



## Claiming Intersectionality To Unmute The Converging Realities Of Caste, Gender, And Disability

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### ABSTRACT

When caste, gender, and disability all cross paths in one single body, it leads to a heightened cumulative vulnerability in society. This article interrogates the long-neglected question by revealing the structural silences of Indian constitutionalism and statutory laws in force, which continue to perceive these identities as discrete categories or in silos rather than interlocking systems of oppression. For the disabled Dalit, Adivasi, and other lower-caste women sitting at the crosshead of interlocking and ableist exclusion, this fragmented and isolated constitutionalism produces a profound jurisprudential invisibility. Empirical studies, parliamentary and doctrinal data, and international human rights discussions expose how lower-caste women with disabilities are rendered legally invisible – excluded by regimes that categorise and compartmentalise different forms of discrimination, thereby erasing or rather ignoring the compounded forms of discrimination. This article argues that the single-axis limitations evident in the wording of the Indian laws fail to account for the lived experiences of these women at the margins. Therefore, it exposes systemic gaps in law enforcement, data collection, survey design, and policymaking that perpetuate this invisibility. This article goes on to recognise 2 significant drawbacks. First, the absence of compounded data, second, the misinterpretation of the word “only” in statutes, and similar other linguistic gaps. Adopting a doctrinal and analytical methodology, and drawing on international frameworks such as the UNCPRD, CEDAW, and the OHCHR Guidance on intersectionality, the paper examines constitutional provisions, statutory laws, judicial decisions and empirical studies to argue for a transformative reinterpretation and calls for a paradigm shift to address cumulative harm and ensure that the most marginalized are seen, heard, and entitled to the same protection as every other person.

### KEYWORDS

Intersectionality, Gender, Caste, Disability, Invisibility

## 1. INTRODUCTION

“My morale was already shaken because of my physical disability, but being a Dalit woman, these chasms were further deepened.”<sup>1</sup> Such is the lived experience of not just one woman, but thousands. She is seen not just as a Dalit, or just a woman, or just a disabled person. Caste, gender, and disability, when compounded, impose on these women what can be termed as “triple jeopardy” or “triple marginalisation.” The deeply embedded seeds of culture, tradition, and biases disproportionately isolate and confine women who are impaired physically or mentally.<sup>2</sup> Like layers, these interlocking grounds cumulatively heighten her vulnerabilities to the interconnected and interactive.<sup>3</sup> systems of caste, gender, and ableism. These do not merely add up vulnerabilities; rather, they compel us to see how legal, social, cultural, and institutional systems are architected around the assumption of what characterises humans as the *default subject*. The silence of a low-caste disabled woman stands not as a choice but as an immemorial punishment. She exists between caste councils that see her as pollution,<sup>4</sup> patriarchies that view her as property, and bureaucracies that regard her as paperwork. Such a vicious circle of invisibility and silencing questions the fundamental justice meant to shatter the exacerbation of the suffering of these marginalised women in the social sphere.<sup>5</sup> Our community bears the mindset and established norms of who and what constitute a “normal” and “acceptable” being.

Our Indian Constitution promises every citizen equality, equity, dignity, personal liberty, non-discrimination, and social justice, irrespective of caste, class, creed, race, gender, sex, and other identities.<sup>6</sup> Yet the Indian law remains to be comprehended and addressed fully, such as social suffering and how subjective characteristics amplify one another. The invisibility of lower caste disabled women is not an isolated domestic failing in Indian law; it reflects the broader lacuna in human rights law, where normative categories of discrimination are often treated in isolation (*in*

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<sup>1</sup> K. Kalyani, *New Dalit women autobiographies are opening up private, intimate spaces, rewriting history*, THEPRINT (Apr. 14, 2021), <https://theprint.in/opinion/new-dalit-women-autobiographies-are-opening-up-private-intimate-spaces-rewriting-history/639569/>.

<sup>2</sup> Dr. Amrapali Mahadev Jogdand, Major Dr H.J. Narke, *Inclusion of Women with Disability in India*, 10:1 INT’L J. INDIAN PSYCHOL. (IJIP), (2022).

<sup>3</sup> Gobinda C. Pal, *Dalits with Disabilities: The Neglected Dimension of Social Exclusion*, IV:3 Indian Institute of Dalit Studies (IIDS), (2010), [https://idsn.org/wp-content/uploads/user\\_folder/pdf/New\\_files/India/Dalits\\_with\\_disabilities\\_IIDS\\_working\\_paper.pdf](https://idsn.org/wp-content/uploads/user_folder/pdf/New_files/India/Dalits_with_disabilities_IIDS_working_paper.pdf).

<sup>4</sup> Radhika Kapur, *Understanding the Concepts of Purity and Pollution in the Hierarchy of the Caste System* (Apr. 2022), RESEARCHGATE, (Nov. 25, 2025), [https://www.researchgate.net/publication/360064600\\_Understanding\\_the\\_Concepts\\_of\\_Purity\\_and\\_Pollution\\_in\\_the\\_Hierarchy\\_of\\_the\\_Caste\\_System](https://www.researchgate.net/publication/360064600_Understanding_the_Concepts_of_Purity_and_Pollution_in_the_Hierarchy_of_the_Caste_System).

<sup>5</sup> Benno Herzog, *Invisibilization and Silencing as an Ethical and Sociological Challenge*, *Social Epistemology*, 32:1, SOCIAL EPISTEMOLOGY, 13-23, (2018).

<sup>6</sup> INDIA CONST., amended by The Constitution (One Hundred and Sixth Amendment) Act, 2023.



*silo*). No single area of law can address the compounding systemic deprivation, thus putting them at a greater risk.<sup>7</sup> In practice, the Indian legal system addresses discrimination on the grounds of caste, gender, and disability *in silos*, and the absence of law addressing the crossroads of multiple identities, and thus the intersection, renders these marginalised groups invisible. This article aims to criticise such *silos* of Indian constitutionalism and statutory protection through the prism of intersectionality. It aims to convince readers that these women are and should be entitled to the same rights and protections as high-caste, non-disabled women (and men), not as a matter of legislative benevolence but in light of the same fundamental rights and constitutional principles enshrined.

## 2. SOCIAL AND STRUCTURAL EXCLUSION

Lower caste women are seen as outcastes, or “untouchables,” and disabled women have been subjected to social infantilisation, being conceptualised as weak, passive, and dependent.<sup>8</sup> Apart from the medical condition that informs the approach to disability, it is viewed as an individual problem that must be handled or dealt with at the individual level.<sup>9</sup> Bodies marked by caste and gender become further complicated by discourses of disability, based on ideologies of dependence and incapability, which further reinforce larger discourses of social hierarchies, power, domination, and oppression.<sup>10</sup> Hunt argues, “*the problem of disability lies not only in the impairment of function and its effects on us individually, but also, more importantly, in the area of our relationship with ‘normal’ people.*”<sup>11</sup> Gender, as a result of biology, has been thought to determine all manner of social behaviour in men and women.

“*It is to be living in a country that never has spaces for us. Our people have to hide their identity for fear of discrimination, so we don’t even recognise each other and are isolated and alone.*”<sup>12</sup>

Being unable to relate to others and participate directly in society's life impoverishes a person's

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<sup>7</sup> Gobinda C. Pal, *Dalits with Disabilities: The Neglected Dimension of Social Exclusion*, IV:3 Indian Institute of Dalit Studies (IIDS), (2010), [https://idsn.org/wp-content/uploads/user\\_folder/pdf/New\\_files/India/Dalits\\_with\\_disabilities\\_IIDS\\_working\\_paper.pdf](https://idsn.org/wp-content/uploads/user_folder/pdf/New_files/India/Dalits_with_disabilities_IIDS_working_paper.pdf).

