

## ENSURING SOCIAL JUSTICE TO PERSONS WITH DISABILITY & INDIAN LEGAL PERSPECTIVES

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### ABSTRACT

The concept of social justice is a revolutionary concept which provides meaning and significance to life and makes the rule of law dynamic. The differently abled have fought for social justice from time immemorial and the battle persists to this day. Despite the fact that, sensitivity in the 21st Century has changed from "charity to rights", the acknowledgment of these rights has not been very easy. Social Justice is also the foundation stone of Indian Constitution. Indian Constitution makers were well known to the use of various principles of justice. Under various constitutional articles the same has been enshrined. In this paper an attempt will be made to understand the various concept and theories of Social Justice with respect to Persons with Disability. What various social rights-based approaches has developed and contributed to the progress of ensuring rights of Persons with Disability. This paper will also try to map the concept of social justice in various United Nations documents as well as under Indian constitution and how far the same has been used for ensuring justice to the Persons with Disability. Lastly, the paper will also analyse various important landmark judgments which have helped in ensuring social justice to persons with disability with the passage of time and litigations. Overall, this paper aims at providing an in-depth representation of concept of social justice and the role played by legislators and judiciary in establishing the same for the persons with disability.

**Keywords:** Social Justice, Models of Social Justice, Persons with Disability, Indian Constitution, United Nations, Indian Judiciary.

## INTRODUCTION

*“It is a fundamental right of everyone to realize himself, however imperfectly and contribute to the common good, however little.”*

-Helen Keller

Persons with disabilities have been blocked out of our everyday reality. The Centre's delayed recognition of the rights of person with disabilities is also quite disappointing. Increasing consciousness of civil rights and the emergence of people with disabilities displaying skills and knowledge to improve their own lives are some of the factors which have contributed to the new thinking. It is now recognized that the disabled deserve a dignified status in society on the same terms as the non-disabled. Disabled people are a vast minority group, which has been subjected to direct and indirect discrimination for centuries in most countries of the world, including India. Current movement has boldly and categorically shifted the attention of policy-makers from the mere provision of charitable services to vigorously protecting their basic right to dignity and self-respect. In the new scenario, the disabled are viewed as, “individuals with a wide range of abilities and each one of them willing and capable of utilising his/her potential and talents. Society, on the other hand, is seen as the real cause of the misery of people with disabilities since it continues to put numerous barriers as expressed in education, employment, architecture, transport, health and other activities.” If we consider our Indian Constitution, Pt. Jawahar Lal Nehru put an idea before the Constituent Assembly *“First work of this assembly is to make India independent by a new constitution through which starving people will get complete meal and cloths, and each Indian will get best option that he can progress himself.”*

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Social justice found useful for everyone in its kind and flexible form. Although social justice is not defined anywhere in the constitution but it is an ideal element of feeling which is a goal of constitution. Feeling of social justice is a form of relative concept which is changeable by the time, circumstances, culture and ambitions of the people. Social inequalities of India expect solution equally.<sup>ii</sup> Under Indian Constitution the use of social justice is accepted in wider sense which includes social and economic justice both. According to Chief Justice Gajendragadkar: “In this sense social justice holds the aims of equal opportunity to every citizen in the matter of social & economical activities and to prevent inequalities”.<sup>iii</sup>

## UNDERSTANDING PARADIGMS OF SOCIAL JUSTICE

The concept of social justice emerged out of a process of evolution of social norms, order, law and morality. It laid emphasis upon the just action and creates intervention in the society by enforcing the rules and regulations based on the principles in accordance with social equality. The term 'social' as we can understand, is concerned with all human beings within the society and term 'justice' is related with liberty, equality and rights. Thus, social justice ensures liberty, equality and maintains their individual rights in the society. In other words, securing the highest possible development of the capabilities of all members of the society may be called social justice. In dealing with the concept of social-justice, it becomes essential to differentiate between the traditional idea of 'justice' and modern idea of 'social justice' intended to establish an egalitarian society.<sup>iv</sup> The notion of social justice, however, is relatively recent phenomenon and largely a product of the modern social and economic developments. The traditional idea of justice which is described.

