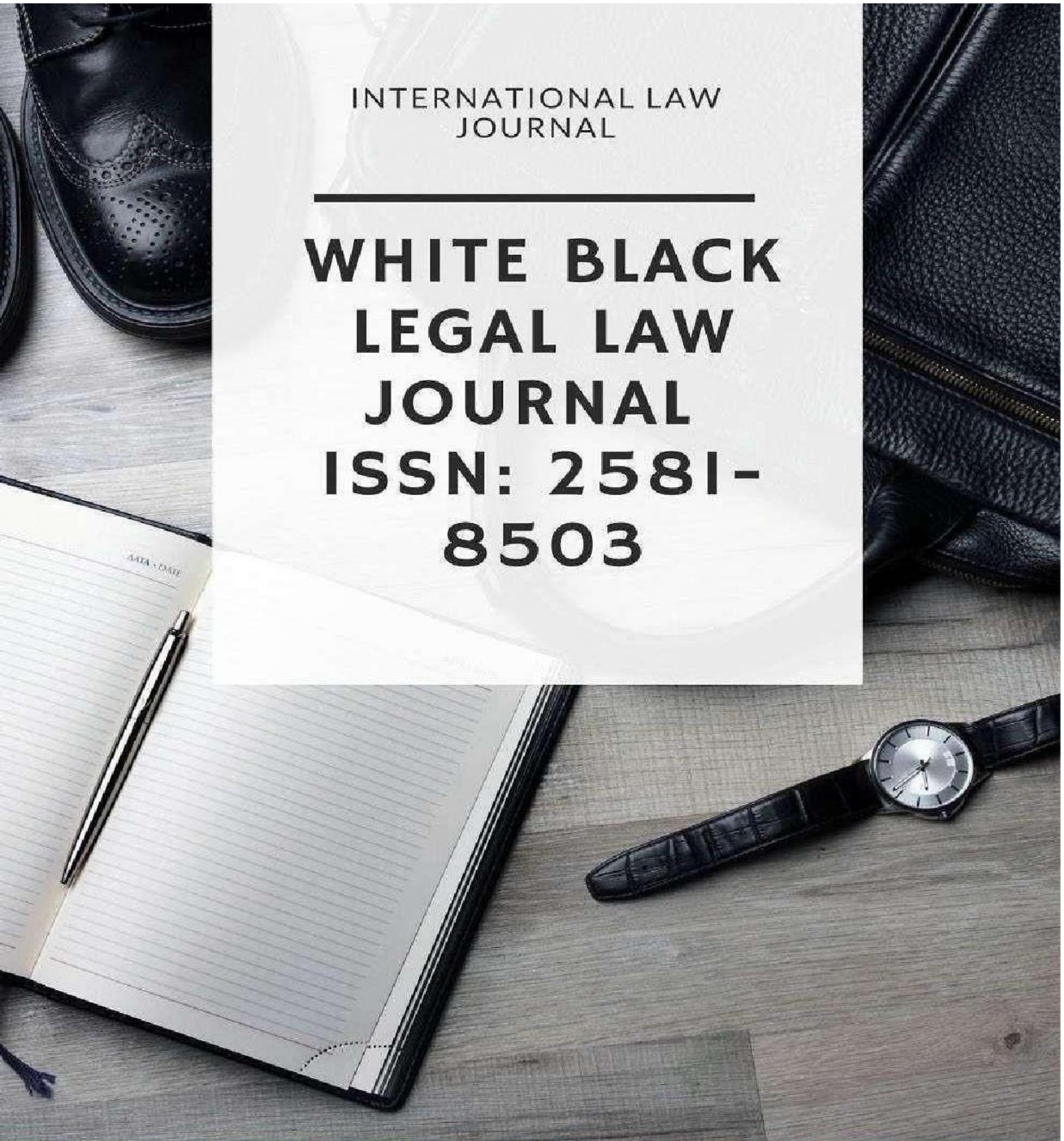




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ENFORCEABILITY OF SECTION 92 OF THE RPWD ACT 2016

AUTHORED BY - SEBY C ANTONY
Government Law College, Ernakulam

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1.1 Chapter 1 Introduction

Disabled Persons are entitled to exercise similar rights as others, who are not disabled and are proper in their body compositions. This principle of equality is the driving force, behind the establishment of the RPWD Act 2016, which is a reformation of the Previously existed Act¹ for Persons with Disabilities. While the common challenges² faced by are only offence marked in the 1995 Act involved the acts of illegally obtaining benefits of the Disability Act, the new Version of 2016³, identified offences, which are committed against a disabled person, and such offences are categorically itemized and the punishments for such acts are prescribed in Section 92 of the RPWD Act 2016. By the incorporation of the Section XVI, titled Offences and Penalties, the RPWD Act 2016 has become a Penal Code. Although the Penal provisions are marked in the Act, the Rules established in 2017, named the Rights of Persons with Disabilities Rules 2017, failed to address the procedural provisions, there by leaving the procedures for the same to be established or invented by the Sessions Judges at the District Level, as envisaged under section 84 of the RPWD Act, which leaves a huge vacuum in the enforceability of the penal Provisions upon the violations committed against disabled persons.

This Project Scholar is a Disabled Person with 54% Multiple Disabilities, including Progressive Blindness, and this Project work is an effort to bring to light the issues faced by Disabled Persons, in the Enforceability of the Penal provisions of the Section 92 of the RPwD Act 2016. The RPWD Act has already been adopted by various countries⁴ To collect the decision about the courts adoption, a study was carried out with disabled persons who had been through the legal procedures under RPWD Act and other stakeholders. Previous studies are rare and indicates that the participants who were subjected to the Judicial Process who may be most affected by the absence of an appeal provision in the RPWD Act⁵. In this study, selected litigants were asked to provide their knowledge and information of material data without any prompting or training. While some errors and confusions occurred, participants felt that they were able to read and understand the the RPWD Act and believed they would improve with information, if necessary training is provided. Participants gave their views on the code and discussed potential implications of the transition to effective adoption of the Act. The majority of participants were in favor of adopting RPWD Act with an appeal provision.

¹ The Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995

² ("Common Challenges Faced by Persons with Disabilities • ExploreAnthro.com," 2024)

³ The Rights of Persons with Disabilities (RPwD) Act, 2016 (49 of 2016)

⁴ ("Convention on the Rights of Persons with Disabilities (CRPD) | Division for Inclusive Social Development (DISD)," n.d.)

⁵ ("RPwD Act, 2016, rules & assessment guidelines | Department of Empowerment of Persons with Disabilities (DEPwD) | India," n.d.)