<sup>8</sup> SONALI SHAH, CAROLINE BRADBURY-JONES, *DISABILITY, GENDER AND VIOLENCE OVER THE LIFE COURSE: GLOBAL PERSPECTIVES AND HUMAN RIGHTS APPROACHES 3* (Routledge Taylor & Francis Group 2018).

<sup>9</sup> UPALI CHAKRAVARTI, *DISABILITY, GENDER, AND THE TRAJECTORIES OF POWER 24* (SAGE Publications India Pvt. Ltd. 2015).

<sup>10</sup> NANDINI GHOSH & SUPURNA BANERJEE, *CASTE AND GENDER IN CONTEMPORARY INDIA: POWER, PRIVILEGE AND POLITICS 2* (Routledge Taylor & Francis Group 2019).

<sup>11</sup> PAUL HUNT, *STIGMA THE EXPERIENCE OF DISABILITY 146* (Geoffrey Chapman 1966).

<sup>12</sup> Chandran R. B., *Navigating healthcare as a Dalit, non-binary person with debilitating social anxiety*. MEDIUM, (Nov. 25, 2025), <https://medium.com/skin-stories/navigating-healthcare-as-a-dalit-non-binary-person-with-debilitating-social-anxiety-aa378490e144>. See also Amrutha S.L., & Christie, L. G., *Dalit Women's Writings at the Intersection of Illness and Disability: An Analysis of Selected Skin Stories*, 17:3 CONTEMPORARY VOICE OF DALITS (2025).

life. Our Constitution serves as the guiding light, yet these women who become prey to social exclusion<sup>13</sup> dwell in the shadow of the law. Disability, gender, and caste-based discrimination share a single common thread of vulnerability, victimisation, and stigmatisation.<sup>14</sup> She possesses more identities than one, and a cross-section of them aggravates her disadvantage.<sup>15</sup> These structures of inequality within social institutions uphold the privilege of one group over the other,<sup>16</sup> systematically discriminating on subjective characteristics of caste, gender, disability, race, religion, descent, HIV status, or where one lives.<sup>17</sup> Social institutions exclude, discriminate against, isolate, and deprive these groups based on these subjective identities.<sup>18</sup> They face a continuous practice of *indirect* discrimination, dependency, and deprivation of opportunities for personal development,<sup>19</sup> and are devalued and excluded from the dominant discourses and practices.<sup>20</sup>

Studies have found that marginalised women routinely face denial of healthcare, exclusion from employment, and systemic neglect in accessing fair and equal justice. In the Indian context, *Karma* is often seen as explaining a person's sufferings, i.e., God punishes them for the sins they committed in a previous life, for which they must and are bearing the consequences.<sup>21</sup> The pre-emptive testimonial injustice<sup>22</sup> deprives the marginalised of the opportunity to raise their voice in the pool of collective social understanding. These women face both testimonial injustice (where the speaker's assertions are given less credibility because the hearer holds a prejudice against the social group to which the speaker belongs) and hermeneutical injustice (where the social structure renders the marginalised social group powerless).<sup>23</sup> Lack of reporting, non-existence of requisite

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<sup>13</sup> Amartya Kumar Sen, *Social Exclusion: Concept, Application, and Scrutiny*, Social Development Papers No. 1, Asian Development Bank, 3 (2000).

<sup>14</sup> Akshay Trilokinath Maurya, *Interrogating the Three-Dimension Intersectional Lens: Gender, Disability, and Caste in India* (2023), [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=4950306](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4950306).

<sup>15</sup> Dhruva Gandhi, *Locating Indirect Discrimination in India: A Case for Rigorous Review under Article 14*, 13 NUJS L. Rev., 11 (2020).

<sup>16</sup> HEATHER MCKEE HURWITZ, ARE WE THE 99%? THE OCCUPY MOVEMENT, FEMINISM, AND INTERSECTIONALITY 8 (Temple Univ. Press 2021).

<sup>17</sup> Farhat Naz, *Adivasis Water Exchange and Caste-Based Water Lords: A Case of Groundwater Market in a Village of Gujarat, India*, in *ADIVASI RIGHTS AND EXCLUSION IN INDIA* 197 (Routledge Taylor & Francis Group 2019).

<sup>18</sup> Jitendra Kumar, *Blocked by Caste: Economic Discrimination in Modern India*, edited by Sukhdeo Thorat and Katherine S. Newman, 2(3), *SOUTH ASIAN HISTORY AND CULTURE* 431–433 (2011).

<sup>19</sup> Kumar, Bijaya & Sagarika, Sipra., *Mapping Caste, Class, and Gender Dynamics Through the Lens of Disability: A Study of Contemporary India*, *The Eastern anthropologist*. 73. 251-277 (2020).

<sup>20</sup> NANDINI GHOSH & SUPURNA BANERJEE, *CASTE AND GENDER IN CONTEMPORARY INDIA: POWER, PRIVILEGE AND POLITICS* 11 (Routledge Taylor & Francis Group 2019).

<sup>21</sup> Nilika Mehrotra, *Disability, Gender and Caste Intersections in Indian Economy*, *RESEARCH IN SOCIAL SCIENCE AND DISABILITY* 7, 295-324, 298 (2013).

<sup>22</sup> Miranda Fricker, *Original Significances: The Wrong Revisited*, in *Epistemic Injustice: Power and the Ethics of Knowing*, *OXFORD ACADEMIC* 129-146, 130 (2007).

<sup>23</sup> Giladi, Paul, *Epistemic Injustice: A Role for Recognition?*, 44 (2) *MANCHESTER METROPOLITAN UNIVERSITY, PHILOSOPHY AND SOCIAL CRITICISM*, 141-158, (2017).

provisions, and absence of mentioning the disability of the aggrieved in the FIR proforma in the police stations across the country, either in the physical form or in the online FIR format, are also responsible for gaps in the on-ground implementation of the already existing legal framework designed to protect persons with disabilities.<sup>24</sup>

Placed at the bottom of the social hierarchy,<sup>25</sup> they suffer not only from social invisibility but also from social silencing.<sup>26</sup> The non-hegemonic groups are rendered mute, their voices lost amid the dominant's noise. The law remains silent on SC/ST disability reservations, effectively blocking them from benefiting from the scheme. Girl students from Dalit and Adivasi backgrounds are further secluded, thus struggling to attend school.<sup>27</sup> Jaya, a Dalit woman with disability from Tamil Nadu, said: “*I got the highest marks in the written, and in the interview ... ‘though she scored the highest marks, but since she is severely disabled and the job requires extensive travel, we do not find her suitable for the post’.*”<sup>28</sup> Official data have repeatedly recorded staggeringly high dropout rates for SC/ST children — the decadal analysis carried out by NCERT reported that as many as 62.57% of SC children had dropped out at the upper primary level, and 83.62% at the secondary level.<sup>29</sup> The recent UDISE reports also confirm that SC/ST students continue to record higher dropout rates compared to the national average.<sup>30</sup> UNESCO’s 2019 State of Education report and UNICEF country summaries show that school participation for children with disabilities (CwD) is far lower, with attendance at about 61% among ages 5–19, and the estimated non-attendance/dropout rates for CwD were roughly 12% (~27% had never attended).<sup>31</sup>

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<sup>24</sup> Chaitanya Mukund, *Disability Disaggregated reporting of abuse on Disabled persons*, NCPEDP JAVED ABIDI FELLOWSHIP ON DISABILITY 3 (2024).