### *Development of Concept of Social Justice*

The most ancient social organization through which the idea of social justice was sought to be implemented is the theory of Chaturvarnya (Varna Vyavastha), that is, the Vedic concept of society in which the people were classified into four Varnas: Brahmin, Kshatriya, Vaishya and Sudra.<sup>v</sup> Though its original existence is nowhere now, and if it is, it exists in its most degenerated form, i.e., caste system; yet it was envisaged as an organization based on human nature, i.e., Guna-Karma theory, and it was meant for social harmony and justice (Jatava, 1998), which also leads man to the path of Moksha liberation from pain of birth and death.

Whereas in the Roman-Greek tradition, it was Cicero, who elaborated the concept of social justice, when he declared, “we are born for justice, and that right is based, not upon man’s opinion, but upon nature. This fact will immediately be plain if you once get a clear conception of man’s fellowship and union with his fellow men, for no single thing is so like another, so exactly, its counterpart, as all of us is to one another”.<sup>vi</sup> For Cicero, a state cannot exist on crippled conditions; in fact, “It depends upon, and acknowledges and gives effect to the consciousness of mutual obligations and the mutual recognition of rights that bind its citizen together. The state is a moral community, a group of persons who in common possess the state

and its law”. That is why he called the state, “the affair of the people”. In essence, for Cicero “Justice is intrinsic goods,” which holds the people together by normal ties and rights.<sup>vii</sup>

If we consider, Plato, he sought social justice through a social order based on human nature consisting of three main faculties: the rational, spiritual and appetitive. “The rational faculty is wise and its main function is to rule and command; the function of spiritual faculty is to maintain law and order in society; the appetitive faculty of human nature drives itself to the satisfaction of bodily appetites. The special qualities of a person having rational faculty are wisdom, respect, tolerance, reasoning, discipline.”<sup>viii</sup> By virtue of such qualities, such a person is able to guide and rule. The distinctive qualities of a person with spiritual faculty are ambition, love for power, demonstration of courage or strength, fighting spirits, etc. Therefore, they are suitable for maintaining peace and order in society, and are able to defend the state. A person having the qualities of appetitive faculty will opt to undertake various physical labours. Such persons are full of bodily desires and always hanker after their satisfaction (All the faculties however, are interrelated, and dominance of one in a person makes him having the same nature. Thus, Plato envisaged the order of individual and social justice in the division of citizens into three classes according to their nature. Plato interlinked individual and social justice together. The individual form of justice manifests itself, when man succeeds in establishing harmony and unity among all the three qualities of wisdom, courage and appetite as inherent in his conscience. In case, the balance is upset or disturbed, the individual rushes towards lust and injustice. In a similar way, the well-ordered balance of three classes of citizens in society is the basic idea of social justice.<sup>ix</sup>

Whereas according to Miller, social justice “is realistic attempt to bring the overall pattern of distribution in a society into line with principles of society”<sup>x</sup>. It rests on two assumptions:

- i. First, that social process is governed, at least in broad outline by discoverable laws, so that it makes sense to try to reshape society deliberately; second, that it is possible to find a source of power usually in government sufficient to carry out the reshaping. There have been two major conceptions of social justice, one embodying the notions of ‘merit’ and ‘desert’ and the other, those of ‘need equality’. The first conception entails that each person’s social position and material rewards should as far as possibly

correspond to their place on a scale of merit, an idea also expressed in demands for ‘owners open to talents’ and ‘equal opportunity’.

- ii. The second conception entails that goods should be allocated according to each person’s various needs. It is closely allied to an idea of ‘equality’, since a programme which successfully satisfies needs, makes people naturally equal in one important respect.