1.2 AIMS and Objectives of the Study.

1. To bring forth the awareness of the Penal Provisions of the RPWD Act, among Judges, Scholars, Executive and Disabled Litigants who are engaged in the Disability Policies and Regulations.
2. To find out challenges faced by the Disabled Persons and provide mitigating information for the solution of such challenges.
3. To analyze the Situation of the “WRIT APPEAL” provision established for RPWD Matters as given in the ROSTER of the Kerala High Court, whilst the RPWD Act itself does not provide for an Appeal through the Case Laws.
4. To determine, if the **Rules 2017**⁶ are sufficient enough to cover the Gaps existing in the Justice Delivery through the RPWD Act 2016.

1.3 Research Questions

1. Whether the Purpose of the Convention of the United Nations for the **Empowerment of Persons with Disabilities** is properly adopted by India, being a signatory to the said Convention.
2. Whether proper Judicial Process is followed by the Judiciary and the Prosecution in handling the RPWD matters?
3. Whether the existing provisions are sufficient or could the system be improved through proper awareness?

1.4 Research Problem

This study shall have its focus on the first hand experience of the Participants, through their litigation experience in which the Participants themselves were a party, (Determined and Pending) before the Supreme Court of India, Kerala High Court, Sessions Courts and Magistrate Courts⁷, and such first hand experiences of the Participants as a Litigant shall be the source of data. The Empirical Research Problem, shall be the inadequacy of the present day provisions in law, for the enforceability of such provisions, rather than being a Doctrinal one for this intended Project work.

1.5 Hypothesis

Unless the policy of “**DISTINGUISHING without DIFFERENCE**” is brought in with

⁶ (“The Rights of Persons with Disabilities Rules, 2017,” n.d.)

⁷ (“Criminal Offences and Trials under The Rights of Persons with Disabilities Act, 2016,” n.d.)

EMPATHY, the result shall be null.

- Hence, the Hypothesis formed under the If Then, Category is as follows,
Considering the Hypothesis to be the
If Necessary Guidelines for strict adherence are provided to the Executive and the Judicial officers, Then
The enforceability of the Provisions of the RPWD Act may be achieved in the Psychological, Behavioral and Physical abused which are meted out to the disabled persons.

1.6 Research Relevance

Disability issues have been a pressing matter for centuries. (Gupta, 2025) Ever since India became a signatory to the Convention of the United Nations General Assembly, on the 13th December 2006 ⁸(“Convention on the Rights of Persons with Disabilities (CRPD) | Division for Inclusive Social Development (DISD),” n.d.), and the below mentioned principles are laid down in the convention.

- a) Respect for inherent Dignity, individual autonomy, including the freedom to make one's own choices independent of persons
- b) Non discrimination
- c) Full and effective participation and inclusion in society
- d) Respect for difference and acceptance of persons with disability as part of the human diversity and humanity
- e) Equality of opportunity
- f) Accessibility
- g) Equality between men and women
- h) Respect for the evolving capacities of children with disabilities and respect for the right of children with disabilities to preserve their identities

And where as INDIA is a signatory to the convention

It is necessary find out, why the intended result in the convention could not be achieved by India and its impacts⁹, even when there is tremendous amount of effort has been put in by the Ministry of Social Justice & Empowerment New Delhi

⁸ *Id* at 2

⁹ Impact Of Globalization On The Human Rights Of Persons With Disabilities JLLR Journal <https://www.ijllr.com/post/impact-of-globalization-on-the-human-rights-of-persons-with-disabilities-> 2026-06-13 07:06:48

The Relevancy of this Project shall purely depend on the audience who come in contact with this work, and those among them who can generate a difference.

1.7 Research Methodology

Purely Quantitative empirical aspects are been planned to be taken in to consideration for this study, as the qualitative measures such as good or bad, yes or No, are not relevant in the study, although there shall be reference to the “**what ought to be**”¹⁰, scenarios shall be taken in to consideration of the study of the Disability matters. The primary data shall be collected from the observations expressed by authorities including Judges in the given matter, Secondary source shall be various judgments of Supreme Court, High Courts, Sessions Courts and the magistrate Courts, which were attributed to RPWD matters, books and official web sites which are directly related to the Ministry of Social Justice & Empowerment New Delhi, relevant to the present enquiry.

1.8 Literature Reviewed for this Project are

1. Supreme court Hand book concerning Persons with Disabilities (“**Handbook Concerning PERSONS WITH DISABILITIES Supreme Court of India | Department of Empowerment of Persons with Disabilities (DEPwD) | India,**” n.d.)
2. A Court for All: Transforming Accessibility in India's Supreme Court [Report Included](“**Accessibility | Supreme Court of India | India,**” n.d.)

1.9 Accessibility

PUBLISH DATE: January 19, 2024¹¹

Hon’ble the Chief Justice of India, Dr. Justice D.Y. Chandrachud, released a landmark report prepared by Supreme Court Committee in Accessibility in the presence of Hon’ble Justice S. Ravindra Bhat Chairperson of the Supreme Court committee on Accessibility, marking a monumental step towards making the Supreme Court of India a bastion of inclusivity and accessibility.

Constituted in December last year, by the Hon’ble Chief Justice of India and Chaired by Justice S. Ravindra Bhat the committee was formed with an overarching objective: to identify and address barriers to make Supreme Court accessible to persons with disabilities. The Supreme

¹⁰(“Ethics and Moral Philosophy,” 2025) <https://philosophy.institute/indian-philosophy/ethics-moral-philosophy-human-conduct/>

¹¹ (“Accessibility | Supreme Court of India | India,” n.d.)

Court's Committee on Accessibility conducted a thorough evaluation of the Supreme Court's accessibility both physical and functional for persons with disabilities, employing a multifaceted methodology that included a physical audit of the court's infrastructure, operational evaluations, and extensive stakeholder consultations. Various stakeholders, including disability rights experts, provided invaluable insights through questionnaires and direct inputs, contributing to a rich, holistic understanding of the court's current accessibility status and areas requiring improvement. The committee also focused on understanding and addressing the unique challenges encountered by women, particularly during pregnancy, and senior citizens, recognizing that a significant number of advocates are senior citizens. The Committee on Accessibility also briefly focused on the unique needs outlined in the Human Immunodeficiency Virus and Acquired Immune Deficiency Syndrome (Prevention and Control) Act, 2017, regarding special court procedures for individuals who are HIV-positive/protected. The Committee's study has unveiled a series of considerations that merit attention to enhance the Supreme Court's accessibility framework. In exploring the functional realms, the study unveiled certain areas that necessitate refinements to foster a more inclusive environment. The Committee on Accessibility has made recommendations to enhance the inclusivity and navigability of the Supreme Court. The Committee has also proposed incorporating disability-friendly infrastructure and office environment, including fire safety concerns. The Committee has suggested implementing an equal opportunity policy and installing modern technologies such as kiosks and QR navigation systems, in addition to improved safety and evacuation procedures and infrastructural developments.