<sup>25</sup> Jayna Kothari, Almas Shaikh, Aj Agrawal, *The Intersection of Disability and Caste: A Policy Paper*, CLPR, Bangalore, 13 (2020), <https://clpr.org.in/wp-content/uploads/2020/07/Caste-and-Disability-Policy-Paper-Screen-Reader-version.pdf>.

<sup>26</sup> Benno Herzog, *Invisibilization and Silencing as an Ethical and Sociological Challenge*, *Social Epistemology*, 32:1, SOCIAL EPISTEMOLOGY, 13-23, 6 (2018).

<sup>27</sup> Jayna Kothari et. al., ‘*Intersectionality: A Report on Discrimination based on Caste with the intersections of Sex, Gender Identity and Disability in Karnataka, Andhra Pradesh, Tamil Nadu and Kerala*’ CLPR, Bangalore, 28, (2019), <https://clpr.org.in/wp-content/uploads/2020/07/Intersectionality-A-Report-on-Discrimination-based-on-Caste-with-the-intersections-of-Sex-Gender-Identity-and-Disability-in-Karnataka-Andhra-Pradesh-Tamil-Nadu-and-Kerala.pdf>.

<sup>28</sup> *Ibid* at 32.

<sup>29</sup> Ramesh Pandita, *Dropout Percentage of Scheduled Caste and Scheduled Tribe Children in India: A Decadal Analysis up to Secondary Level*, *JOURNAL OF INDIAN EDUCATION* (NCERT) 41:2, 97-117, 113 (2015).

<sup>30</sup> UDISE (Unified District Information System for Education) dashboard and country reports, Ministry of Education, Government of India, [UDISE+](https://udise.gov.in/). See also Report on Unified District Information System For Education Unified District Information System For Education Unified District Information System For Education Plus (UDISE+) 2021-22, [Microsoft Word - UDISE+ Report 2021-22 10.10.2022](https://udise.gov.in/UDISE%20Report%202021-22%2010.10.2022).

<sup>31</sup> UNESCO, *N for Nose: State of Education Report for India 2019; Children with Disabilities* (2019), <https://unesdoc.unesco.org/ark:/48223/pf0000368780>. See also Kajari Goswami, *75% of children with disabilities don't attend schools in India: UNESCO*, *INDIA TODAY* (July 4, 2019, 12:55 IST), <https://www.indiatoday.in/education-today/news/story/unesco-report-says-75-5-year-old-children-with-disabilities-don-t-attend-schools-in-india-1561722-2019-07-04>.

Nearly 1.3 million Dalits, mostly women, are being subjected to odd jobs like manual scavenging.<sup>32</sup> (even the more respectful title of ‘sanitary workers’ is being robbed of). “*This is the last job on earth anyone would want to do. We do this because we have no option. We inherit this job because of our caste. Society can never see our identity beyond our caste.*”<sup>33</sup> For these women burdened with the compounded effect of caste, gender, and disability, media investigations and NGO reports reveal further disturbing realities. Human Rights Watch (HRW)’s briefings also mention the same.<sup>34</sup> Media reports uncover instances where Dalit women are subjected to hysterectomies and unnecessary nonconsensual surgeries, often being told that their reproductive organs are diseased, even when no clear medical evidence exists.<sup>35</sup> Forced and non-consensual sterilisations and hysterectomies also surface as forms of structural violence for these marginalised women.<sup>36</sup> These women are stereotyped as ‘*cursed*’ and ‘*unfit*’ mothers. Exclusion and marginalisation silence or *invisibilize*<sup>37</sup> important and marginalised social groups,<sup>38</sup> often “*looking through*” them, even when physically present.

## 2.1. INVISIBILITY OF DATA ON THE INTERSECTIONAL IDENTITIES

You can’t fix what you can’t see. Yet the politics of counting remains the politics of power,<sup>39</sup> With the subjects becoming the currencies of power. Literature shows how the body has become a space of politics.<sup>40</sup> The intersection of disability, caste, and gender compounds the constraints so experienced in the daily bid of survival faced by the lower-caste women.<sup>41</sup> Caste, gender, and

<sup>32</sup> INTERNATIONAL DALIT SOLIDARITY NETWORK, *Manual Scavenging*, <https://idsn.org/key-issues/manual-scavenging/> (last visited Nov. 26, 2025).

<sup>33</sup> Zoya Hussain & Hera Rizwan, *Why uterus removal is common among India’s manual scavengers*, TRT WORLD (Nov. 26, 2025, 11:30 AM), <https://www.trtworld.com/article/12783606>.

<sup>34</sup> HUMAN RIGHTS WATCH, *Sterilization of Women and Girls with Disabilities* (Nov. 10, 2011, 5:47 PM EST), <https://www.hrw.org/news/2011/11/10/sterilization-women-and-girls-disabilities>.

<sup>35</sup> Jyoti Yadav, *Bihar’s Dalit Women at the Mercy of Greedy Doctors — Robbed of Uterus in 2012, Kidneys Now*, THEPRINT (May 26, 2023), <https://theprint.in/ground-reports/bihars-dalit-women-at-the-mercy-of-greedy-doctors-robbed-of-uterus-in-2012-kidneys-now/1595295/>. See also Teena Xavier, Akhila Vasani & Vijayakumar S., *Instilling Fear Makes Good Business Sense: Unwarranted Hysterectomies in Karnataka*, II:1, INT’L J. MED. ETHICS (IJME), 49-55, (2017); Aparajita Ray & Mouneshwar Sonnad, *Hysterectomy scam: Doctors cheat Lambani, Dalit Women*, THE TIMES OF INDIA (Feb. 7, 2017), <https://timesofindia.indiatimes.com/city/bengaluru/hysterectomy-scam-doctors-cheat-lambani-dalit-women/articleshow/57008799.cms>.

<sup>36</sup> Downham Moore AM, *Race, Class, Caste, Disability, Sterilisation, and Hysterectomy*. MED HUMANIT., 49(1): 27-37, (2023). See also HUMAN RIGHTS WATCH, *India: Target-Driven Sterilization Harming Women* (2009), [https://www.hrw.org/reports/india1009web\\_0.pdf](https://www.hrw.org/reports/india1009web_0.pdf).

<sup>37</sup> Axel Honneth, *Invisibility: On the Epistemology of ‘Recognition’*, ARISTOTELIAN SOCIETY SUPPLEMENTARY, 75:1, 111–126 (2001).

<sup>38</sup> Benno Herzog, *Invisibilization and Silencing as an Ethical and Sociological Challenge*, *Social Epistemology*, 32:1, SOCIAL EPISTEMOLOGY, 13-23, 13 (2018).

<sup>39</sup> Trina Vithayathil, *Counting Caste: Census Politics, Bureaucratic Deflection*, SOUTH ASIA IN THE SOCIAL SCIENCES, 1, 191 (Cambridge University Press 2025).

<sup>40</sup> David Hardiman, ‘*Subaltern Studies*’ at Crossroads, 21 ECON. & POL. WEEKLY 288-290 (1986).

