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ON THE TOPIC:

**"LEGAL FRAMEWORKS AND ACCESSIBILITY IN PUBLIC SPACES:  
EVALUATING THE IMPLEMENTATION OF DISABILITY RIGHTS IN  
INDIA"**

Under the Guidance and Supervision of

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## CERTIFICATE

This is to certify that Mrs Samyukta P Menon, having Reg. No. LM0124015 has submitted their dissertation titled '**Legal Frameworks and Accessibility in Public Spaces: Evaluating the implementation of Disability Rights in India**' in partial fulfilment of the requirement for the award of the degree of Master of Laws (LL.M.) in Constitutional and Administrative Law submitted to the National University of Advanced Legal Studies (NUALS), Kochi under my guidance and supervision. It is also affirmed that the dissertation submitted by her is original, bonafide and legitimate.

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## DECLARATION

I, Samyukta P Menon, do hereby solemnly affirm that this dissertation submitted by me titled **“Legal Frameworks and Accessibility in Public Spaces: Evaluating the implementation of Disability Rights in India”** in partial fulfilment of the requirement for the award of the degree of Masters of Laws (LL.M.) in Constitutional and Administrative Law submitted to the National University of Advanced Legal Studies (NUALS), Kochi under the valuable guidance and supervision of Dr Sheeba S Dhar is an original, bonafide and legitimate work.

and it has been pursued for an academic interest. This work or any type thereof has not been submitted by me or anyone else for the award of another degree of either this University or any other University.

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## **PREFACE**

I am a young woman with achondroplasia. Achondroplasia/ dwarfism is a kind of physical disability whereby the person would not grow after certain point. It is a form of short stature. It is a rare genetic bone growth disorder whereby such people reach a height of about 3 feet 8 inches (112cm). My height is 120 cm. Due to this I face complex obstacles on a daily basis in public spaces. This significant height difference means that design elements in public spaces- such as steps, counters, handles and ATM are not often within my reach. So in such a case, I would need lowered ramps and step free access, lowered proper seating accomodations in transportation and also modified height fixtures in public places.

In my daily life I do face several challenges when being in the public space. At home being with my family, they do understand what me as a disabled go through and the problems I would face. Hence at home low seats, low beds, switches at lower position are all kept so that I can do everything independently. I do not need to depend on anyone in my day to day life cause height is the major issue and nothing else. However, when I face the society I had to face several challenges. For example, Public buses and trains remain largely non-inclusive. Most low-floor buses do not have designated spaces for short-statured individuals or the elderly, and handles and seats are positioned too high. I often need assistance to board or alight in such cases. Along with that not all buses have ramps which would make getting in the bus difficult. Even though low floor transport systems would be helpful, the seats inside are at a certain height which makes people like me difficult to sit. Metro stations, while more accessible, often lack uniform ramp designs or elevators near entrances. Auto-rickshaw and taxi drivers may refuse service, especially if I am alone. This raises an urgent question- Are our laws truly serving us?

Hence, there is an urgent need for reforming the existing disability laws to address broader issues to help people like me in accessing public spaces and services. This is the main reason why I would like to prepare this dissertation cause it is an attempt to critically analyse whether the existing legal framework in India

adequately ensures equitable and barrier free access for persons with disabilities in public spaces.

This research paper portrays what me as disabled faces in the society. I am not merely a researcher but someone who lives the consequences of insufficient accessibility each day. Through this dissertation I intend to contribute to a more inclusive legal discourse.

## LIST OF ABBREVIATIONS

<b>UNCRPD</b>	United Nations Convention on Rights of Persons with Disabilities
<b>PwD</b>	Persons with Disability
<b>ASD</b>	Autism Spectrum Disorder
<b>RPWD</b>	Rights of Persons with Disabilities Act
<b>UDID</b>	Unique Disability Identification
<b>ICCPR</b>	International Covenant on Civil and Political Rights
<b>ICESCR</b>	International Covenant on Economic, Social and Cultural Rights
<b>NHRC</b>	National Human Rights Commission
<b>SHRC</b>	State Human Rights Commission

## TABLE OF CASES

1.	Union of India v. National Federation of the Blind 156 (2009) DLT 446
2.	Disabled Right Group v. Union of India 2017 AIRONLINE 2018 SC 543
3.	Rajiv Rasturi v. Union of India [2024] 12 S.C.R. 827
4.	Disabled Rights Group v. Union of India AIRONLINE 2018 SC 543, AIRONLINE 2017 SC 74
5.	Vikash Kumar vs. Union Public Service Commission (2021)AIR 2021 SUPREME COURT 2447
6.	Arman Ali v.Union of India 2019 2019 SCC Online Gau 4822
7.	Akshat Baldwa v. Yash Raj Films 2023 2023 DHC