The Committee members consisted of Dr. Sanjay Jain, Professor at the National Law School of India University in Bengaluru; Mr. Nilesh Singit, an independent accessibility expert nominated by the Centre for Disability Studies, NALSAR University of Law; Mr. V. Sridhar Reddy, nominated by the Supreme Court Bar Association; Ms. Shakti Mishra, an employee of the Supreme Court of India; and Mr Sunil Chauhan, Additional Registrar, Supreme Court of India as the Member Secretary of the committee. The committee was assisted by members of two Sub-Committees, particularly, Mr Rahul Bajaj, and Mr. Hargurvarinder.S Jaggi, Registrar Supreme Court of India. Beyond the insights of the sub- committees, inputs were received from Ms. Priya Hingorani, Senior Advocate, Dr. Shweta Hingorani, Advocate, and Dr. Smriti Singh, Associate Professor at Maitreyi College, University of Delhi. The committee also benefited from the inputs of Ms. R. Arulmozhiselvi, a Member of Human Resources at the E-Committee.

Chapter 2 : Statement of the Issue

Criminal Offences and Trials under The Rights of Persons with Disabilities Act, 2016.¹²

2.1 Role of JMFC and Session Judge in the implementation of Section 92

The Rights of Persons with Disabilities Act, 2016 stands as a monumental piece of legislation that not only grants comprehensive rights to persons with disabilities but also creates a robust criminal justice framework to protect them from atrocities and discrimination. While much attention is given to the rights and entitlements under this Act, the penal provisions and trial procedures remain lesser explored territories that demand judicial scrutiny and understanding.

The Criminal Justice Architecture Under RPWD Act 2016

The RPWD Act 2016 represents a paradigm shift from the erstwhile Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995. Chapter XVI of the Act (Sections 89-95) creates a comprehensive penal framework that criminalizes various forms of discrimination, atrocities, and violations against persons with disabilities, transforming what were once civil wrongs into cognizable criminal offences.

Section 92¹³: The Crown Jewel of Criminal Protection

Section 92: Punishment for Offences of Atrocities emerges as the most significant penal provision under the RPWD Act, creating six distinct categories of criminal offences specifically targeting the vulnerabilities of persons with disabilities.

2.2 The Six-Fold Criminal Shield

1. Intentional Insult or Intimidation [Section 92(a)]

The provision criminalizes intentional insult or intimidation with intent to humiliate a person with disability in any place within public view. This provision recognizes that dignity is not merely a moral concept but a legal right enforceable through criminal law.

2. Assault or Use of Force [Section 92(b)]

This encompasses assaulting or using force against any person with disability with intent to dishonour them or outrage the modesty of a woman with disability. The provision acknowledges the heightened vulnerability of persons with disabilities to physical violence and sexual offences.

3. Denial of Food or Fluids [Section 92(c)]

¹² ("Criminal Offences and Trials under The Rights of Persons with Disabilities Act, 2016," n.d.)

¹³ ("Section 92 of RPwD Act 2016: Punishment for Disability Crimes," n.d.)

The Act criminalizes having actual charge or control over a person with disability and voluntarily or knowingly denying food or fluids. This provision addresses the grave concern of neglect and abandonment, particularly in institutional settings.

4. Sexual Exploitation [Section 92(d)]

Being in a position to dominate the will of a child or woman with disability and using that position to exploit her sexually constitutes a criminal offence. This provision recognizes the power dynamics that make persons with disabilities particularly vulnerable to sexual exploitation.

5. Injury to Limbs or Senses [Section 92(e)]

Voluntarily injuring, damaging or interfering with the use of any limb or sense or any supporting device of a person with disability is criminalized. This provision protects not only the physical integrity but also the assistive devices that enable independence.

6. Unauthorized Medical Termination of Pregnancy [Section 92(f)]

The provision criminalizes performing, conducting or directing any medical procedure on a woman with disability which leads to termination of pregnancy without her express consent, except in severe cases with proper medical opinion and guardian consent.

The Penal Consequences: Deterrence Through Punishment

All offences under Section 92 carry a punishment of imprisonment for a term which shall not be less than six months but which may extend to five years and with fine. The mandatory minimum sentence of six months reflects the legislative intent to create a strong deterrent against atrocities on persons with disabilities.

2.3 Classification of Offences under Section 92:

The Procedural Framework

According to Ministry of Home Affairs guidelines, offences under Section 92 are cognizable, non-bailable and triable by a Magistrate of First Class. This classification has significant procedural implications:

- Cognizable Nature: Police can arrest without warrant
- Non-bailable Character: Accused cannot claim bail as a matter of right
- Triability: Creates jurisdictional questions regarding trial court

The Broader Penal Canvas: Other Criminal Provisions

Section 89: Contravention of Provisions

The Act creates a graduated punishment system for violations: - First contravention: Fine up to ₹10,000 - Subsequent contravention: Fine not less than ₹50,000 but may extend to ₹5 lakh

Section 91: Fraudulent Availment of Benefits

Fraudulent availment of benefits meant for persons with benchmark disabilities attracts imprisonment up to two years or fine up to ₹1 lakh or both, addressing the misuse of disability benefits.

Section 93: Failure to Furnish Information

Non-compliance with information requirements attracts fine up to ₹25,000, with continuing violation penalty of ₹1,000 per day.

Section 94: Prior Sanction Requirement

The Act requires previous sanction of appropriate Government before taking cognizance of offences committed by government employees, creating a safeguard against frivolous prosecutions.

The Special Court Architecture: Section 84¹⁴ Revolution

Constitutional Mandate for Special Courts

Section 84 of the RPWD Act mandates the establishment of Special Courts, stating: *“For the purpose of providing speedy trial, the State Government shall, with the concurrence of the Chief Justice of the High Court, by notification, specify for each district, a Court of Session to be a Special Court to try the offences under this Act.”*

This provision represents a legislative recognition that ordinary criminal justice machinery may be inadequate to handle the specialized nature of disability-related offences.

2.4 The Special Prosecutor Framework

Section 85 complements the Special Court system by requiring appointment of Special Public Prosecutors with at least seven years of practice, ensuring specialized prosecution expertise.

Jurisdictional Complexities: The Trial Procedure Conundrum

The Sentencing Power Paradox

A critical legal issue emerges from the intersection of various provisions:

- Section 92 RPWD Act: Punishment extends to 5 years
- Section 23(2)¹⁵ BNSS: Magistrate First Class can sentence only up to 3 Years.
- MHA Guidelines: State offences are triable by Magistrate First Class(Gandhi, 2025)¹⁶

¹⁴(“Section 84 of RPWD Act, 2016 – Section 84,” n.d.)

¹⁵(“BNSS Section 23 - Sentences which Magistrates may pass,” n.d.)