<sup>41</sup> Payel Rai Chowdhury Dutt, *Of Dalits, Disabilities and Devadasis*, 8:2 CONTEMPORARY VOICE OF DALIT 177-185 (2016).

disability have always been approached as matters of numbers only, *individually (in silos)*. There is seldom any data available that disaggregates disability by caste and gender. The aggregate government surveys do not address these disparities cumulatively. This erases those who are left as the most vulnerable and marginalised. Legal reasoning and surveys remain confined only to single-axis identities. This leads to what can be termed *invisible exclusion*, statistically, legally, and politically. The CLPR's policy paper emphasises this silence: excluding caste from disability data perpetuates a "blind spot" in policymaking.<sup>42</sup> The UN Special Rapporteur suggests collecting disaggregated, intersectional data to make the invisible visible.<sup>43</sup> Dalit women with disabilities are virtually absent from policy frameworks and advocacy initiatives that are supposed to address their unique challenges. Their representation is negligible, and their voices are suppressed.<sup>44</sup>

The NCRB data reveals the truth: violence against Dalit women is counted, violence against disabled women is also counted, but violence against Dalit disabled women is not counted at all. The "Crime in India" series contains separate tables on caste-based crimes, with 57,582 cases against Scheduled Castes and 10,064 cases against Scheduled Tribes were recorded in 2022, a 13.1% and 14.3% rise over 2021 respectively, while its Crimes Against Women chapter contains a separate slender table listing cases of rape of women "with mental or physical disabilities," reporting 110 such cases in 2022.<sup>45</sup> Yet nowhere in the NCRB's 546-page report does a single table cross-tabulate "caste × gender × disability." The format of national crime statistics allows a Dalit woman to exist in one table and a disabled woman to exist in another, while denying the possibility that both identities may inhabit the same body. The most vulnerable demographic disappears among the traditional statistical categories.

To count something is to make that subject accountable as a member of the class of relevant subjects.<sup>46</sup> and to determine the needs and the unmet needs.<sup>47</sup> Studies show that the pattern of

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<sup>42</sup> Jayna Kothari, Almas Shaikh, Aj Agrawal, *The Intersection of Disability and Caste: A Policy Paper*, CLPR, Bangalore, 13 (2020), <https://clpr.org.in/wp-content/uploads/2020/07/Caste-and-Disability-Policy-Paper-Screen-Reader-version.pdf>.

<sup>43</sup> INTERNATIONAL DALIT SOLIDARITY NETWORK, *UN Report on Intersectionality Calls for Action on Caste and Gender Justice*, <https://idsn.org/un-report-on-intersectionality-calls-for-action-on-caste-and-gender-justice/>, (last visited Nov. 26, 2025).

<sup>44</sup> Dr Aiswarya Rao, Priyanka Samy, *Social justice groups forget Dalit women with disabilities — and it's not just oversight*, THE NEWS MINUTE (Apr. 22, 2024, 4:46 PM), <https://www.thenewsminute.com/news/social-justice-groups-forget-dalit-women-with-disabilities-and-its-not-just-oversight>.

<sup>45</sup> NATIONAL CRIME RECORDS BUREAU, *Crime in India 2022*, Ministry of Home Affairs, Govt. of India, 264, (2022), <https://www.ncrb.gov.in/uploads/nationalcrimerecordsbureau/custom/1701607577CrimeinIndia2022Book1.pdf>.

<sup>46</sup> Aryn Martin, Michael Lynch, *Counting Things and People: The Practices and Politics of Counting*, 56:2 SOCIAL PROBLEMS, 243-266, (2009).

<sup>47</sup> WHO & UN-ESCAP, *Training Manual on Disability Statistics*, 110, (2008), <https://www.unescap.org/sites/default/files/Chapter5-Disability-Statistics-E.pdf>.

erasure in the Census has persisted for decades, ever since 1872.<sup>48</sup> The erasure intensified when the National Family Health Survey-6 (2023) removed disability indicators, thereby eliminating one of India's most commonly used national-level health statistics.<sup>49</sup> Disability consequently disappeared from India's reproductive, maternity, and public health data infrastructure, particularly among Dalit women. Moreover, under-reporting of disability rates may also be due to illiteracy, attitudes towards disability, or local perceptions of disability. In general, inconsistent reporting, varying definitions, cultural associations, and other social variables associated with disability lead to wide variances in prevalence figures around the world.<sup>50</sup>

As Dr Mohummed Asheel, WHO's National Professional Officer for Disabilities and Rehabilitation in India, says, "*Without accurate data, even the best laws remain empty promises.*"<sup>51</sup> India's commitment under Article 31 of the UNCRPD,<sup>52</sup> which mandates that States gather disaggregated and appropriate data that identifies and eliminates impediments faced by women with disabilities, is clearly contradicted by the NFHS-6 ruling. According to the Ministry of Social Justice and Empowerment's September 2018 Handbook on Social Welfare Statistics,<sup>53</sup> there are approximately 2.1 million Scheduled Tribe (STs) and 4.9 million Scheduled Caste individuals with disabilities. According to the Persons with Disabilities (Divyangjan) in India - A Statistical Profile: 2021,<sup>54</sup> only 2.2% of the SC and 1.92% of the ST women were reported as disabled. The recently announced Census 2027,<sup>55</sup> built as part of Vikshit Bharat 2047 with the aim of "leaving no one behind," sets itself apart from prior censuses, as for the first time since independence, it will

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<sup>48</sup> INDIA DISABILITY WATCH, *The Historical Undercounting of Persons with Disabilities in the Census* (Nov. 28, 2025), <https://indiadisabilitywatch.in/2025/05/28/the-historical-undercounting-of-persons-with-disabilities-in-the-census/>.

<sup>49</sup> Rema Nagarajan, *Govt Drops Disability-Related Questions From National Family Health Survey*, THE TIMES OF INDIA (May 26, 2023), [National Family Health Survey: Govt drops disability-related questions from NFHS | India News - Times of India](https://timesofindia.indiatimes.com/News/India-News/National-Family-Health-Survey-Govt-drops-disability-related-questions-from-NFHS-6-Is-a-Mistake/articleshow/102947528543.cms); See also Nivedita Krishna, Upasana Nath, *Dropping Disability Questions from NFHS-6 Is a Mistake*, IDR ONLINE (May 29, 2025), <https://idronline.org/article/diversity-inclusion/dropping-disability-questions-from-nfhs-6-is-a-mistake/>.

<sup>50</sup> Neha Kumari, Nandita Saikia, S.V. Subramanian, *The Puzzle of Underreporting Disability Among Tribal Population in India: Is It a Statistical Artifact or Reality?*, 45(4) GEROSCIENCE, 2387-2403 (2023).

<sup>51</sup> UNITED NATIONS IN INDIA, *Counting Everyone, Caring For All: Why Inclusive Censuses Power Disability Rights, Health Equity, And Dignity* (Oct. 17, 2025), <https://india.un.org/en/303475-counting-everyone-caring-all-why-inclusive-censuses-power-disability-rights-health-equity>.

<sup>52</sup> Convention on the Rights of Persons with Disabilities, 2006, art. 31.

<sup>53</sup> Government of India, Ministry of Social Justice & Empowerment, *Handbook on Social Welfare Statistics, 2018* (2018), [socialjustice.gov.in/writereaddata/UploadFile/HANDBOOKSocialWelfareStatistice2018.pdf](https://socialjustice.gov.in/writereaddata/UploadFile/HANDBOOKSocialWelfareStatistice2018.pdf).