### ***Social Justice & Persons with Disability***

Johnson<sup>xi</sup> contends that the systems and structures established by society are the main source of discrimination where privilege is exercised to maintain traditional systems and social patterns in order to keep the status quo. While individuals may exhibit some form of exclusion through their actions (racism, sexism, ableism, etc.), these individuals are part of systems or structures that support their actions, making discrimination a systemic issue. “As with gender, race, sexuality and class: to understand how disability operates is to understand what it is to be fully human”<sup>xii</sup>. Longmore, suggests that the “implementation of the medical model in health care, social services, education, private charity and public policies has institutionalized prejudice and discrimination”<sup>xiii</sup>. This perspective is supported by Shakespeare<sup>xiv</sup> who states that we “are socialized into thinking of disability in a medical model way. We can view this as internalized oppression”. Thus, disability is viewed in a negative way, maintaining discriminatory practices. These oppressive views and approaches to disability gave rise to the Disability Rights movement.

## **UNITED NATION & ITS EFFORTS IN ENSURING SOCIAL JUSTICE TO PERSON’S WITH DISABILITY**

In accordance with the purposes and principles of the Charter of the United Nations and the International Bill of Human Rights, not only are persons suffering from any form of disability entitled to exercise all the rights stated above, embodied in these and other instruments, but they are recognized as being entitled to exercise them on an equal basis with other persons. Developing and supplementing United Nations Declaration of Human Rights, 1975 (UDHR), the International Covenant of Economic, Social and Cultural Rights (ICESCR) and



International Covenant on Civil and Political Rights (ICCPR) came into force in 1976. While the former in Article 2 guarantees all rights enunciated in the Covenant to all individuals without any discrimination, the latter in its Article 2 provides for an effective remedy in case of violation of rights. Various instruments have also been enacted that seek to prevent torture methods and punishment that could lead to temporary or permanent disabilities, for instance the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, 1984 thus recognizing the right to prevention of disability. The Convention for Rights of Child, 1989 also highlights the need for protection of rights of disabled children. Under the international human rights regime, disabled persons had been rather ignored during the first three decades of the United Nations (UN) existence.<sup>xv</sup> Disability specific rights began to be recognized only in 1970s.

According to the Declaration on the Rights of Mentally Retarded Persons (MRD) of 1971 a person with intellectual disability has the same rights as other human beings, and such rights cannot be restricted without due process. The object of the UN Declaration of the Rights of the Disabled Persons (DRDP) of 1975 is to promote “the dignity and worth of the human person and the necessity... of assisting disabled persons to develop their abilities in most varied fields of activity and promoting in so far as possible of... their integration into... normal life”.<sup>xvi</sup> The declaration proclaims the right of disabled persons to dignity, self-reliance, medical rehabilitation treatment, assertive aids, educational and vocational training, and social integration. Similarly, the World Programme of Action Concerning Disabled Persons (WPA) of 1982 and the Standard Rules on the Equalization of Opportunities for Persons with Disabilities (UNSR) of 1993 were instrumental in shifting focus to the human rights and human worth of the disabled and thus marked a significant global strategy for achieving equality for people with disabilities. Though only the principles of equality and non-discrimination envisaged in MRD and DRDP are legally binding as customary law, the rest of the safeguards provided therein are considered soft law. The UN Convention on the Rights of Persons with Disabilities, 2007 (CRPD, 2007) is the first disability specific “hard” international human rights treaty that emphasizes full inclusion and participation in society. Article 12(2) of the Convention recognizes that “persons with disabilities enjoy legal capacity on an equal basis with others in all aspects of life”.<sup>xvii</sup> The notion of respect for “equality and “non-discrimination” must be the basis for affirmative action by the government, to ensure that all

measures that relate to the exercise of legal capacity, provide for appropriate and effective safeguards to prevent abuse in accordance with international human rights law. The convention emphasized two key concepts- legal capacity and reasonable accommodation, which are yet to find a stable place in Indian jurisprudence. These principles have now become internationally accepted as integral for provision of equality to the disabled.