¹⁶ Understanding the Role and Powers of Judicial Magistrate First Class (JMFC): A Comprehensive Guide for Legal Enthusiasts Advocate (Dr) Abhishek Gamdhi <https://advocategandhi.com/understanding-the-role-and-powers-of-judicial-magistrate-first-class-jmfc-a-comprehensive-guide-for-legal-enthusiasts/> 2025-06-06T08:59:33+00:00

This creates an apparent contradiction requiring judicial interpretation.

2.5 Limitations of Session Judges Role

During commitment proceedings, the Magistrate's role is administrative and limited. The Magistrate cannot probe into merits or discharge the accused if facts disclose a Sessions triable offence.

Contemporary Relevance and Future Directions

Integration with New Criminal Laws

With the implementation of Bharatiya Nagarik Suraksha Sanhita (BNSS) 2023, the RPWD Act's penal provisions must be read harmoniously with the new procedural framework while maintaining their specialized character.

2.6 The Resolution in Special Court Framework

The contradiction is resolved through Section 84, which designates Sessions Courts as Special Courts for trying RPWD Act offences. The procedure follows this sequence:

1. Magistrate takes cognizance on police report
2. Commitment to Special Court under Section 232 BNSS¹⁷
3. Trial by Special Court (Sessions Court) with specialized prosecutor

Direct Cognizance Question: The Legal Answer

Sessions Courts cannot take direct cognizance of RPWD Act offences. Despite Section 84 creating Special Courts, it does not expressly empower Sessions Courts to bypass magistrate cognizance. The commitment procedure remains mandatory under Section 232 BNSS.

 Implementation Status: From Law to Reality

State-wise Implementation

Various states have moved to implement the Special Court mandate:

- Delhi: Designated Additional Sessions Judge-02 in each district as Special Court (2019)
- Madhya Pradesh: Issued notifications for Special Courts
- National Directive: Supreme Court in 2017 directed all states/UTs to establish Special Courts. Where Special Courts remain undesignated, regular Sessions Courts exercise jurisdiction after proper commitment

The Commitment Procedure: Bridging Magistrate and Sessions Court

Section 232 BNSS Framework

¹⁷(“BNSS Section 23 - Sentences which Magistrates may pass,” n.d.)

When a Magistrate receives a charge sheet for Section 92 offences, the commitment procedure under Section 232 BNSS requires:

1. Compliance with Sections 230-231 BNSS (preliminary proceedings)
2. Remand of accused to custody (subject to bail)
3. Transmission of record and evidence to Sessions Court
4. Notification to Public Prosecutor
5. Completion within 90 days (extendable to 180 days)

2.7 Challenges in Implementation of Section 92

1. Lack of awareness among investigating agencies about RPWD Act provisions
2. Inadequate training of police and judicial officers
3. Delayed establishment of Special Courts in many states
4. Coordination issues between disability welfare departments and criminal justice system

Conclusion: Towards Inclusive Criminal Justice

The RPWD Act 2016's criminal justice framework represents a legislative masterpiece that transforms disability rights from mere welfare concerns to enforceable criminal law protections. The Act's penal provisions, anchored by Section 92's comprehensive offence categories and supported by the Special Court architecture under Section 84, create a robust shield against atrocities on persons with disabilities.

However, the true test of this legislative framework lies not in its textual elegance but in its implementation reality. The establishment of Special Courts, training of specialized prosecutors, and creation of disability-sensitive investigation procedures remain critical for translating the Act's vision into ground reality.

Chapter 3: Significance of the Study

3.1

Considering the important Judgments pronounced by the Supreme Court of India in the RPWD Matters (“Important Judgements for the Persons with disabilities | NIEPVD Dehradun | India,” n.d.) the this study assumes importance on the following grounds achievements if the Section 92 is properly implemented

- (i) to prevent or prohibit unfair discrimination against the disabled persons with disabilities, on one or more grounds including race, gender, sex, marital status, ethnic or social origin, color, sexual orientation, age, disability, religion, conscience, belief, culture, language and birth.
- (ii) to provide adequate financial assistance and all other requisites to the disabled persons, so as to participate in all the life events.
- (iii) to follow proper selection process, to persons with disabilities, who achieve meritorious level in the respective participation in all the activities.
- (iv) To provide necessary training and free medical facilities to all the all possible means to persons with disabilities to utilize their fullest potentials and capabilities so as to achieve success in all the events.
- (v) to ensure safety and security of the female athletes with disabilities during their travel, irrespective of number of participants, so as to inspire their confidence freely and take part actively in the events at all levels
- (vi) to sensitize the male counter parts and inculcate the sense of equality in their mind, so as to maintain safe environment for disabled persons at all levels.
- (vii) to reward all the disabled participants in the Extra curricular Activities, irrespective of their achievements or otherwise.
- (viii) to ensure that all the disabled persons whether with or without disabilities, be given equal treatment on par with able bodied persons, so as to enjoy full and equal rights and freedoms and to maintain their dignity

Chapter 4: Overview of the Struggle of the Disabled Person

4.1 Brief Discussion

Earlier this year, the Supreme court has ruled that insensitive portrayals of the Disabled persons amount to Discrimination. "This arises from inadequate representation and participation of persons with disabilities in the dominant discourse," the Chief Justice had remarked.(Sharma, 2025) However, a couple of months later, a famous comedy show came under fire for satirizing disability for a few laughs. No action was taken against the comedian or the show despite the groundbreaking precedent set by the ruling made mere months ago. The definition of a "Person with a disability" under the RPwD Act of 2016 is as follows - a person with long-term physical, mental, intellectual, or sensory impairment which, in interaction with barriers, hinders his full and effective participation in society equally with others.

This definition not only tries to embrace the full spectrum of the umbrella term disability but also brings to notice the fact that disability causes barriers to optimal social integration of an individual.

The United Nations Convention on the Rights of Persons with Disabilities ¹⁸ (UNCPRD) was signed in 2007 to allow for a more inclusive society. India became one of the first nations to ratify the convention, passing the Rights of Persons with Disabilities Act (RPwD) in 2016. While the Government of India implicitly mandates a society with equal opportunities, people living with disabilities still struggle to achieve equity.

4.2 Disabilities - More Than Meets The Eye

The RPwD Act lists 21 broad conditions that fall under disability. They cover a vast expanse of ailments, some of which are visible, such as cerebral palsy, partial or complete paralysis, and blindness. What of the invisible ailments, then, which continue to affect the patient's experiences and life? The RPwD covers unseen neurological conditions like multiple sclerosis and chronic blood illnesses like thalassemia, but a 40% disability criterion has been set to consider a person with a benchmark disability. This means that the person should have at least 40% disability to avail of the benefits under the RPwD Act.

What does 40% disability mean? How is it calculated? The government has a definition for a few disabilities. However, this percentage is not objective or universal. There is no set standard to judge different disabilities and the extent of their impact on a person's life, which means that the same person could get a different disability percentage from two different doctors.