<sup>54</sup> Government of India, Ministry of Statistics & Programme Implementation, National Statistical Office, Social Statistics Division, *Persons with Disabilities (Divyangjan) in India — A Statistical Profile: 2021* (2021), [2024102947528543.pdf](https://2024102947528543.pdf).

<sup>55</sup> Ministry of Home Affairs, Office of the Registrar General, India, THE GAZETTE OF INDIA: EXTRAORDINARY, Notification (New Delhi, June 16, 2025), <https://censusindia.gov.in/nada/index.php/catalog/45572>.

include caste enumeration for all individuals.<sup>56</sup> However, the common pattern still prevails, leaving the blind spot unsolved, by reason of the absence of disaggregated “caste × disability × gender” data. Although disability and caste or Dalit identity is highly prevalent in India, they are viewed as two distinct groups who require different care.

This is not just an issue of infrastructure. It is about visibility, justice, and human value. Far too many voices are silenced. Human rights of the disabled continue to remain under attack. Justice remains out of reach for many, and even sometimes insufficient.

## 2.2. MISINTERPRETATION OF THE WORD “ONLY”

The wording of the Constitution is also misinterpreted to recognise “only” as referring solely to one single ground of discrimination.<sup>57</sup> Article 15(1), interpreted in a highly isolated manner, prohibits discrimination “only on grounds of religion, race, caste, sex, place of birth, or any of them.” Such misinterpretation causes ambiguity, as evident from the case of *State of Madras v. Champakam Dorairajan*.<sup>58</sup> In another case,<sup>59</sup> it was held that discrimination has to be based solely on one ground; therefore, discrimination based on more than one ground mentioned in the article falls outside the ambit of Article 15(1).<sup>60</sup> The Calcutta High Court had upheld the same in the case of *Anjali Roy vs. State of West Bengal*,<sup>61</sup> where it had stated that sexual discrimination is founded solely on the ground of sex and *no other ground*. In the case of *Punjab v Daulat Singh*,<sup>62</sup> the question which arose before the Bombay High Court was whether the discrimination was based “on the ground of descent alone.”

Lord Thankerton had laid down the test of a discriminatory result or effect flowing from a prohibition or restriction based on ground(s). As stated by Indira Jaising, “Discrimination is always on the basis of sex in its gendered state. The use of the word ‘only’ in this Article has enabled the courts to segregate sex from gender and uphold blatantly discriminatory legislation.”<sup>63</sup> This approach exemplifies the disaggregated norm of interpretation based on a reductionist reading of the constitutional fragment: “on grounds only of sex, caste, language, place

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<sup>56</sup> Press Information Bureau, *The Next Big Step for India: Census 2027* (July 11, 2025, 1:31 PM), [Press Note Details: Press Information Bureau](#).

<sup>57</sup> Shreya Atrey, *Through the Looking Glass of Intersectionality: Making Sense of Indian Discrimination Jurisprudence under Article 15*, 16 EQUAL RIGHTS REV. 160 (2016).

<sup>58</sup> *State of Madras v. Champakam Dorairajan*, AIR 1951 SC 351.

<sup>59</sup> *Air India vs. Nergesh Meerza and Ors.*, AIR 1981 SC 1829, (1981) 4 SCC 335.

<sup>60</sup> *MahadeV Jiew v. Dr B.B. Sen*, SCC OnLine Cal 182, AIR 1951 Cal 563.

<sup>61</sup> *Anjali Roy v. State of West Bengal*, 1952 SCC OnLine Cal 17, AIR 1952 CAL 822.

<sup>62</sup> *Punjab v. Daulat Singh*, (1946) 48 BOM LR 443, 1946 SCC OnLine FC 1.

<sup>63</sup> Indira Jaising, “*Gender Justice and the Supreme Court*” in KIRPAL, B.N. ET AL (EDS.), SUPREME BUT NOT INFALLIBLE: ESSAYS IN HONOUR OF THE SUPREME COURT OF INDIA 294 (Oxford India Paperbacks, 2000).



*of birth or any of them.*” Similarly, Section 3(4) of the Rights of Persons with Disabilities (RPwD) Act, 2016<sup>64</sup> also states the word “only”, which narrows down the protections to be provided, ignoring the compounded harm of identities in addition to their disability. still does not fully operationalise multiple discrimination obligations of the UNCRPD. The UNCRPD Concluding Observations (India 2019) also expressed concerns regarding the absence of measures to combat multiple and intersecting discrimination against, inter alia, persons with disabilities in scheduled castes and scheduled tribes, including Dalits and Adivasis.<sup>65</sup> The act refers to SC/STs only twice; however, no mention of any protection to be provided to women from vulnerable castes is present.<sup>66</sup>

However, from the purview of the protections, it can be inferred that the framers of the Constitution never had the intention<sup>67</sup> to limit or exclude multi-ground discrimination<sup>68</sup> on the grounds that can make a person vulnerable. They had ensured to provide protection to each and every citizen irrespective of the numeric grounds of discrimination one may be a victim of. Statutory interpretation becomes necessary. As Kannabiran further asserted, “Moving away from a disaggregated approach to understanding non-discrimination and liberty, and instead adopting a holistic cross-sectoral, intersectional approach that looks at connections and possibilities that might enrich the scope of non-discrimination, involves a shift that forces a re-examination of a range of materials hitherto inadequately explored in constitutional jurisprudence and legal research on non-discrimination.”<sup>69</sup> The traditional view is that the adverb “only” should be placed next to the word/s whose meaning it restricts, for example, *I have seen him only once rather than I have only seen him once.*<sup>70</sup>

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<sup>64</sup> The Rights of Persons with Disabilities Act, No. 49. Acts of Parliament, 2016 (India).

<sup>65</sup> COMMITTEE ON THE RIGHTS OF PERSONS WITH DISABILITIES, *Concluding Observations on the Initial Report of India*, UN Doc. UNCRPD/C/IND/CO/1 (Oct. 29, 2019).

<sup>66</sup> Jayna Kothari, Almas Shaikh, Aj Agrawal, *The Intersection of Disability and Caste: A Policy Paper*, CLPR, Bangalore, 13 (2020), <https://clpr.org.in/wp-content/uploads/2020/07/Caste-and-Disability-Policy-Paper-Screen-Reader-version.pdf>.

<sup>67</sup> S. Nagappa Constituent Assembly of India Debates, 21 November 1949, 11.161.153, <https://www.constitutionofindia.net/debates/21-nov-1949/>; Shrimati Renuka Ray Constituent Assembly of India Debates, 9 November 1948, 7.52.58, <https://www.constitutionofindia.net/debates/09-nov-1948/>; Tajamul Husain. Constituent Assembly of India Debates, 9 December 1948, 7.70.82, <https://www.constitutionofindia.net/debates/09-dec-1948/>.

<sup>68</sup> Shreya Atray, *Through the Looking Glass of Intersectionality: Making Sense of Indian Discrimination Jurisprudence under Article 15*, 16 EQUAL RIGHTS REV. 160 (2016); See also Z.M. Yacoob, *Societal Morality to Constitutional Morality*, THE HINDU, (Jul. 27, 2016, 4:26 PM IST), <http://www.thehindu.com/opinion/lead/societal-morality-to-constitutionalmorality/article2758601>.

<sup>69</sup> KALPANA KANNABIRAN, *TOOLS OF JUSTICE: NON-DISCRIMINATION AND THE INDIAN CONSTITUTION* 337 (Routledge India, 2012).

