

## SYSTEMATIC REVIEW ON SOCIO-LEGAL STATUS OF DISABLED PERSONS

**Suvra Chatterjee Saha**

20114281232042

Law

**Dr. Kishwar Parween**

Supervisor

Seacom Skills University, West Bengal.

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### **Abstract:**

Disability is an impairment that may be cognitive, development, intellectual, activity, limitations, sensory or some combination of these. It substantially affects a person's life activities and may be present from birth or occur during a person's lifetime. Disability is a contested concept, with different meanings of different communities. It may be used to refer to physical or mental attributes that some institutions, particularly medicine, view as needing to be fixed. It may refer to limitations imposed on people by the constraints of an ablest society. People with disabilities have the same health needs as non-disabled people for immunizations, cancer screening etc. They may also experience a narrow margin of health both because of poverty and social exclusion and also because they may be vulnerable to secondary conditions such as pressure sores or urinary tract infections. In this article, systematic review on socio-legal status of disabled persons has been discussed.

**Keywords:** Socio-Legal, Disabled, Persons.

### **INTRODUCTION:**

The 1970s marked a new approach to disability. The approach to Human Rights of the disabled persons both nationally and internationally came to a wide recognition. The Declaration on the Rights of Disabled Persons which was adopted by the General Assembly on 9 December 1975,

encouraged national and international protection of the rights of the disabled persons. Recognition was given to the fact that disabled persons were entitled to the same political and civil rights as others, including measures necessary to enable them to become self-sufficient. The same declaration laid and emphasized the rights of disabled persons to education, medical services, and placement service. It further recognized their right to economic and social security, to employment, the right to live with their families, the right to participate in social and creative events, to be protected against all exploitation, abuse or degrading behavior, and to avail themselves of legal aid. In 1980, the World Health Organisation reaffirmed the classification (WHO 1980) and in 2001 (WHO 2001) issued the International Classification of Functioning, Disability and Health (ICF) which was officially endorsed by all 191 WHO member States in the 54th World Health Assembly on 22nd May 2001. The International Classification of Functioning, Disability and Health (ICF) advanced the understanding and measurement of disability (WHO 2001) which came into development over a period of time by the academicians through research and clinical advancements. The advancement of clinical part involves distinguishing the body parts. According to the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995: “Person with disability means a person suffering from not less than 40% of any disability as certified by a medical authority (any hospital or institution), specifically for the purposes of this Act by notification by the appropriate Government. ” The Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 has been replaced by the Rights of Persons with Disabilities Act, 2016. The types of disabilities have been increased from existing number of 7 to 21 with the residuary power to the Central Government to add more types of disabilities, as and when required.

## **SYSTEMATIC REVIEW OF LITERATURE:**

### **Studies Conducted in India:**

Puri, V. (2024). The same human rights, such as life, freedom, equality, safety, and dignity, belong to people with disabilities. International human rights legislation has increasingly recognized the rights of people with disabilities. Globally, there has been a radical shift in strategy in recent years to ensure that people with disabilities have the same rights, equality, and dignity as everyone else.

The international community's stance on disabled people's rights has evolved from a welfare or charitable measure to a fundamental human rights problem. This study briefly discusses the main laws passed to safeguard the rights of individuals with disabilities and their implementation. The study attempted to investigate the role of the court, national laws, and international instruments pertaining to the rights of people with disabilities. The study also compares the relevant provisions in Indian legal systems that provide protection to disabled individuals. Despite the existence of sufficient legal provisions to safeguard the rights of people with disabilities both domestically and internationally, a number of flaws, such as the insensitivity of implementing authorities, social indifference, high costs, ignorance, and ability stereotyping, hinder their implementation. The final goal of the study was to cross-check the application of the law, identify any shortcomings, and pinpoint the reasons behind the non-realization of laws pertaining to socially impaired people in India.

Aggarwal, S., Tabassum, H., Agarwal, P., Grover, A., Singh, R. (2024). Due to several obstacles to receiving treatment, people with disabilities frequently have lower health outcomes than the general population. These disparities are especially noticeable during the epidemic, which highlights the urgent need to improve health services to make them more inclusive and capable of meeting the needs of these individuals in times of emergency. Due to the diversion of healthcare personnel and facilities to address the pandemic, such as rehabilitation and medicine, these individuals are especially impacted by changes in routine services. The combination of these circumstances significantly impacts their functionality and well-being. In addition to tackling systemic disparities in the health sector that marginalize persons with disabilities even in times of non-crisis, health services research can assist in addressing the difficulties of ensuring continuity of care during emergencies. Research is therefore required to comprehend the design of health services and to determine methods to optimize this population's active participation.

