80 2016 SCC OnLine Bom 8426 81 2021 SCC Online Bom 1839 82 2021 SCC Online Bom 1839, at paragraph 22. In *XYZ v. State of Maharashtra*,⁸³ an unmarried petitioner aged about 18 years was allowed to terminate her pregnancy in the 26th week after considering her socio-economic condition, and the impact of the continuation of pregnancy on her mental health. In *Siddhi Vishwanath Shelar v. State of Maharashtra*,⁸⁴ a twenty-three-year-old petitioner contended that she was not mentally ready to be an unwed mother and sought the termination of her pregnancy of approximately twenty-three weeks. The Petitioner was engaged in a consensual relationship but had since parted ways from her partner, and thus wanted to terminate the unwanted pregnancy. While permitting the abortion, the High Court of Bombay observed that insisting upon continuance of pregnancy would involve a grave injury to the petitioner’s health. The High Court took note of the woman’s submissions regarding her actual and foreseeable environment.

²⁵ X vs The Principal Secretary Health Civil Appeal No 5802 of 2022 decided on 29 September, 2022 Para 95.

²⁶ WRIT PETITION (ST) NO. 1357 OF 2023 decided on 23 January 2023. Available at https://www.livelaw.in/pdf_upload/f2001000135720231-455225.pdf

was a missed opportunity to declare the right to mental health a fundamental right under Article 21. The board only needs to assess and report whether there is a substantial foetal abnormality, and whether the medical termination is safe on an assessment of the mother's mental and physical health, said the petitioner, to which the court agreed. The discussion was wholly on the mental health of the mother and her reproductive autonomy to have the right to choose an abortion or not.

8. Interpretation of the MHCA 2017

In *Dr. Vijay Verma v. Union of India*,²⁷ the Uttarakhand High Court took upon itself a very big judgement giving 28 directions for implementing the MHA 2017 legislation. Since 2018, the Supreme Court has been hearing arguments in the contempt petition *Gaurav Kumar Bansal v. Mr Dinesh Kumar*. The petitioner sought judicial intervention for the rehabilitation of persons with mental illness who have recovered but are languishing in hospitals or 'halfway' homes because they have no family or community support. Section 19 (2) of the MHCA says that a person with mental illness shall "not continue to remain in a mental health establishment merely because he does not have a family or is not accepted by his family or is homeless or due to absence of community-based facilities". It also requires the government to provide support, including legal aid, and facilitate their right to home and community-living. While the court is yet to pronounce its decision, a closer reading of the arguments presented and orders issued thus far indicate the judiciary's will to implement the MHCA.²⁸

In *Common Cause v. Union of India*,²⁹ a constitutional bench of the apex upheld passive euthanasia, and observed that given international developments, there was a need to reconsider the criminalisation of suicide. The bench referred to Section 115 of the MHCA, which states that we must assume that a person who attempts suicide is under severe distress, instead of warranting punitive action under Section 309 of the Indian Penal Code (which criminalises suicide). The bench observed: "Section 115 marks a pronounced change in our law about how society must treat an attempt to commit suicide. It seeks to align Indian Law with emerging knowledge on suicide, by treating a person who attempts suicide being need of care, treatment and rehabilitation rather than penal sanctions." The bench also referred to Section 5 of the MHCA when issuing guidelines on the use of advance directives for passive euthanasia.

²⁷ Writ Petition (PIL) No.17 of 2018 Decided on 1 June, 2018

²⁸ <https://science.thewire.in/law/mental-health-care-act-2017-india-courts-progressive-jurisprudence/#:~:text=The%20MHCA%20adopts%20a%20person.care%20and%20treatment%20is%20upheld.>

²⁹ AIR 2018 SC 1665

In *Accused X v. the State of Maharashtra*,³⁰ the Supreme Court quoted the MHCA 2017 in several instances. For example, it cited Section 23, which protects the rights to confidentiality and privacy of persons with mental illness, to direct the court registry to not disclose the name of the accused since they had a mental illness. In *Mahendra K C v. The State of Karnataka*,³¹ the Supreme Court condemned the Karnataka High Court judgment and held that “the mental health of a person cannot be compressed into a one size fits all approach.”

In fact, in 2018, in *Dr Sangamitra Acharya & Anr. v. State (NCT of Delhi)*,³² the Delhi high court directed the city’s police to prepare a manual in consultation with legal and mental health experts to spread awareness on the MHCA’s provisions regarding the rehabilitation of homeless persons with mental illness. The court also directed “the Centre and SMHAs in collaboration with the state judicial academies” to “hold programmes on periodic basis with civil society groups, residents’ welfare associations, police officers, lawyers and judges to sensitise them” about the various provisions of the MHCA.

9. Conclusion

Constitutional rights adjudication is more complicated than ordinary adjudication due to wide interpretation possibilities, constitutional norms being high in hierarchy and as they deal with politically controversial issues.³³ The active role of the judiciary in constitutional justice has led the nature of constitutional rights to be treated as principles and vice versa. Nevertheless, there is potential to make judicial pronouncements have a therapeutic effect. Therapeutic jurisprudence is a legal philosophy, and refers to “the study of the role of law as a therapeutic agent” and recognises that the law, lawmaking and courts constitute social forces that can have therapeutic or antitherapeutic consequences.

From the discussion in this chapter, it is safe to say courts have sincerely attempted to provide individual relief in cases related to mental health or illnesses. It is however important to note that the court has been an advocate of the needs, not a protector of the right to mental health. A rights-based approach would have required the court to ask what the members of the constituency want or desire. This question would need to be asked in relation to each of the significant orders passed by the Court.

³⁰ CRIMINAL APPEAL NO. 680 OF 2007 decided on 12 April, 2019

³¹ Criminal Appeal No. 1238 of 2021 decided on 29 October, 2021

³² W.P. (CRL.) 1804/2017 & CM No. 9963/2017 Decided on 18 April, 2018

³³ <https://heinonline.org/HOL/LandingPage?handle=hein.journals/injcl2&div=33&id=&page=>

There are still multiple issues around the right to mental health which are unaddressed in the law and by the judiciary. The question however is whether the law would be required to settle these issues substantively or whether it would be needed to provide guidelines and procedures for arriving at resolution. The legal choice here is not just making services available but also ensuring what kind of services would be available. The court is thus not specifying principles which should guide treatment programs but is actually setting up the program. A reason why the Court has been forced to take this role may be because the right to health is viewed as socio-economic right, hence its realization has to be operationalized only in terms of resources and facilities and issues of choice and consent are not accorded significance.