<sup>70</sup> JEREMY BUTTERFIELD, *OXFORD A-Z OF ENGLISH USAGE*, 133 (Oxford University Press, 2013).

We have to consider that the word ‘or’ is normally disjunctive. As stated by Scrutton L. J., “*You do sometimes read ‘or’ as ‘and’ in a statute. But you do not do it unless you are obliged because ‘or’ does not generally mean ‘and’ and ‘and’ does not generally mean ‘or’.*”<sup>71</sup> When the word ‘or’ has been used, it is obvious that the Legislature has purposively used the word ‘or’. Unless it is proved that there was some reason or difficulty that prevented the Legislature from using the ‘and’, literal interpretation has to be applied to the statutory provision. Purposive theory is a theory of statutory interpretation that holds that Courts should interpret legislation in light of its purpose.

### 3. INTERSECTIONALITY AS THE WAY FOR MAPPING INVISIBLE CARTOGRAPHIES OF EXCLUSION

Intersectionality views categories of race, class, gender, sexuality, nation, ability, ethnicity, and age, among others, as interrelated and mutually shaping one another.<sup>72</sup> It is influenced by the narratives of those existing between gaps in categories.<sup>73</sup> Intersectionality, born of critical race and feminist theory, has rapidly seeped into global legal discourse, emerging as a general principle of international law.<sup>74</sup> The UN Human Rights Council also affirms intersectionality as indispensable for understanding systemic inequality.<sup>75</sup> “*An intersectional lens exposes patterns of discrimination that may be hidden or overlooked in legal and policy frameworks and approaches for combating discrimination,*” said Sara Hamood, chief of the Anti-Racial Discrimination Section in UN Human Rights.<sup>76</sup> Intersectionality deals not merely with the addition of disadvantages, but with the mutually constituted, interconnecting social categories.<sup>77</sup> To include protection against compounded discrimination, harm is not summative but **cumulative**. No one must be discriminated against based on ‘ability’ as well.<sup>78</sup> Its true value lies not merely in “adding up” vulnerabilities; rather, it compels us to see how legal, social, and institutional systems are designed

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<sup>71</sup> JUSTICE G. P. SINGH, ALOK ARADHE, PRINCIPLES OF STATUTORY INTERPRETATION (15th ed. 2012) (LexisNexis Butterworths Wadhwa).

<sup>72</sup> Niccolò Paolo Alessi, *Intersectionality as a Legal Concept? Applications and Implications of the Notion (Within and) Beyond Non-Discrimination Law*, 1 *BIO LAW J. – RIVISTA DI BIODIRITTO* 475 (2025). See also Shreya Atrey, *Through the Looking Glass of Intersectionality: Making Sense of Indian Discrimination Jurisprudence under Article 15, 16* *EQUAL RIGHTS REV.* 160 (2016).

<sup>73</sup> Sarah C. White, *The ‘Gender Lens’: A Racial Blinder? Progress in Development Studies*, 6(1), 55-67, (2006).

<sup>74</sup> The Statute of the International Court of Justice, art. 38(1)(c).

<sup>75</sup> UN HUMAN RIGHTS OFFICE, *Experts: Intersectional Lens Key to Addressing Systemic Racism* (Oct. 17, 2024), <https://www.ohchr.org/en/stories/2024/10/experts-intersectional-lens-key-addressing-systemic-racism>.

<sup>76</sup> *Ibid.*

<sup>77</sup> UN WOMEN, UNRPD, *Intersectionality Resource Guide and Toolkit - An Intersectional Approach to Leave No One Behind* (2022), <https://knowledge.unwomen.org/sites/default/files/2022-01/Intersectionality-resource-guide-and-toolkit-en.pdf>.

<sup>78</sup> Aishwarya Rao, *Dalit women in politics: Why disabled women must be included in mainstream dialogues*, *FIRSTPOST* (Nov. 14, 2019), <https://www.firstpost.com/india/dalit-women-in-politics-aishwarya-rao-on-why-disabled-women-must-be-included-mainstream-dialogues-6198001.html>.

around the assumption of a “*default subject*” and how those who deviate on multiple axes are not just treated as outsiders but are rendered invisible.

As Ethos mentions, “*The approach to embodiment begins from the methodological postulate that the body is not an object to be studied in relation to culture but is to be considered as the subject of culture, or in other words as the existential ground of culture.*”<sup>79</sup> Institutional power structures, in this case caste, gender, and disability, simultaneously architect social relations.<sup>80</sup> This article aims to convince the readers that the experiences of oppression cannot be *improved* merely by addressing such single-axis frameworks in isolation. Born during the critical race and feminist jurisprudence of the interrelated oppression of African-American women,<sup>81</sup> by Kimberlé Crenshaw, an American lawyer and civil rights advocate, which concerns itself with identifying how oppressive power is embedded in the societal systems and structures.<sup>82</sup> <sup>83</sup> Intersectional theories follow a matrix framework, recognising the intricately entwined functions of both identities and power.<sup>84</sup> Kimberlé, in her article, compares this to navigating a major city crossing. If we take this example, the main crossing is gender: one cross street stands for caste, and the other for disability. These roads then connect to make a triple-layered blanket of oppression.<sup>85</sup> Intersectionality thus contradicts the monistic analyses of power that consider class inequality, gender inequality, disability, and so forth *in silos*, without taking into account the interrelation and compounding of these analyses, which discriminate against people enduring multiple inequalities.<sup>86</sup> The UN Human Rights Council affirms intersectionality as indispensable for

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<sup>79</sup> Thomas J. Csordas, *Embodiment as a Paradigm for Anthropology*, 18(1) ETHOS, 5-47 (1990), [http://links.jstor.org/sici?sici=0091-2131\(199003\)18:1](http://links.jstor.org/sici?sici=0091-2131(199003)18:1).

<sup>80</sup> MARGARET L. ANDERSEN, PATRICIA HILL COLLINS, RACE, CLASS, AND GENDER AN ANTHOLOGY (Cengage Learning 2023), <https://jm919846758.wordpress.com/wp-content/uploads/2023/02/regaa15.pdf>.

<sup>81</sup> Kimberlé Crenshaw, *Demarginalizing the Intersection of Race and Sex: A Black Feminist Critique of Antidiscrimination Doctrine*, FEMINIST THEORY AND ANTIRACIST POLITICS, Vol. 1989, University of Chicago Legal Forum, 139–168 (1989).

<sup>82</sup> Christian Henrik Alexander Kuran, Claudia Morsut, Bjørn Ivar Kruke, Marco Krüger, Lisa Segnestam, Kati Orru, Tor Olav Nævestad, Merja Airola, Jaana Keränen, Friedrich Gabel, Sten Hansson, Sten Torpan, *Vulnerability and vulnerable groups from an intersectionality perspective*, INTERNATIONAL JOURNAL OF DISASTER RISK REDUCTION, 50, (2020).

<sup>83</sup> P.H. Collins, S. Bilge, *Intersectionality*, John Wiley & Sons, 2020; S. Ryder, K. Boone, *Intersectionality and sustainable development*, in WALTER LEAL FILHO ET AL., GENDER EQUALITY, ENCYCLOPEDIA OF THE UN SUSTAINABLE DEVELOPMENT GOALS, (2019), <https://doi.org/10.1007/978-3-319-70060-1>.