Thus, principle of universality is reinforced by the principles of equality and non-discrimination which are included in human rights instruments. International human rights law determines that every person has:

1. The right to equality.
2. The right to non-discrimination.
3. The right to equal opportunity.
4. The right to independent living.
5. The right to full integration.
6. The right to security

The Universal Declaration of Human Rights (UDHR) represents the normative basis that led to formulating the standards concerning persons with disabilities that exist today. In Article 25 (1) of the UDHR specifically mentions the socio-economic rights of people with disabilities: the right to an adequate standard of living, including food, clothing, housing and medical care and social services and the right to security in the event of unemployment, sickness, disability, widowhood, and old age or other lack of livelihood in circumstances beyond his control. The Universal Declaration recognises a form of equity inherent in human dignity with equal and inalienable rights as the foundation of freedom and justice; that all men are born free, and equal in dignity and rights; that all are equal before the law; and that all are entitled to equal protection against discrimination and that everyone has the right to freedom of thought International Covenant on Civil and Political Rights, 1966 (ICCPR) lists several rights that are relevant to disability.<sup>xviii</sup> Article 26 states that all people are equal before the law and have the right to equal protection of the law. Although the International Covenant on Economic, Social and Cultural Rights (ICESCR) does not specifically refer to disability, however it can be included under "other status" in Article 2(2), which calls for non-discrimination on any grounds such as race and colour, and "other status".

### *UN Guidelines on Access to Justice for Persons with Disabilities*

The United Nations has released its first-ever guidelines on access to social justice for people with disabilities to make it easier for them to access justice systems around the world. The guidelines outline a set of 10 principles and detail the steps for implementation. The 10 principles are:<sup>xix</sup>

1. All persons with disabilities have legal capacity and, therefore, no one shall be denied access to justice on the basis of disability.
2. Facilities and services must be universally accessible to ensure equal access to justice without discrimination of persons with disabilities.
3. Persons with disabilities, including children with disabilities, have the right to appropriate procedural accommodations.
4. Persons with disabilities have the right to access legal notices and information in a timely and accessible manner on an equal basis with others.
5. Persons with disabilities are entitled to all substantive and procedural safeguards recognized in international law on an equal basis with others, and States must provide the necessary accommodations to guarantee due process.
6. Persons with disabilities have the right to free or affordable legal assistance.
7. Persons with disabilities have the right to participate in the administration of justice on an equal basis with others.
8. Persons with disabilities have the rights to report complaints and initiate legal proceedings concerning human rights violations and crimes, have their complaints investigated and be afforded effective remedies.
9. Effective and robust monitoring mechanisms play a critical role in supporting access to justice for persons with disabilities.
10. All those working in the justice system must be provided with awareness-raising and training programmes addressing the rights of persons with disabilities, in particular in the context of access to justice.

### *The World Health Organization and the Social Model of Disability*

The World Health Organization (WHO) has two classification references for describing the health conditions of individuals: The International Statistical Classification of Diseases and Related Health Problems, which is the tenth revision of the International Classification of



Diseases (ICD-10) and the International Classification of Functioning, Disability and Health (ICF). The ICF was approved in 2001 and anticipates the main political challenge of the definition of disability proposed by the Convention on the Rights of Persons with Disabilities: the document establishes criteria for measuring the barriers and restriction of social participation. Until the publication of the ICF, the WHO had adopted strictly biomedical language for the classification of bodily impairments, which is why the document is considered a milestone in the legitimization of the social model in the field of public health and human rights.<sup>xx</sup>

The shift from the biomedical model to the social model of disability was the result of an extensive debate in the consultative stages of the ICF. The document that preceded it, the International Classification of Impairments, Disabilities, and Handicaps (ICIDH), assumed a causal link between impairments, disabilities, and handicaps. In this interpretative model of disability, a body with impairments would experience restrictions that led to social disadvantage. The disadvantage would be the result of impairments; therefore, the emphasis was on models of healing or rehabilitation. For nearly 30 years, the biomedical model of disability was sovereign in the actions of the WHO, which meant the hegemony of a language focused on the rehabilitation or cure of impairments in public policies in several countries.