## TABLE OF CONTENTS

S.No.	CONTENTS	Pg.No.
1.	LIST OF ABBREVIATIONS	7
2.	INDEX OF AUTHORITIES: a. TABLE OF CASES	8
3.	CHAPTER – 1- Introduction	12-19
	1.1 Scope of Study	13
	1.2 Statement of Problem	13
	1.3 Research Objectives	14
	1.4 Research Questions	14
	1.5 Hypothesis	14
	1.6 Chapterization	14
	1.7 Research Methodology	16
	1.8 Literative Review	16
4.	CHAPTER – 2- Conceptual Analysis of Disability	20-
	2.1 Introduction	20
	2.2 Evolution of Concept of Disability	22
	2.3 Models of Disability	22
	2.4 Disability Rights- Evolution and Recognition	25
	2.5 History of Disability Rights Movement	27
	2.6 Defintion	29
	2.7 Disability as a Challenge 2.7.1 Healthcare 2.7.2 Education 2.7.3 Accessibility	32-33

	2.8 Conclusion	38
5.	CHAPTER – 3- Human Rights and International Framework and its Influence on Indian Constitution	39-52
	3.1 Introduction	39
	3.2 Universal Declaration of Human Rights	39
	3.3 International Conventions	43
	3.3.1 Convention on the Rights of Persons with Disabilities	44
	3.4 Constitutional Framework- Human Rights Perspective	48
	3.5 Conclusion	52
6.	CHAPTER – 4- Indian Legal Framework	53-84
	4.1 Introduction	53
	4.2 Statutory Framework	54-63
	4.2.1 Persons With Disabilities (Equal Opportunities, Protection of Rights, and Full Participation) Act 1995	
	4.2.2 Rights of Persons with Disabilities Act 2016	
	4.3 Schemes and Guidelines	64-76
	4.3.1 National Policy for Persons with Disabilities	
	4.3.2 Sughamaya Bharat Abhiyan (Accessible India Campaign)	
	4.3.3 Scheme for the Implementation of Rights of Persons with Disabilities	
	4.4 Judicial Decisions	77-82
	4.4.1 Rajiv Rasturi v. Union of India 2024	
	4.4.2 Disabled Rights Group v. Union of India 2018	
	4.4.3 Jeeja Ghosh v. Union of India 2016	
	4.4.4 Vikash Kumar vs. Union Public Service Commission (2021)	
	4.4.5 Arman Ali v. Union of India 2019	

	4.5 Conclusion	83
	CHAPTER – 5- Conclusion and Suggestion to Improve Accessibility	85-88
7.	5.1 Introduction	85
	5.2 Summary	85
	5.3 Suggestions/ Recommendations	90
8.	Bibliography	93

## CHAPTER - 1 INTRODUCTION

*“One billion people, or 15% of the world’s population, experience some form of disability. Persons with disabilities, on average as a group, are more likely to experience adverse socioeconomic outcomes than persons without disabilities.”<sup>1</sup>*

Disability is a complex phenomenon. Disability can be either physical or mental disability. It can be congenital or acquired later in life. Either way it makes it very difficult for the person to achieve his/her full potential.

Disabled people are not common in the general population. This implies they live out their lives hidden from social gaze. There is a need to spread awareness about such people to incorporate them into the mainstream society and also enable them to be self-sufficient. Awareness should be there both within the government and society. Persons with disabilities have always been part of human societies throughout the history of mankind. They are in fact one of the largest growing minorities in the world. The definition of disability has varied and differed with place, race and culture. Disability rights have increasingly become a focal point in discussions surrounding social justice and human rights, underscoring the necessity for equitable treatment and accessibility for all individuals, regardless of their physical or mental capabilities. In India, a nation characterized by its rich cultural diversity and complex socio-economic landscape, the challenges faced by persons with disabilities (PWDs) remain significant. The prevalence of disability is considerable, yet the societal and institutional frameworks designed to support these individuals often fall short of ensuring their full participation in public life.

Disabled people are born with rights just like all ‘human beings’. They also have the right to barrier free and accessible environment. This is mainly due to the limitations they face. Hence, the society should make changes as to provide smooth and barrier free life to disabled. A person’s environment plays a significant role in the experience and extent of disability. Non-disability friendly environments hamper full and active participation in society for those with disabilities, thus creating inequalities. This paper aims to explore the extent and scope of disability in India, identifying the multifaceted challenges encountered by disabled individuals in their daily lives. It seeks to critically analyze the key legal frameworks and policies that govern disability rights and accessibility in public spaces,

investigating their effectiveness in practical implementation. Additionally, it will delve into important international conventions and the overarching human rights framework that guide the discourse on disability rights, assessing how these align with national efforts. Understanding how the public utility services are made accessible to these people form crux of this research paper. Analysing the rights of this community and how the current legal system and environment adapt to help the disabled also is essential for this paper.