<sup>84</sup> Patricia Hill Collins, *Learning from the Outsider Within: The Sociological Significance of Black Feminist Thought*, Social Problems, 33(6), S14-S32 (1986). See also Margaret, Satterthwaite, “*Crossing Borders, Claiming Rights: Using Human Rights Law to Empower Women Migrant Workers*”, 8 YALE HUMAN RIGHTS AND DEVELOPMENT LAW JOURNAL, 1 (2005).

<sup>85</sup> Kimberlé Crenshaw, according to a report of the 2001 World Conference against Racism as cited in Yuval-Davis, N., *Intersectionality and Feminist Politics*, 13 EUROPEAN JOURNAL OF WOMEN’S STUDIES, 196 (2006).

<sup>86</sup> HEATHER MCKEE HURWITZ, ARE WE THE 99%? THE OCCUPY MOVEMENT, FEMINISM, AND INTERSECTIONALITY 8 (Temple Univ. Press 2021).

understanding this systemic inequality and discrimination, thus embedding this concept within the global human rights vocabulary.<sup>87</sup>

Prof. Will Kymlicka had stated, “*an adequate theory of rights must ... be compatible with the just demands of disadvantaged social groups.*”<sup>88</sup> The United Nations Declaration on Minority Rights Guidance Note<sup>89</sup> also encourages an intersectional perspective in the context of policy development, programming, and project implementation as a means of strengthening the United Nations system’s efforts to eliminate discrimination and strengthen the protection of minorities. A theoretical lens alone can never suffice, but a constitutional and moral imperative must be implemented to achieve the goal. Therefore, ‘*equal protection of laws*’ should be interpreted to include protection against compounded discrimination.

### 3.1. INTERSECTIONALITY AS A GENERAL PRINCIPLE OF INTERNATIONAL LAW

It is imperative to note that the UN Charter specifically states, “*to reaffirm faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women and of nations large and small.*”<sup>90</sup> The Sustainable Development Goals (SDGs),<sup>91</sup> among its many goals, resolve to combat inequalities within and among countries; to build peaceful, just and inclusive societies; to protect human rights and promote gender equality and the empowerment of women and girls. Built upon the Millennium Development Goals (MDGs), the SDGs aim to “*leave no one behind*” and accomplish what the MDGs failed to do, especially in terms of reaching the most vulnerable. There are eleven specific mentions of “*persons with disabilities*” or “*disability*” and six specific mentions of “*persons in vulnerable situations*” in the 2030 Agenda for Sustainable Development.<sup>92</sup> SDG 5 provides for gender equality and empowering *all* women and girls, pledging the abolition of all possible forms of discrimination and violence against women and girls, and promoting equal enjoyment of human rights on an equal footing with men and boys. SDG 17 specifically obligates the States to increase the availability of timely and reliable data disaggregated by income, gender, age, race, ethnicity, migratory status, disability, geographic

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<sup>87</sup> UN HUMAN RIGHTS OFFICE, *Experts: Intersectional Lens Key to Addressing Systemic Racism* (Oct. 17, 2024), <https://www.ohchr.org/en/stories/2024/10/experts-intersectional-lens-key-addressing-systemic-racism>.

<sup>88</sup> WILL KYMLICKA, *MULTICULTURAL CITIZENSHIP: A LIBERAL THEORY OF MINORITY RIGHTS* (OXFORD ACADEMIC, 1996).

<sup>89</sup> UNITED NATIONS NETWORK ON RACIAL DISCRIMINATION & PROTECTION OF MINORITIES, *Guidance Note on Intersectionality, Racial Discrimination & Protection of Minorities* (2023), [Guidance note on intersectionality, racial discrimination and protection of minorities /](#).

<sup>90</sup> CHARTER OF THE UNITED NATIONS, 1945 (SAN FRANCISCO).

<sup>91</sup> The 2030 Agenda for Sustainable Development’s 17 Sustainable Development Goals (SDGs).

<sup>92</sup> UNITED NATIONS, *Transforming our world: the 2030 Agenda for Sustainable Development* (2015), <https://sdgs.un.org/2030agenda>.

location, and other characteristics relevant in national contexts.<sup>93</sup> Further, the Incheon Strategy to “Make the Right Real” for persons with disabilities in Asia and the Pacific,<sup>94</sup> built upon the UNCRPD and the Biwako Millennium Framework for Action and Biwako Plus Five towards an Inclusive, Barrier-free and Rights-based Society for Persons with Disabilities in Asia and the Pacific,<sup>95</sup> also calls for improving the quality of life and fulfilling the rights of disabled persons, with Goal 8 aiming to ‘*improve the reliability and comparability of disability data.*’

This interpretation is most clearly visible in the text of the non-discrimination guarantee under Section 9(3) of the South African Constitution which declares that, “*the state may not unfairly discriminate directly or indirectly against anyone on one or more grounds, including race, gender, sex, pregnancy, marital status, ethnic or social origin, colour, sexual orientation, age, disability, religion, conscience, belief, culture, language and birth.*” The phrase “on one or more grounds” not only indicates a multi-ground view of discrimination but also links unfair discrimination to the list of grounds, indicating that it is ground(s) on which discrimination must ensue to qualify as discrimination as such. A similar sense is conveyed by the phrase “based on” in Section 15(1) of the Canadian Charter of Rights and Freedoms, “because of” in Section 13 of the Equality Act 2010, and “in relation to” in Section 19. Thus, in finding the basis of discrimination through ‘*on grounds only of*’, there is an emphasis on the causative element in discrimination, i.e., something is discriminatory because it is based on certain grounds.<sup>96</sup> Thus, to prove discrimination, it is not only necessary to show a causal link between the wrongful act and its discriminatory consequence, but that the act and consequence flow from certain kinds of identities recognised as “*grounds*” or “*personal characteristics.*”<sup>97</sup>

Further, the Convention on the Elimination of Discrimination Against Women (CEDAW)’s General Recommendation No. 28 (2010)<sup>98</sup> identifies intersectionality as the basic concept for

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<sup>93</sup> SDG 17.18.

<sup>94</sup> UNITED NATIONS ECONOMIC AND SOCIAL COMMISSION FOR ASIA AND THE PACIFIC (UN ESCAP), *Incheon Strategy to “Make the Right Real” for Persons with Disabilities in Asia and the Pacific*, [https://www.unescap.org/sites/default/files/Incheon%20Strategy%20\(English\).pdf](https://www.unescap.org/sites/default/files/Incheon%20Strategy%20(English).pdf), (Nov. 2012).

<sup>95</sup> UNITED NATIONS ECONOMIC AND SOCIAL COMMISSION FOR ASIA AND THE PACIFIC (UN ESCAP), *Asian and Pacific Decade of Disabled Persons, 2003-2012, Biwako Millennium Framework for Action towards an Inclusive, Barrier-Free and Rights-Based Society for Persons with Disabilities in Asia and the Pacific*, 5 <https://repository.unescap.org/server/api/core/bitstreams/33108f87-b6b8-4c11-8589-f11b7c7f04c7/content> (2002).

<sup>96</sup> Cheryl L. Anderson, *Unification of Standards in Discrimination Law: The Conundrum of Causation and Reasonable Accommodation Under the ADA*, 82:1 MISSISSIPPI LAW JOURNAL, 68 (2018).

<sup>97</sup> Tarunabh Khaitan, *A Theory of Discrimination Law*, 159-162 (Oxford University Press, 2015).