Pattnaik, S., Murmu, J., Agrawal, R., Rehman, T., Kanungo, S., Pati, S. (2023). Since there isn't much research on the disability load in India, an overview is required. Estimating the prevalence and evaluating the trends and factors of disability in India were the goals of the current study. We used STATA software's "svyset" tool to examine data from the National Family Health Survey-5. We evaluated the correlations using multivariable regression and produced an adjusted prevalence

ratio (aPR) with a 95% confidence interval (CI). In India, four people out of every 100 have a disability. We should develop more intervention techniques that consider variables such as caste, education, residency, and health promotion to guarantee the availability of government services to everyone in need.

Hajira, S. (2023). A malfunction, disruption, or loss in the regular operation of mental, psychological, or bodily processes defines a handicap. During the 1960s and 1970s, the disability rights movement gained traction thanks to political philosophies including autonomy, dignity, and freedom of speech. Non-governmental organizations (NGOs) became a collective voice for disability rights activism in the 1990s. The 2008 adoption of the Convention on the Rights of Persons with Impairments (CRPD) in India changed the way that people talk about impairments. There are still a number of shortcomings in India's welfare-based disability regulations, particularly the Persons with Disabilities (PWD) Act. Pervasive poverty and deeply embedded social stigmas cause a gap between the needs of individuals with disabilities and the accessibility of necessary services. The inadequate application of current rules and regulations exacerbates the difficulties faced by people with physical and mental disabilities, impacting many facets of their everyday lives. With an emphasis on inclusion and legal concerns, this study attempts to critically analyze the rights of those with disabilities in India. The goal of the study is to clarify the strengths and weaknesses of current legislation by examining the legislative response to the protection of disability rights. The study will advance a thorough understanding of the challenges encountered by people with disabilities in their quest for equal rights and investigate ways to enhance their inclusion and welfare within the legal system.

Thriveni, S. & Basavaraju, S. M. (2022). This study looks at how the percentage of people with impairments in affluent nations varies between 10% and 20% of the population. According to reports, between 1% and 2% of people in developing nations have a disability. The world views people with disabilities as the largest minority group. A small amount of government funding is insufficient to improve the social and economic circumstances of individuals with disabilities, given their higher likelihood of impoverishment compared to their peers without disabilities. Ensure the social inclusion of people with disabilities in all developmental activities, build their capacity, and ensure their overall development is comparable to that of their peers without

disabilities. Injustice based on race, color, sex, language, religion, political beliefs, nationality, ethnicity, indigenous or social origin, property, birthplace, and age creates numerous obstacles for people with disabilities. Thus, people with disabilities are more likely to be poor, which increases their disability risk. Globally, social exclusion and inclusive growth have sparked heated arguments and discussions over the relative importance of various elements in the development discourse. In India, people perceive certain social groups as the most vulnerable or outcasts due to their non-inclusion in the mainstream. They frequently deny themselves the bare necessities. Gender, caste, and class categorize social exclusion in India. The advanced stages of human development and life do not include people with disabilities. Apart from social exclusion, issues like poverty, unemployment, and gender discrimination still impact the social and economic advancement of the majority of India's marginalized groups.

Singh, A. (2021). In December 2016, the Rights of Persons with Disabilities (RPWD) Act, 2016 came into effect. It defends and upholds the rights and dignity of those with disabilities in a variety of spheres of life, including social, legal, educational, cultural, political, and economic. It is applicable to both private and governmental entities. The Act's implementing mechanisms encompass district-level special courts, federal disability commissioner offices, state-level district committees, boards, and committees responsible for planning and overseeing its implementation, among others. It provides guidelines and deadlines for implementation to guarantee that services and infrastructure are accessible. There are consequences for breaking any of the Act's provisions. In this regard, the Americans and British with disabilities (AD and DDA) play a crucial role. People with disabilities have the right to live with dignity because of these acts. These individuals lead simple lives and achieve success in various disciplines such as employment, schooling, and athletics. Disabled athletes compete in various games at the Paralympics and gain recognition worldwide. Everyone ought to show these folks respect and offer them assistance of whatever kind. We ought to be proud of these people with disabilities. Disability is merely a weakness; it does not signify the end of life. Divyang Jan is another name for a crippled person in India. In his Mann ki Bat initiative, which ran till December 2015, Indian Prime Minister Narendra Modi referred to people with disabilities as "Divyang." Since his proposal, people have been using the term "Divyang."