The ICF is less a conceptual model than it is a classification system of health states with a range of theoretical influences. It has been widely acknowledged as an important move away from a biomedical view of disability. However, most social model proponents have opposed the biological conception of impairment in the ICF, defined as ‘a loss or abnormality in body structure or physiological function’. As Shakespeare writes,<sup>xxi</sup> “if disability is defined as social, while impairment is defined as biological, there is a risk of leaving impairment as an essentialist category.” Similarly, “if we say that disabled people are intrinsically impaired, then a policy of eliminating discrimination, however effective, will not eliminate the intrinsic, biological disadvantage of disablement. The current ICF version does not stipulate a specific cause of disability; rather it is the dynamic interaction between a person with a health condition and personal and environmental factors that determines disability.”<sup>xxii</sup> Concern is also raised regarding the attention to long-term impairments in the CRPD definition of a PWD, excluding short-term, fluctuating or episodic impairments.

## DISABILITY AND THE CONSTITUTION OF INDIA

The Constitution of India applies consistently to each lawful resident of India, regardless of whether they are sound or incapacitated in any capacity (truly or intellectually) and ensures a right of equity, freedom of thought, articulation, conviction, confidence and love and balance of status and of chance and for the advancement of an organization. To shield the interests of the distraught segments of the Society, the Constitution of India ensures that no individual will be denied 'uniformity' under the steady gaze of the law<sup>xxiii</sup>. Significant Articles in Indian Constitution giving protected assurances to all including debilitated are: <sup>xxiv</sup>

- i. Article 15(1) states that It urges on the Government not to oppress any resident of India (Including impaired) on the ground of religion, race, position, sex or spot of birth.
- ii. Article 15(2) states that it expresses that no resident (counting the handicapped) will be exposed to any disability, risk, limitation or condition on any of the above grounds in the matter of their entrance to shops, open cafés, lodgings and spots of open amusement or in the utilization of wells, tanks, washing places (ghats), streets and spots of open retreat kept up entirely or incompletely out of government assets or committed to the utilization of the overall population.
- iii. Article 17 states that no individual including the incapacitated regardless of his having a place can be treated as unapproachable. It would be an offence culpable as per law.
- iv. Article 21 states that every individual including the incapacitated has his life and freedom ensured.
- v. Article 23 states that there can be no traffic in individuals (counting the impaired), and poor people and different types of constrained work are denied and the equivalent is made culpable as per law.
- vi. Article 29(2) states that the privilege to instruction is accessible to all residents including the debilitated. No resident will be denied entrance into any instructive establishment kept up by the State or accepting guide out of State reserves.
- vii. Article 32 states that every impaired individual can move the Supreme Court of India to authorize his crucial rights and the right to move the Supreme Court.

The Constitution of India also gives an assurance in the form of directive principles of the state policy for the right to work, to education and to public assistance in cases of unemployment, old age, sickness and disablement, and in other cases of undeserved want.<sup>xxv</sup>

### ***Role of Judiciary in Ensuring Justice to Persons with Disability***

In the process of interpretation of various statutes, the judiciary promotes or impedes the objective of law- a process which of special significance in the context of social change. The judiciary in the realm of disability rights has the interpretational choice of either furthering the cause of disability rights or endorsing the present social perceptions on disability. The Indian Judiciary has played a significant role in developing the human rights of the disabled persons. In a number of cases the Supreme Court and the High Courts interpreted the disability legislation furthering the objectives contained therein. The extraordinary powers vested in the Supreme Court under Articles 32 and 142, and the High Courts under Article 226, have ensured that the rights of the citizens, and more specifically, that of the disabled citizens, are not trampled upon. Justice Krishna Iyer, insisted for a complete legislation, which could re-establish personhood to the disabled. In 1981 he observed; “India must midwife a humane, yet pragmatic, goal oriented, yet viable, Disablement corpus juris. We must construct an entitlement system, not administrative grace.”<sup>xxvi</sup>