¹⁸ *Id* at 2

Additionally, this percentage can be hard to define for all disorders and also tries to create a hierarchy of disability. The implication that a certain number qualifies one disability and not another is discriminatory, and this is **ableism**¹⁹ which is often encountered by people with disabilities, either directly or indirectly.

We could take the example of the relapsing-remitting multiple sclerosis patients, who may be pain-free on some days and incapacitated by pain on others. Patients with inflammatory bowel disease sometimes have to undergo numerous life-changing surgeries that can have a significant impact on their quality of life. A patient with severe social anxiety may find it impossible to even venture out of their homes. Their conditions affect their social, academic, and professional lives and are chronically debilitating, yet are neither seen nor acknowledged. Aren't these people suffering from disabilities?

4.3 Shifting From Medical To Social Model Of Disability

This is where the medical model of disability falls short. It considers disability an individual medical problem, the treatment of which would ideally remove the other disadvantages a person may face. However, most disabilities have no cure or complete relief.

The social model, however, differentiates disability from impairment. It argues that impairment is the medical condition causing a loss of function, while disability results from social structure. It is not the medical condition that leads to a person's social exclusion; the inherent exclusivity in systems designed by and for abled people is to blame.

The World Health Organization says⁷, "Disability results from the interaction between individuals with a health condition, such as cerebral palsy, Down syndrome, and depression, with personal and environmental factors including negative attitudes, inaccessible transportation and public buildings, and limited social support."

For instance, making buildings accessible only by stairs automatically excludes people using wheelchairs; the presence of a wheelchair-accessible ramp removes the impediment of disability. Barriers exist in physical spaces and how we are used to thinking of what "normal" is. Our perception of disability must be oriented towards universality, not just inclusion.

4.4 Addressing Disability - Matters Of Access

The Accessible India Campaign, under the Government of India, has ambitious plans to achieve universal accessibility in public spaces. It planned to improve accessibility in buildings,

¹⁹(“ABLEISM Definition & Meaning - Merriam-Webster,” n.d.)

transportation, government documents, news broadcasts, and certified sign language interpreters.

Launched in 2015, its original deadline has been revised and extended a few times due to slow progress. The last deadline ran out in March 2023, and it has now been merged with the Barrier-Free sub-campaign under the Scheme for Implementation of the RPwD Act. While the literature addressing accessibility is well-constructed and thought out, its implementation lags severely.

There is no ultimate target for achieving accessibility – the work to make physical and online spaces more inclusive is continuous, and inclusivity must be the first step of planning and not an afterthought. It is not just buildings and transport; shared spaces online and mainstream technology must be made accessible, too. Assistive devices help PwDs navigate technology – and the government's role in providing it must also increase. For instance, all government websites should be fully accessible now, irrespective of whether a person is disabled or not – but aren't.

4.5 The Discrepancy In Disability Data²⁰: What is Missing?

According to the 2011 Census, 26.8 million – roughly 2.2% of the population – were living with disability in India, recognized under one of eight categories. However, the WHO reports that about 15% of the world's population is disabled, with 80% of them living in middle-to-low-income countries.

The World Bank estimates the number of people living with disability (PwDs) in India to be between 5-8% of the population (55 to 90 million people). The estimated numbers of people living with disability are starkly different from the ones reported by the government in India. Underreporting disability has a direct effect on the state's efforts to help PwDs. Programs and schemes are created and budgeted according to the known prevalence. Underreporting can also skew data on literacy or employability among disabled people and cause us to miss the issues that are evident in the field.

4.6 Disability Certification And The Undelivered Promises

The certification of disability is a technical and often arduous process. The UDID, or Unique Disability ID, launched in 2016, is meant to ease this process and create more accessibility, but the on-ground stories of PwDs are different.

²⁰ (“Socioeconomic and geographic variations of disabilities in India: evidence from the National Family Health Survey, 2019–21 | International Journal of Health Geographics | Springer Nature Link,” n.d.)

Despite having a disability certificate, they must repeat hospital visits for further evaluation. It is no surprise, then, that only 28.8% of people living with disability have a disability [certificate](#), and just 21.8% receive government aid. [In some cases, arbitrary amendments](#) and repeated [annual certification renewals](#) create additional burdens for PwDs instead of allowing them the dignity the RPwD Act promises.

The issues of access to healthcare and social exclusion are manifold in rural areas, where over 70% of India's PwDs reside. Social stigma, superstition, and lack of social support create an environment where most people living with disabilities in villages find themselves dependent, with no vocational training, inadequate support systems, and a deplorable quality of life. Inadequate primary healthcare also means that more children in rural areas end up with preventable lifelong disabilities.

The RPwD Act promises non-discrimination, accessibility, a right to education, employment, and social security, and underlines the government's responsibility to ensure these rights.

Though perfect on paper, in reality, the Act still has a long way to go.

The challenges PwDs face in accessing healthcare are manifold and multifactorial. The cost of healthcare, health needs not met even on hospital visits, and even negative perceptions from healthcare providers can lead to PwDs seeking alternative therapy. People with disabilities are five times more likely to develop diabetes and depression.

Access, attitudes, and policy are all challenges to universal healthcare. While the Unique Disability IDs are supposed to help continue healthcare and benefits for PwDs, progress has been glacial.

What can be done?

We discussed the personal and systemic adversities facing PwDs to bring them to light. Government schemes for education, employment, and pensions for PwDs cannot work in a vacuum.

We must start by changing how we perceive disability. It is not the impairment itself but society's perception that often limits social participation for people with disabilities.

True inclusivity requires universal access to workplaces, schools, and recreational spaces—not as an afterthought but as a foundational principle. This means reimagining and restructuring social norms so impairments do not translate into disabilities. Inclusion is not just about accommodating; it is about creating a world where barriers do not exist.

For this transformation to succeed, the public and private sectors must actively incorporate the lived experiences of people with disabilities into their policies and practices. On a personal