Jain, D. & Sengupta, S. (2021). In this paper, we contend that a nuanced and intersectional perspective is necessary because the exceptionalism of disability as a legal basis for unconditionally ending a pregnancy ignores eugenic and capitalist socio-legal norms that discriminate against people with disabilities. We examine the state's eugenic justification, which permits the termination of early-stage pregnancies while allowing the termination of later pregnancies solely for medical reasons. A noteworthy exemption is given in cases where the fetus is deemed "abnormal," which grants an essentially unrestricted right to an abortion. We look at court orders to demonstrate wildly inconsistent Indian jurisprudence on disability-selective abortion, drawing on the views of several well-known disability rights campaigners. To support a rights-cum-reproductive justice approach, we draw on theories from the social model for disability and the reproductive justice framework. Such a nuanced approach would guarantee that pregnant women would receive the most accurate and thorough information about the diagnosis during prenatal screenings that reveal disability or "foetal abnormalities," as they are known in Indian law. This would include realistic information about living with disabilities from people with disabilities, as well as orienting them to certain fundamental ideas and concepts that look at the specific rights and entitlements of people with disabilities.

Chaney, P. (2020). This benchmark study investigates civil society groups' established knowledge and discourse on the implementation of the United Nations Convention on the Rights of Persons with Disabilities (CRPD) in India in response to global concerns over persistent rights breaches. The results demonstrate that institutional ableism and rights denial still affect people with disabilities, making it difficult for them to influence public policy and obtain social assistance. Due to their systemic nature, these challenges are real and tangible. Importantly, they are related to the actual process of establishing public policies and resulted from the inability of successive governments after 2007 to establish a thorough plan for carrying out the CRPD. The persistent gap between the state and civil sectors, which prevents its effective application, explains the persistence of the Medical Model of Disability throughout the nation.

Vijayan, K. et al. (2020). Individuals with impairments make up between 10 and 20 percent of the population in affluent nations. According to reports, between 1% and 2% of people in developing nations have a disability. The world views people with disabilities as the largest minority group.



A small amount of government funding is insufficient to improve the social and economic circumstances of individuals with disabilities, given their higher likelihood of impoverishment compared to their peers without disabilities. Ensure the social inclusion of people with disabilities in all developmental activities, build their capacity, and ensure their overall development is comparable to that of their peers without disabilities. Injustice based on race, color, sex, language, religion, political beliefs, nationality, ethnicity, indigenous or social origin, property, birthplace, and age creates numerous obstacles for people with disabilities. Thus, people with disabilities are more likely to be poor, which increases their disability risk. Globally, social exclusion and inclusive growth have sparked heated arguments and discussions over the relative importance of various elements in the development discourse. In India, people perceive certain social groups as the most vulnerable or outcasts due to their non-inclusion in the mainstream. They frequently deny themselves the bare necessities. Gender, caste, and class categorize social exclusion in India. The advanced stages of human development and life do not include people with disabilities. Apart from social exclusion, issues like poverty, unemployment, and gender discrimination still impact the social and economic advancement of the majority of India's marginalized groups.

Prakash, K. (2019). Disability is a complicated topic that various individuals perceive and understand in very different ways. By their very nature, people with physical or intellectual disabilities are considered inferior in the majority of countries. As a result, disabled people face a variety of discriminatory practices that violate their fundamental and human rights. By passing legislation and putting numerous policies and programs for disabled people's empowerment into place, the Indian legislature has taken action to give people with disabilities equal opportunities. The Constitution guarantees equal rights to every Indian citizen. India was among the first countries to sign the United Nations Convention on the Rights of Persons with Disabilities, which provides a framework for altering attitudes and methods toward people with disabilities. Therefore, in order to achieve their real dignity in society, handicapped people's rights and laws are subject to a variety of viewpoints, including human rights and other laws in India that lessen the gap between the abled and differently abled people. The authors of this research paper want to highlight several legal provisions pertaining to the rights of handicapped people in India and conduct an analytical analysis of how these laws affect the legal standing of disabled people in India. This

research paper also attempts to examine the role that the judiciary has played in establishing India's disability laws.