In the case of, *Nandakumar Narayan Rao Ghodmare v. State of Maharashtra and others*<sup>xxvii</sup> is a significant case where, the Supreme Court recognised “colour blindness as a disability and directed the state of Maharashtra to appoint the appellant within two months from the date of the order to the state public service. The appellant in this case was a person with colour-blindness who was not appointed to the state public service on the ground that he is disabled.” In *Ramchandra Tandi and others v. State of Orissa and others*,<sup>xxviii</sup> the State of Orissa refused to accord recognition and financial assistance to a school for the deaf and dumb in order to avoid unnecessary financial burden. Pasayat J. along with S.K. Mohanty J. while directing the State to grant recognition and financial assistance to the school within of its order said, “We are perplexed, pained that the State has taken absolutely untenable stand of its financial instability and need for financial austerity. If austerity measures are to be taken, they are to be taken at elsewhere. It is common knowledge that large sums are spent in festivals, for celebrations... If we cannot provide assistance to 62 helpless deaf and dumb children, these are unnecessary financial extravagances. After half a century of independence, it does not befit the State to take plea of unsound financial condition to deny meagre amounts needed for a few deaf and dumb children .... Merely making welfare schemes would not be sufficient. Merely observing World Disabled Day or the like would serve no purpose, unless there is real concern

for the handicapped, otherwise it would be same as discussing problems of famine ravished in star hotels, or discussing prohibition in a bar with drunkards sizzled with drinks ...”

Another land mark case is of *Syed Bashir-ud-Din Qadri v. Nazir Ahmed Shah*<sup>xxix</sup>, the Supreme Court observed that,

“This case involves a beneficial piece of social legislation to enable persons with certain forms of disability to live a life of purpose and human dignity. This is a case which has to be handled with sensitivity and not with bureaucratic apathy, as appears to have been done as far as the appellant is concerned... It is only to be expected that the movement of a person suffering from cerebral palsy would be jerky on account of locomotor disability and that his speech would be somewhat impaired but despite the same, the legislature thought it fit to provide for reservation of 1 per cent of the vacancies for such persons. So long as the same did not impede the person from discharging his duties efficiently and without causing prejudice to the children being taught, there could, therefore, be no reason for a rigid approach to be taken not to continue with the appellant's services as Rehbar-e-Taleem, particularly, when his students had themselves stated that they had got used to his manner of talking and did not have any difficulty in understanding the subject being taught by him... Coupled with the above is the fact that the results achieved by him in the different classes were extremely good; his appearance and demeanour in school had been highly appreciated by the committee which had been constituted pursuant to the orders of the high court to assess the appellant's ability in conducting his classes.” The court directed that in order to overcome the impediment of writing on the black board, an electronic external aid could be provided to the appellant, which could eliminate the need for drawing a diagram and the same could be substituted by a picture on a screen, which could be projected with minimum effort. With these directions for providing reasonable accommodation, the Supreme Court held that the disengagement of the appellant goes against the grain of the PWD Act and hence the order was set aside by the court.

In the case of *Kunal Singh v. Union of India and Anr*<sup>xxx</sup>, it was held that, “In construing a provision of a social beneficial enactment that too dealing with disabled persons intended to give them equal opportunities, protection of rights and full participation, the view that advances the object of the Act and serves its purpose must be preferred to the one which obstructs the object and paralyses the purpose of the Act”



In *D.N. Chanchala v. State*<sup>xxxii</sup>, the Supreme Court advocating the right based approach to disability extended the equitable principle of preferential treatment under Art 15 (4) to persons with disabilities to bring them to the mainstream of the society by giving them equal opportunity in the field of education. The Allahabad High Court in *National Federation of Blinds UP Branch v. State of UP*<sup>xxxiii</sup> ordered the Lucknow Development Authority not only to give preference in the matter of allotment of land houses to handicapped persons, but also to provide concessional rates to them.