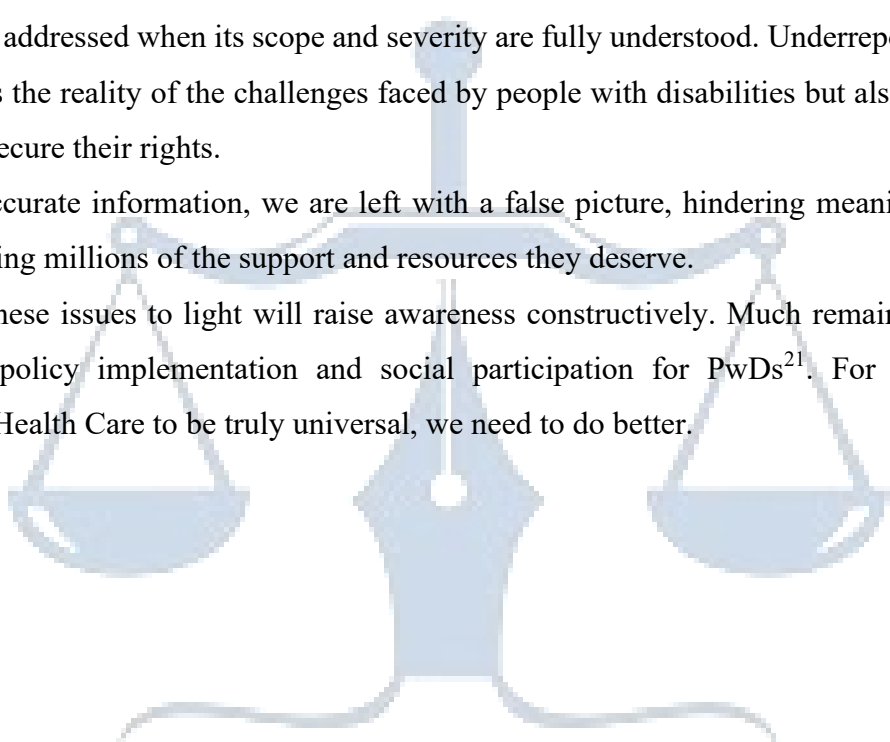
level, we must reflect on and address the ablest choices we might make consciously or unconsciously.

Engaging directly with people with disabilities provides valuable insights into how we can create spaces that are genuinely accessible and accommodative. Healthcare, too, needs to expand its approach, moving beyond the traditional medical model to address the social dimensions of disability.

Lastly, improving data collection and reporting on disability is critical. A problem can only be effectively addressed when its scope and severity are fully understood. Underreported data not only skews the reality of the challenges faced by people with disabilities but also undermines efforts to secure their rights.

Without accurate information, we are left with a false picture, hindering meaningful change and depriving millions of the support and resources they deserve.

Bringing these issues to light will raise awareness constructively. Much remains to be done regarding policy implementation and social participation for PwDs²¹. For our ideas of Universal Health Care to be truly universal, we need to do better.



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²¹ Social Implications of People with Disabilities in India – Critical Review on Challenges and Solution Dr Aijaz Ahmad, Dr Rayees Zahoor The International Journal of Indian Psychology ISSN 2348-5396 (Online) | ISSN: 2349-3429 (Print) Volume 13, Issue 4, October- December, 2025

Chapter 5: EMPIRICAL STUDY

5.1 INTRODUCTION

For the purpose of empirical study a questionnaire method were being adopted. Questionnaires were being distributed online and the sample analyzed was random sample. Survey was conducted among Women Legal Practitioners of Pala Court Complex. EMPIRICAL STUDY

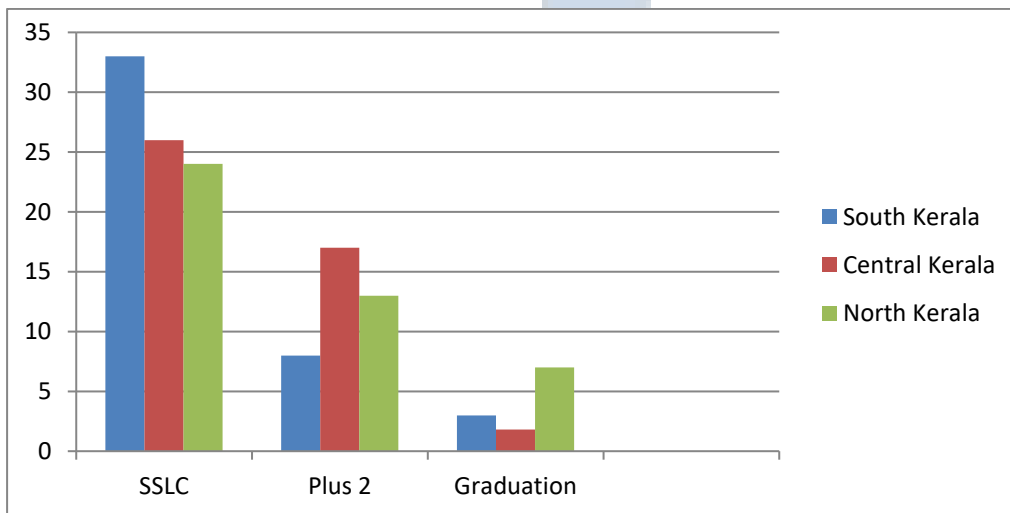
5.2 DATA COLLECTION

Data was collected from Litigants who have filed cases under RPWD Acts,before various forum in the State of kerala.. A total of 44 responses each from three Regions of kerala to a total of 132 were obtained through this method, with which the study is being conducted. The following questions were being asked in the questionnaire which was distributed online and responses were recorded accordingly

5.2.1 Qualification of the Responding Litigant

Educational Qualifications	Number of Responses	Percentage
SSLC	83	62.8
Pre Degree / Plus 2	32	24.8
Graduation	16	12.1

Table 5.1



Educational Qualification of the Participants

Inference:

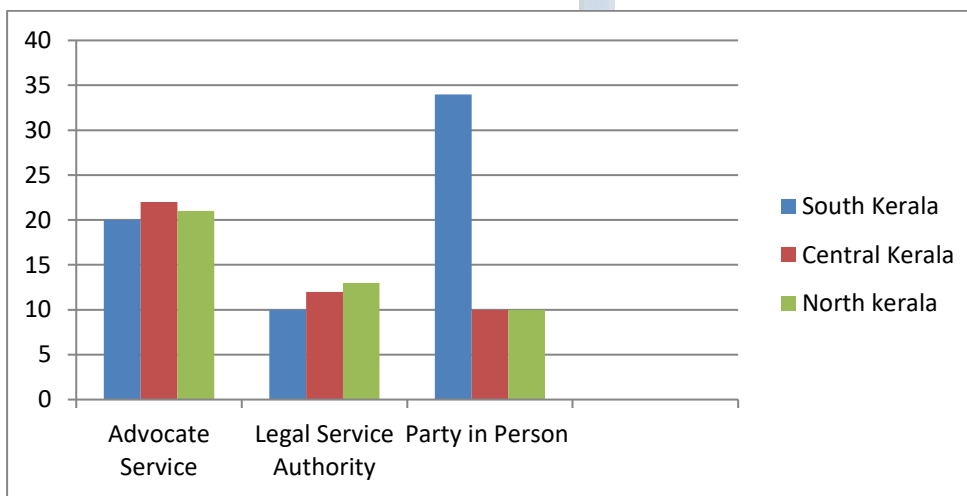
The personal information regarding the Education qualification of the participants reveals that most of the disabled litigants are illiterates and majority of them have not acquired education

above the SSLC grade Based on this data, it can be inferred that the Disabled population of the Kerala Society need be educated abbot their Rights society