Raha, S. & Sengupta, S. (2018). The Indian legal system's approach to disability underwent a substantial change after the passing of the Mental Healthcare Act of 2017 (MH Act) and the Rights of Persons with Disabilities Act of 2017 (RPD Act). By including special provisions for women with disabilities and addressing their vulnerabilities in the areas of discrimination, social security, healthcare, and sexual offenses, the RPD Act takes a "twin track" approach. This article examines the rights of women with disabilities (WWD) to equality and non-discrimination in all their facets. In addition to identifying legislative measures that may help WWD achieve de facto equality, it looks at how much the laws acknowledge the many and overlapping forms of discrimination that they face. It examines the degree of adherence to the WWD-related guarantees found in the 2008 UN Convention on the Rights of Persons with Disabilities (often known as the "UNCPRD"). The article suggests that despite evidence demonstrating WWD's susceptibility to violence, the RPD Act and the MH Act do not specifically address the gender-based aspect of violence. The article describes the procedural protections for victims with disabilities found in laws pertaining to sexual offenses, including the 1973 Code of Criminal Procedure and the 2012 Protection of Children from Sexual Offenses Act. Additionally, it looks at how domestic legislation and the UNCPRD address forced sterilizations and WWD's reproductive rights. Lastly, it describes the potential and constraints of the Indian legal system in promoting WWDs' rights.

Mudduraju, N. (2018). Life serves as the pivot for human behavior. It is the sole cause of human existence. It is the cornerstone of all human rights. Without it, we cannot use or enjoy any other fundamental right. Even though the right to life depends heavily on other rights, it also receives equal support from other rights and human behavior. Possessing the capacity to refine one's personality adds honour and happiness to life. Without human dignity, a process of devaluation saps the core of the life system. The right to life in our constitutional system tracks numerous positive rights, including the right to food, shelter, education, and a means of subsistence, due to the growing recognition of the value of a dignified existence. On the other hand, people with disabilities require extra care because they experience several obstacles as a result of their handicap. The Constitution has acknowledged this. Under Article 41, the state is required to



establish adequate measures to guarantee the right to work, education, and public assistance in circumstances of unemployment, old age, illness, disability, and other unmet needs, all within the parameters of economic capacity and development. Once again, under Article 46, the state is required to further the economic and educational interests of the "weaker sections" of society by providing "special care," which clearly includes the disabled.

D'Mello, L., Monterio, M., B. M., Govindaraju. (2017). Historically, people have viewed disability as a punishment or a curse. Science and social change have advanced to view disability as a societal issue rather than an individual one, and solutions have shifted from merely providing medical treatment to removing obstacles to social change. Because they feel unwanted and rejected, people with disabilities often distance themselves from society and face discrimination. This has a significant impact on the psychosocial well-being of individuals with disabilities. The human being, often referred to as body and mind, is a complex entity consisting of two distinct phenomena: the psyche and the physique. Science well knows and supports that a person's physical state, along with his social and physical surroundings, significantly influences his mental health and emotional responses. The purpose of this study is to outline the psychosocial issues that a person with a handicap faces. Studying the characteristics of people with physical disabilities and their psychosocial issues is among the goals. We gathered data for this descriptive study from primary and secondary sources. We chose 25 respondents for the study and gathered data through an interview schedule.