## CONCLUSION

Cases like the National Federation of the Blind People case and Ramachandra Tandi v. State have helped evolve Indian jurisprudence in this area by recognizing that helping the physically handicapped to become self-supporting active members of the society was a primary duty of the State and structural changes for the same are quintessential. Like this in a plethora of cases, the Indian judiciary has shown its concern towards the protection of the human rights of the disabled persons and played a vital role in the realm of disability rights in India.<sup>xxxiii</sup> Though some change in the way judiciary and policy makers have approached the issues of disabled has undergone a change, recognition and promotion of their rights on an equal footing as international framework now demands, is yet to happen. Further, if we consider the above judgments with respect to social model of disability, there is change of interpretation on disability, shifting from the inequality of the body to social structures and it has two implications. The first is to undermine the authority of the corrective resources that biomedicine commonly offered as the only alternative for the well-being of people with disabilities. Disabled people could not deny the benefits of biomedical goods and services, but they could challenge the supremacy that healing and rehabilitation had attained, implying the idea that the body with impairments is abnormal and pathological. The second implication is that the social model opened analytical possibilities for a new description of the meaning of living in a body with impairments. The central thesis of the social model has enabled a shift of disability from private to public spaces and so far in number of occasions Judiciary as a watch dog responded to balance the social inequalities faced by persons with disability due to negligence of State.



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<sup>xvii</sup> Marianne Schulze, *Understanding The UN Convention On The Rights Of Persons With Disabilities: A Handbook on the Human Rights of Persons with Disabilities*, Handicap International 2010.

<sup>xviii</sup> Anna Arstein-Kerslake, *Disability Human Rights Law*. Germany: Mdpi AG, 2017.

<sup>xix</sup> International Principles and Guidelines on Access to Justice for Persons with Disabilities, The Special Rapporteur on the rights of persons with disabilities, Catalina Devandas Aguilar, together with the Office of the United Nations High Commissioner for Human Rights (OHCHR), July 2020 (Available at: <https://www.un.org/development/desa/disabilities/wp-content/uploads/sites/15/2020/10/Access-to-Justice-EN.pdf>, last accessed on 5<sup>th</sup> March 2021 at 10:28pm)

<sup>xx</sup> Michael Palmer and David Harley, *Models and measurement in disability: an international review*, Health Policy and Planning 2012, Oxford University Press.

<sup>xxi</sup> T Shakespeare and N Watson, *Defending the social model*. *Disability & Society* 12: 293–300, 1997

<sup>xxii</sup> M Leonardi, J Bickenbach, TB Ustun, N Kostanjsek, S Chatterji, *The definition of disability: what is in a name?* *The Lancet* 368: 1219–21, 2006

<sup>xxiii</sup> Article 14 of the Indian Constitution provides for ‘equality’ before the law

<sup>xxiv</sup> Jayna Kothari, *The Future of Disability Law in India: A Critical Analysis of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act 1995*. India: Oxford University Press India, 2012.

<sup>xxv</sup> Article 41 of the Constitution provides that, “the State shall, within the limits of its economic capacity and development, make effective provision for securing the right to work, to education and to public assistance in cases of unemployment, old age, sickness and disablement, and in other cases of undeserved want.”

<sup>xxvi</sup> Justice Krishna Iyer, *Law, Justice and the Disabled* quoted in Sathya Narayan, “A Worn Out Manifesto: For the Disabled in India” in S.P.Sathe(eds) *Liberty, Equality and Justice: Struggles for a New Social Order*, 174 (2003)

<sup>xxvii</sup> *Nandakumar Narayan Rao Ghodmare v. State of Maharashtra and others*, 1995 SCC (6) 720

<sup>xxviii</sup> *Ramchandra Tandi and others v. State of Orissa and others*, AIR 1994 Ori 228

<sup>xxix</sup> *Syed Bashir-ud-Din Qadri v. Nazir Ahmed Shah*, (2010) 3 SCC 603

<sup>xxx</sup> *Kunal Singh v. Union of India and Anr*, Appeal (civil) 1789 of 2000

<sup>xxxi</sup> *D.N. Chanchala v. State*, AIR 1971 SC 1762

<sup>xxxii</sup> *National Federation of Blinds UP Branch v. State of UP*, AIR 2000 All 258

<sup>xxxiii</sup> Dr. Sanjit Kumar Chakarborty, *Disability Rights in India: A Paradigm Shift from 'Object' to 'Subject'* (June 15, 2009). *Calcutta Law Times*, Vol III, 2009