5.2.2 Whether the Respondent Litigant has availed the service of a lawyer

Service Availed	Number of Responses	Percentage
Through Advocate	66	50
Legal Service Authority	30	22.7
Party in Person	36	27.3

Table 5.2



Service availed for the legal Representation

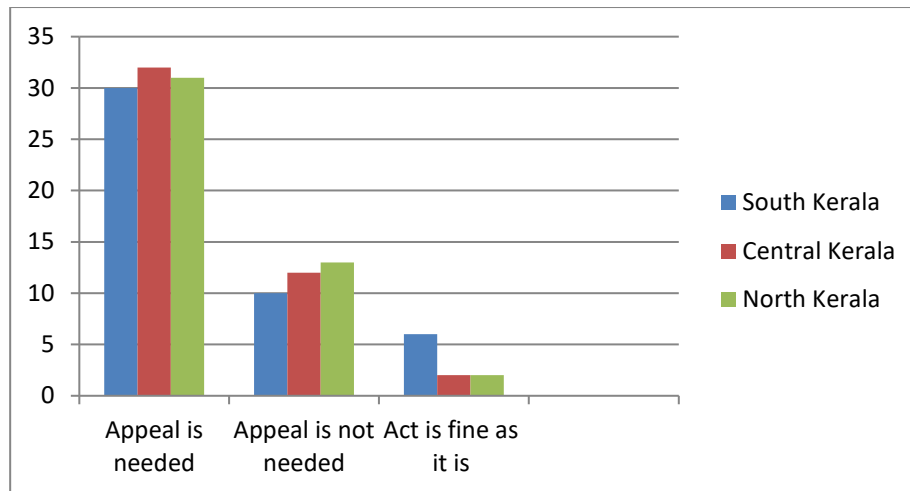
Inference:

The information regarding the representation of the participants revelas that most of the participants from the Central and Northern part of the State has relied equally on the Advocate service and the legal service authority, however, the participating litigant from the South of the state has appeared in their cases as party in person

5.2.3 if the Respondent Litigants opinion as to the No provision of Appeal in the RPWD Act

Appeal Provision	Number of Responses	Percentage
Appeal is needed	93	70.4
Appeal is not needed	35	26.5
Act is okauy as it is	14	10.6

Table 5.3



Opinion of the participating Litigants in need of the needed Appeal

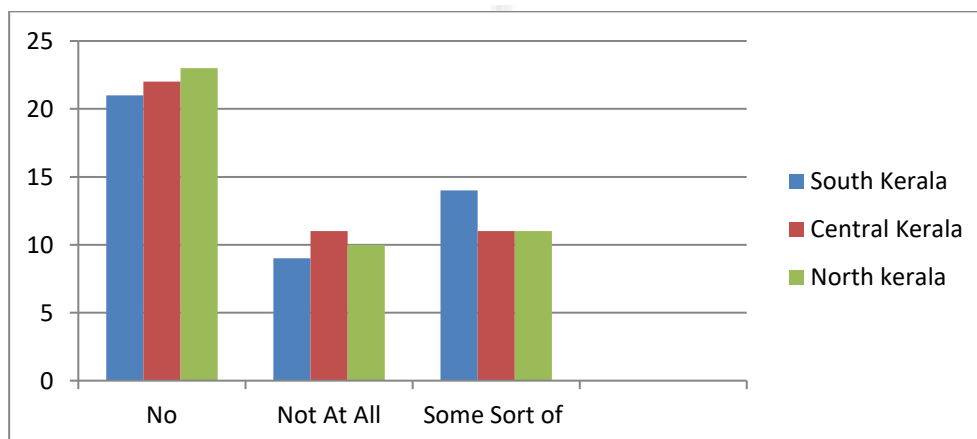
Inference:

The information regarding the needed appeal in the RPWD Act 2016 has unanimously expressed that there must be an appeal provision in the act, as the Litigants are stuck at the Sessions Court, without a scope for appealing to the High Court Based on the practical aspiration of the sample of this population, there must be an Appeal provision in the Act

5.2.4 Is there an effective Remedy being made available to the Respondent Litigants in his/her case

Remdy Made Available	Number of Responses	Percentage
No	66	62.8
Not At All	32	24.8
Some Sort of	34	12.1

Table 5.4



Participating Litigants expressing concerns as to their satisfaction with the provision of the Act

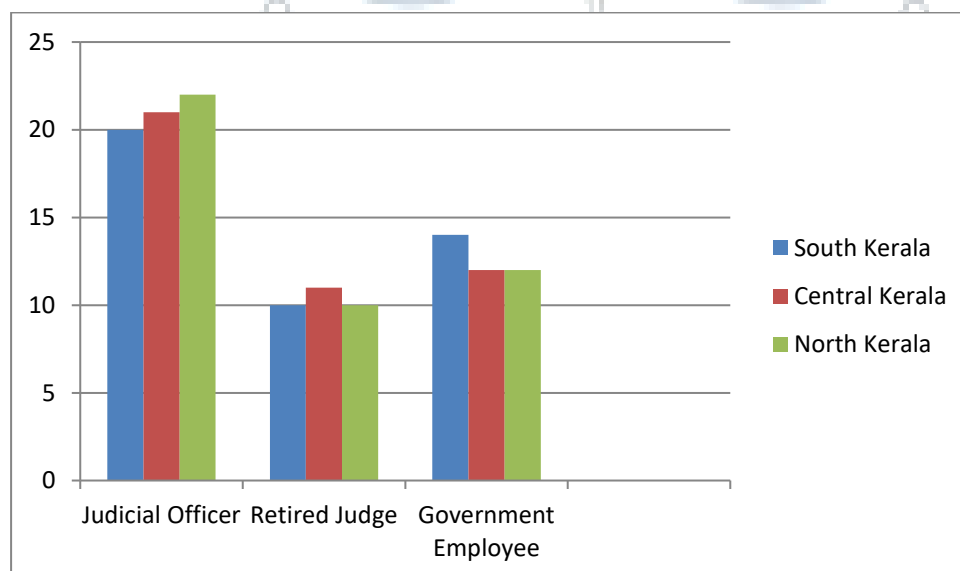
Inference:

The information regarding the level of Satisfaction expressed by the Participating litigants reveal that the RPWD Act 2016 must be an appeal provision in the act, as the Litigants are not satisfied that the matter is concluded at the session court level. it is high time that the legal system makes a suitable provision for the appealing peovision in the RPWD Act 2016

5.2.5 If the State Commissioner for Persons for Disability needs be a Judicial officer

Position of the Commissioner	Number of Responses	Percentage
Judicial Officer	63	47.8
Retired Judge	31	23.1
Government Employee	38	28.2

Table 5.5



Participating Litigants expressing the need of a Judicial officer as the State Commissioner for Persons with Disabilities