Narahariseti, R., Castro, M.C. (2016). India is gradually offering employment programs and other poverty reduction measures to nearly 20 million people with disabilities. In order to determine the employment correlates of people with disabilities in India, this study uses a spatial analytic approach, taking into account mental, speech, hearing, movement, and vision impairments. Different factors influence the employment of people with disabilities in rural and urban locations, according to spatial autoregressive models. While being female and having movement or vision impairments (in comparison to other disabilities) boosted the likelihood of working in rural areas, having a mental handicap diminished that possibility. In metropolitan regions, the chance of work was higher for those with eye, mental, and movement impairments (relative to other disabilities) than for those who were female and illiterate. We should spatially target programs to reduce

poverty for people with disabilities in India and consider variations in employment by kind of disability. Governments and service planning organizations must consider these disparities when developing livelihood development initiatives, as the employment-related variables for people with disabilities in rural and urban locations differ.

al, H.R. et al. (2000). Despite the belief that physical illnesses may significantly disable 5% of the population, systematic research on disability, particularly from India, has been scarce. Between 3% and 5% of people suffer from depression, a prevalent mental illness. As a result, disabilities associated with mental, physical, and substance use problems have a significant impact on policy planning and resource allocation. We used a qualitative, multicentred study to address the disability-related difficulties. Compared to patients with physical disabilities, individuals with mental and alcohol/drug-related disabilities faced higher discrimination. Across the three centres, there was consistently a lack of knowledge about the current laws and social programs. One of the main causes of the underutilization of the limited resources provided was stigmatization. The Disability Act of 1996 was not widely known. The earlier names "handicap" and "impairment" were more familiar to the customers. The study has ramifications for social behavior, clinical judgment, and policy development. It is necessary to raise consumer and health professional awareness of the legislation, resources, and programs, particularly with reference to the Disability Act of 1996. We need more facilities that are accessible to people with disabilities.

### **Studies Conducted Abroad:**

Zh, O. G., Zeinep O., Aigul, B., Akmeir, B., & Aigul, Z. (2024). The disability phenomenon directly links to acute societal issues. Social exclusion, disability, lack of access to quality education, joblessness, and poverty are harsh realities that affect millions of individuals, and none of them have health insurance. The primary goal of the work is to examine the state of social protection for disabled citizens from a scientific and theoretical standpoint, provide distinct results, and expose specific concepts that align with specific stages of social development for legislative purposes. The research methodologies are based on the investigation of legal and theoretical ideas, as well as statistical, comprehension, and systemic approaches that emerge when considering the circumstances of citizens with disabilities. The international community has always closely examined the rights of those who require social support. Recent years have seen the creation and

adoption of numerous documents. The way society and the state view individuals with disabilities and how they relate to society and the state are determined by such actions. Numerous clauses in these statutes offer a solid legal foundation for the social and personal safety of the nation's disabled citizens. Not only does society need to understand the issue of individuals with disabilities, but it also needs to ensure that various structures participate in this process. Offering several advantages, we are discussing how to keep improving the conditions of citizens with disabilities, how to strengthen the laws governing public relations in the social protection sector, and how to expand the number of actions performed to advance public life. When examining the status of individuals with disabilities in contemporary Kazakhstani society, we can conclude that while the government is making significant efforts to enhance their quality of life, much more work remains in the area of disability rehabilitation. Among these, improvements in healthcare, jobs, and education are required.

Williams, C. (2022). Covid has crippled us all: it has restricted access, limited contacts, and disrupted routines. This was novel and disturbing to many. However, for others like me, this was simply another day in our lives. In this paper, I share my experiences as a socio-legal researcher, typically disabled, who experienced equal inclusion for the first time after two years of intermittent lockdowns caused by COVID and the consequent remote working practices. Covid levelled the playing field and provided us with hints about how to completely integrate impaired people in the workplace through remote and hybrid work. Academics and legal researchers are typically excellent candidates for remote and hybrid work arrangements. However, the "back-to-normal" narrative calls for a return to the social and constructed settings, which implies a "back to exclusion." Additionally, suggestions for remote or hybrid working are frequently presented as personal preferences, which is a fundamental tenet of neoliberalism. However, those disadvantaged or impaired may not find the decision to work remotely free or equitable. Once again, our personal decisions support the risk of social division. Although there were brief glimpses of a more inclusive workplace for disabled people, narrative trends suggest ingrained inequality and the full implementation of neoliberal academia.

Lawson, A. (2020). This article provides guidance for the future development of disability law and advocates for its advancement as an academic field. It makes the case that there is a need for greater mainstreaming of this approach throughout the entire spectrum of sociolegal scholarship as well as for increased cohesion among those already using a critical disability perspective within fields like equality law, mental health and capacity law, and social care and protection law. There are three primary components to the article. The first puts disability law in context by considering how it relates to other legal specialties and larger scholarly communities. The second focuses on structural and scope difficulties. The third provides guidance for upcoming work on disability law by identifying four major cross-cutting issues that could unite academics with varying specializations in substantive law.