<sup>98</sup> COMMITTEE ON THE ELIMINATION OF DISCRIMINATION AGAINST WOMEN (CEDAW), *General Recommendation No. 28 on the Core Obligations of States Parties under Article 2 of the Convention on the Elimination of All Forms of Discrimination against Women*, CEDAW/C/GC/28 (Dec. 16, 2010), <https://www.ohchr.org/en/documents/cedaw/cedawgc28> para 18 and 26.

understanding the scope of Article 2 of CEDAW (which talks about the general obligations of the State Parties). Article 2 specifically mentions condemnation of discrimination against women in ‘*all its forms.*’ The word “all” includes every form of discrimination that is not explicitly mentioned in the Convention or that may be emerging. States parties must legally recognise such intersecting forms of discrimination and their compounded negative impact on the women concerned and prohibit them. Recognised by State Parties, these developments represent evidence of state acknowledgement, thus contributing to the formation of *opinion juris*. These laws should be acted upon to fight the discrimination; weak enforcement won’t help in achieving the aims, but merely become laws written on paper.

### 3.2. INTERSECTIONALITY IN THE INDIAN CONTEXT

Attempts have been made to recognise intersectionality in India’s legal domain; however, a lot remains to be implemented. The jurisprudence laid down in *Puttaswamy*.<sup>99</sup> emphasises autonomy and dignity as core values of any human being, yet the gap between the words on paper and the lived experiences of these women remains wide. It was acknowledged that discrimination is not monolithic and that overlapping identities magnify vulnerability.<sup>100</sup> In the case of *Patan Jamal Vali v. State of Andhra Pradesh*,<sup>101</sup> It was upheld by the court that when the identity of a woman interacts with...her caste, class, religion, disability,...she may face violence and discrimination due to two or more grounds....In such a case, it is imperative to use an intersectional lens.<sup>102</sup>

India has also signed and ratified the legally binding United Nations Convention on the Rights of Persons with Disabilities (UNCPRD) 2007;<sup>103</sup> thus, the domestic laws so formulated must comply with the international norms and general principles of customary international law. Article 5 emphasises equality and non-discrimination on all grounds; following this, Article 6 addresses women with disabilities and further acknowledges multiple forms of discrimination. India itself has acknowledged in its periodic reports to the UNCRPD that lower caste women, especially the Dalit and the Adivasis with disabilities, face layered marginalisation.<sup>104</sup> Any citizen is an independent person, given identity by belonging to a diverse group of people, and rights are seen not only as a matter of individual autonomy, but also as a matter of community membership, with

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<sup>99</sup> Justice K.S. Puttaswamy (Retd.) v. Union of India, (2017) 10 SCC 1.

<sup>100</sup> Navtej Singh Johar v. Union of India, (2018) 10 SCC 1.

<sup>101</sup> Patan Jamal Vali v. State of Andhra Pradesh, (2000) 5 SCC 310.

<sup>102</sup> *Ibid.*

<sup>103</sup> UNITED NATIONS, CONVENTION ON THE RIGHTS OF PERSONS WITH DISABILITIES, G.A. Res. 61/106, U.N. Doc. A/RES/61/106 (Dec. 13, 2006), entered into force May 3, 2008.

<sup>104</sup> COMMITTEE ON THE RIGHTS OF PERSONS WITH DISABILITIES (UNCRPD), *Concluding Observations on the Initial Report of India*, UN Doc. UNCRPD/C/IND/CO/1 (Oct. 29, 2019).

specific safeguards for the most vulnerable people.<sup>105</sup> People with disabilities (PwDs) enjoy the right to lead a dignified life and to be treated in a non-discriminatory manner.<sup>106</sup> Such rights are also inherently recognised by virtue of Art. 14, 15, 19, and 21 of the Constitution.<sup>107</sup> These fundamental rights must be interpreted in an expansive and purposive manner to enhance the dignity of the individual and the worth of the human person.<sup>108</sup> The terminology ‘*life*’ includes all those aspects of life that make a person live with human dignity.<sup>109</sup> Therefore, both tangible and intangible barriers must be removed to ensure that such individuals can fully exercise their rights.<sup>110</sup> Article 14 enshrines “*equality before the law*” and “*equal protection of law*.”<sup>111</sup> The overarching principle permeating both these expressions is that of ‘*equal justice*.’<sup>112</sup> Identical treatment in unequal circumstances would amount to inequality.<sup>113</sup> The objective behind the enactment of Article 14 of the Constitution is to, *inter alia*, remove the pre-existing inequalities and disabilities.<sup>114</sup>

#### 4. CONCLUSION

The solution is to constitutionalise intersectionality through the express recognition of “*compounded discrimination*.” The fight for gender equality and inclusivity is not just for a few people; it is for all women and girls who are crippled by their ailment. There must be more inclusivity. There should be only one language globally, the language of solidarity, irrespective of gender and bodily ailment. Change should not be quantified solely by statistics; it should also be reflected in the manner in which young men and women engage and interact with one another, taking into account that everyone is a human being. The slow progress in achieving the aim calls for a paradigm shift towards taking robust measures to achieve the goal. It is necessary to move from resolutions to realisation, ensuring that commitments become a lived reality every day, not just promises yet to be fulfilled.

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<sup>105</sup> Shubham Shandilya, *A Comparative Study of the Notion of Legal and Political Pluralism in India and the Western World: Challenges and Way Ahead*, 6(S4) INTERNATIONAL JOURNAL OF HEALTH SCIENCES 3804, 3806 (2022). See also Chakravarthi Ram-Prasad, *Pluralism and Liberalism: Reading the Indian Constitution as a Philosophical Document for Constitutional Patriotism*, 16:5 CRITICAL REVIEW OF INTERNATIONAL SOCIAL AND POLITICAL PHILOSOPHY, 676-697, (2013).

<sup>106</sup> United Nations Convention on the Rights of Persons with Disabilities, 2006.

<sup>107</sup> Saurabh Shukla v. Niva Bupa Health Insurance Co. Ltd. and Others, 2023 SCC OnLine Del 5255.

<sup>108</sup> Suresh Kumar Koushal & Anr v. Naz Foundation & Ors, AIR 2014 SC 563.

<sup>109</sup> State of West Bengal v. Committee for Protection of Democratic Rights, (2010) 3 SCC 571.

<sup>110</sup> Convention on the Rights of Persons with Disabilities, art. 3.

<sup>111</sup> INDIA CONST. art. 14.

<sup>112</sup> Sheo Sankar v. State of M.P., AIR 1951 Nagpur 53 (FB); M.P. Ration Vikreta Sangh Society v. State of M.P., (1981) 4 SCC 535; See also Dicey, *Law of the Constitution*, p.47 (1939).

<sup>113</sup> Abdul Rehman v. Pinto, AIR 1951 Hyd 1.1.

<sup>114</sup> C Masilamani Mudaliar v Idol of Sri Swaminathaswami Thirukoil, 1996.



By restricting discrimination protections to cases where either gender, caste, or disability is the sole ground, the laws effectively erase multi-axis oppression and perpetuate the very hierarchies it purports to dismantle. A purposive, contextually conscious interpretive approach consistently upheld by Indian courts requires that these provisions be interpreted in furtherance of the overarching purpose: ensuring dignity, autonomy, and full participation for all persons with disabilities. Looked through an intersectional prism, it's evident that discrimination rarely operates on a single axis; therefore, the statutory language must be interpreted and, if necessary, amended to recognise compounded and structural forms of exclusion.