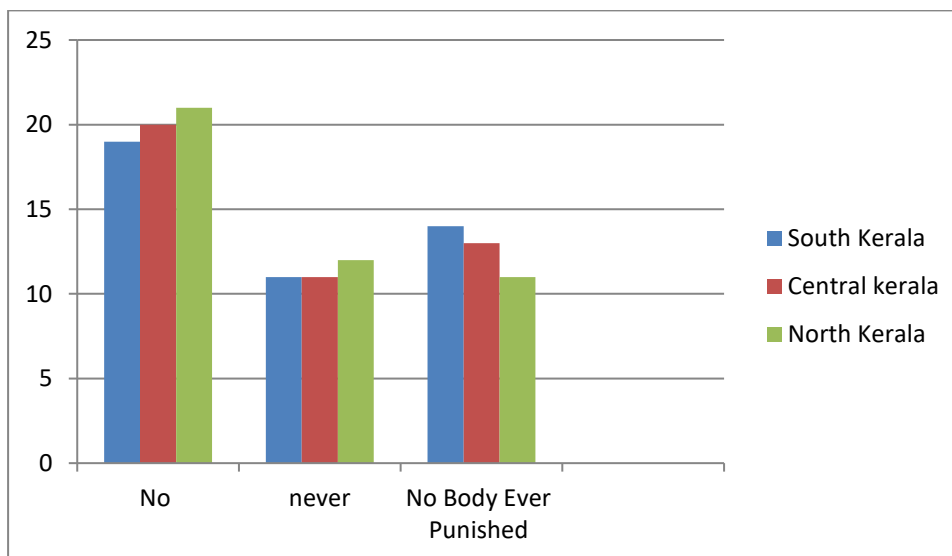
Inference:

The information regarding the need of a Judicial Officer preceding over as the State Commissioner, is expressed by the Participants that It shall be ideal if a Judicial officer rather than a retired Judge or a Government servant is appointed as the State Commissioner as the suitable provision in consideration of the for the appealing provision in the RPWD Act 2016

5.2.6 If the Section 92 has been enforced in the litigation

If anyone is Punished under Section 92	Number of Responses	Percentage
No	63	47.8
never	31	23.1
Nobody ever punished	38	28.2

Table 5.6



Participating Litigants asserting that no offender is ever punished under Section 92 of the Act

Inference:

The information asserted by the participating litigants that in their experience there is no offender ever getting punishment under the Section 92 is an alarming fact. The need for creating effective rules for the execution of the Act is vital and important, if the purpose of the RPWD Act is to be met

5.2.7 The Mode by which the Complaint Under Section 92 is made

Mode of Complaint	Number of Responses	Percentage
FIR/Police Complaint	60	46.2
Magistrate (Complaint)	34	25.7
NGO	35	26.5

Table 5.7

Inference:

The information asserted by the participating litigants that majority of them made their complaint through Police (FIR) while 25.7 % of the responding Litigants chose private to the magistrate and 2.5% chose to approach NGO's functioning in this field. It is as a practice prevalent in the society, that the litigants selected to go to Police, even though they did not have information about the RPWD Act.



Chapter 6 Analysis and Recommendations

The Status of the Disabled Person s in Indian Society is alarmingly critical. Awareness of the Status of this spectrum of the society is highly important. When law, as it exists is not sufficient enough, to handle pressing matters, there has to be amendments and change in the approach. Presenting the present day developments in front of the Concerned Authority is crucial for the upliftment and development of the Disabled community. With the absence of an Appeal provision in the RPWD Act 2016, the matters are to come to a standstill at the sessions Court Stage (Specially the criminal matters). What is left on the present day status is the opportunity of a Writ Petition before the High Court, however a Writ Petition is not allowed to be filed against a private Person, who is not a state, as defined under the Article 12 of the Constitution. With the spreading of awareness as to what are the rights of a Disabled Person, more and more questions are being framed as to the deficiencies which are appearing on the Statute as well as in the Rules. With the increased rise of unsatisfied Litigants, who are to put a stop to the Procedure at the Sessions court level, as they cannot afford the expensive Writ Petition, (District & State level legal free aid are minimal to the disabled persons). Looking at the satisfaction level of the Disabled Litigant, the Picture is not so bright. The Survey conducted in this pressing issue has also resulted in a similar tone of dissatisfaction of the Disabled Litigant.

Recommendations

- The RPWD Rules (2017) Section 6, Procedure to be followed by the Executive Magistrate, which presently stands for the authorizing the Executive Magistrate to Follow the CrPC Procedures of Section 133 to 143 (Section 152 to 162 of BNSS) is more or less related to the authority of the Magistrate to remove Nuisances, may be amended with incorporating Section 407 CrPC, (Section 447 of BNSS) whereby a case may be transferred to the High Court during its pendency in a Lower court, before its disposal in the lower court. Such an amendment would pave way for the Disabled Litigant to approach the case in his pending OP (RPWD) matter or the Committal Procedures initiated by the Magistrate, to be committed to the Sessions Judge, specially appointed in each district, as is provided in Section 84 of the RPWD Act.
- Amendment of the Section 13 of the NATIONAL TRUST FOR WELFARE OF PERSONS WITH DISABILITIES ACT 1999, to include a minimum five persons from the disabled community (representing five separate Ailments) instead of the presently

allocated one person, and for a weekly meeting of the Board, instead of the once in 3 month period, which is the present Positing, with proper reports to the appropriate authorities, in a proactive manner.

- Appointment of a Judicial Officer in place of the present practice of any Retired Government servant as the Disability Commissioner of the State.



Chapter 7 Conclusion

Although there are very many recommendations and suggestions being put forward by the concerned Disabled Litigants in their Respective Association meetings, such have not been able to gather the attention of the Ministry of Social welfare so far.

The Author expects, this work may lead in to the understanding of the complexities in the Administration, and in the Execution of the RPWD Act and Rules, and hopefully expects that the concerned stake holders would act upon, realizing the stated issues.

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Annexure 1 (Questionnaire for the Survey)

1	Name of the Disabled Person & Age
2	UDID Number
3	Type of Disability
4	Percentage of Disability
5	Educational Qualification
6	In which Court are you attending the Litigation
7	Are you participating through an Advocate
8	Is there an FIR registered
9	Which Section of the Act is invoked in the court
10	Are you satisfied with the Court Procedure
11	Do you wish to appeal in case you lose the case
12	Do you know that there is no Appeal in RPWD matters
13	Do you know that you can file a WPC in the high Court
14	Do you know that you cannot file a WPC against an Individual (Non Government Party)
15	Do you wish to have an Appeal Provision in the RPWD Act 2016

Note:

- 1) if you have problem understanding the questions, please take this form to your Advocate and request the Advocate to fill it for you
- 2) Please hand over the filled form to any office bearer of the Disabled Association near your Location.

Date

Signature