Kayama, M. et al. (2019). People's social connections and sense of self are consistently hampered by the stigmatization of disabilities around the world. As young people in India enter adulthood and deal with stigmatization in their daily encounters with others, this qualitative study explores how they have experienced their own disability and sense of self. In India, the caste system and other highly structured, hierarchical social structures contribute to the stigmatization of people with disabilities. Examining the experiences of stigmatization and self-perception among individuals with disabilities in India highlights the difficulties that arise from the intersection of disability and social status. Twenty-five adults and children with hearing, vision, or mobility impairments participated in semi-structured individual interviews. Participants consistently indicated diverse experiences of self and disability in a range of social contexts, such as the workplace, school, and home, according to cross-case analyses of 25 interviews. Participants talked about how they modified how they presented "self" in social situations in response to other people's stigmatization displays. By concentrating on four participants who differ in gender, age of onset, type of disability, and family income, we also provide comparative case study analyses to put the participants' experiences into context by showing how they modify their self-presentations in routine social encounters. Scholars and professionals worldwide can learn from the experiences of people with disabilities in India about how to develop stigma-sensitive methods of supporting people with disabilities and how to broaden theories of disability and self to more

fully incorporate the social construction of disability and intersectionality with other social positions like gender and social class.

Daley A, Phipps S, Branscombe N.R. (2018). There is little empirical data on the life satisfaction of young people with disabilities, particularly the impact of prejudice and potential mitigating variables, despite the fact that disability has long been on the psychological agenda. By investigating the intricate social experiences of young people with disabilities and the resulting impact on life happiness, we fill this crucial gap. We use nationally representative microdata from the Canadian Community Health Survey to answer these questions. Of the 11,997 teenagers in our sample, 2193 have a disability. We discover that young people with disabilities had lower levels of life satisfaction. Additionally, many individuals face discrimination due to their disability, which significantly reduces their level of life satisfaction. Nonetheless, a feeling of group belonging lessens this. In particular, despite encountering discrimination, young people with disabilities do not report reduced life satisfaction when they have a strong sense of belonging. This holds true for both females and boys. We conclude that belonging protects well-being, regardless of disability. Groups that cultivate a sense of community could potentially mitigate the negative impact on young individuals who encounter discrimination due to their disability, thereby having significant policy implications.

Degener, T. (2016). A contemporary human rights agreement containing novel elements is the Convention on the Rights of Persons with Disabilities (CRPD). It affects both human rights law and disability studies. This article examines two innovations: the CRPD's equality and discrimination notions and the disability model. The human rights paradigm of disability is said to have replaced the medical approach in the CRPD. There are six claims made about the differences between the social model of disability and the human rights model. Furthermore, it is argued that a new definition of discrimination is introduced into international public law by the CRPD. The fundamental idea of equality can be divided into two categories: transformative equality and individual- and group-oriented equality. The study employs the model analysis of disability studies and the legal doctrinal analysis as applicable methodologies. The primary conclusion is that the social model of disability is enhanced by the human rights paradigm. We can link different ideas of equality to three distinct models of disability. While the social model and the human rights

model are associated with substantive equality and transformative equality, respectively, the medical model is associated with formal equality.

## CONCLUSION:

In India out of 70 crores male population there are around 1.5 crores disabled persons. There are around 1.2 crores women who are disabled among the 66 crores women population. It has been found that out of the total disabled persons around 66 percent population lives in the rural areas. From the disabled population around 63 percent male disabled persons are literate and 45 percent female disabled persons are illiterate. From the connotations above it is evident that in India, the disabled persons in rural belt is highly affected and are less within the policies of the Government. In spite of the fact that several NGOs work for the betterment of them, yet somehow disability specifically visual disability has not been addressed properly. The Government is having several programmes and statutes to protect them but somehow a lacuna exists. Several studies have been done but none shows the areas where we are lacking for the implementation of the programmes. We are yet to determine how to curb further disability. The social stigma with regard to disability still exists in a very eclectic manner, yet the government has failed over years to regulate that. The Supreme Court has several times called for taking steps to address the above issues but there has been reluctance in the implementation of the same.

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**Author's Declaration**

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