These elements is crucial, as they reveal not only the gaps that exist within the current systems but also the pathways toward promoting inclusivity and accessibility. Finally, it will also propose actionable recommendations to enhance the status of disability rights and improve accessibility in public spaces across India. By illuminating the intersection of legal frameworks, societal attitudes, this paper endeavors to contribute to the broader conversation on rights, equity, and social inclusion for all marginalized communities.

### **Scope of Study**

This study is being conducted to evaluate the implementation of disability rights in India, specifically focusing on legal frameworks and accessibility in public spaces. The importance of this study lies in assessing how well the rights of individuals with disabilities are being upheld in India, and whether legal frameworks are effectively translating into accessible public spaces for people with disabilities.

By examining the practical implementation of disability rights, this study aims to identify any gaps or areas for improvement, ultimately contributing to a more inclusive and equitable society for individuals with disabilities in India.

### **Statement of Problem**

Disability laws in enacted are comprehensive legal frameworks in India aimed at safeguarding the rights of persons with disabilities. However, significant gaps still exist in the implementation of these laws, particularly regarding accessibility in public spaces. This lack of effective implementation not only hinders the full participation of individuals with disabilities in society but also perpetuates social exclusion and discrimination. This clearly raises the question whether existing legal provisions are sufficient in ensuring barrier-free access in public spaces for PwDs.

## **Research Objectives**

1. To analyse the scope of disability and the challenges faced by them.
2. To assess the existing legal frameworks related to disability rights in India and also to evaluate the implementation of disability rights in India.
3. To analyse the international convention and human rights framework governing disability rights
4. To recommend potential improvements and interventions for enhancing disability rights and accessibility in public spaces in India.

## **Research Questions**

1. What is the extent and scope of disability and what are the challenges faced by the disabled?
2. What are the key legal frameworks and policies governing disability rights and accessibility in public spaces and how effectively are the disability rights being implemented in India?
3. What are the important international conventions and the human rights framework governing disability rights?
4. What can be done to enhance the disability rights and accessibility in public spaces in India?

## **Hypthesis**

The current legal provisions are insufficient in ensuring equitable and barrier-free access for people with disabilities to public spaces in India.

## **Chapterisation**

1. The Introduction chapter details the contents of the study. It starts off with a small introduction on the area of topic, which is disability, and concludes with the need for such a study. The scope of study, containing the need for analysing the disability laws in detail and analysing the loopholes and recommending changes and creates a brief account on the scope of the

study. The statement of the problem raises the context of such a study on disability. The research objectives and research problems mentions the four areas of concentration of studies and the hypotheses gives a preliminary answer over the question sought to be solved with the study. The research methodology provides the manner of conducting the study and how it gives conclusive answers to questions, either proving or disproving the hypothesis. Chapterisation divided the study into 5 chapters that together comprise the core of the study and the literature review opens up the books and other materials that were referred to during the course of the study.

2. The second chapter deals with evolution and it starts with a brief introduction pointing to the origin of the concept of disability system in India. It can be traced by the evolution of different models of disability. Then it moves on to the history of disability rights movement in India. The subsequent study revolves around the how the different definitions of disability came up. And at the end, the challenges faced by each type of disability are also explained.
3. The third chapter deals with Human Rights and International Frameworks and its Influence on Indian Constitution. The chapter starts off with the discussion on the concept of human rights, its scope and importance and also explains the milestone document 'Universal Declaration of Human Rights (UDHR)'. How this particular convention was evolved and so on. The Human Rights Commissions are also part of the study. Then the study moves onto the understanding the what are the human rights available to disabled and also how these different commissions play a role in this regard. Then the International Conventions with regard to disability rights and how these international instruments influenced our Indian laws are also explained in detail. At the end the different constitutional provisions which relates to the international conventions are also provided.
4. The fourth chapter deals with Legal Framework in India. Here at first the existing legal frameworks are discussed. The two prime legislations are Persons With Disabilities (Equal Opportunities, Protection of Rights, and

Full Participation) Act 1995 and Rights of Persons with Disabilities Act (2016), these are discussed. These two legislations are compared. Then how these both legislations cover the aspect of accessibility which forms the major topic of this dissertation. After that comes the schemes and policies of government which are also discussed in detail. The judiciary's approach is also inspected by analysing its plethora of judgments.

5. This is the last chapter and it deals with Recommendations and potential improvements for enhancing disability rights and accessibility in public spaces in India. This forms the final chapter and here the question which would be addressed is whether the challenges mentioned are addressed by the laws? At first it concept of accessibility. This aspect is discussed in detail, how this becomes a challenge, which article of the international conventions discuss these aspects. At the end, how these legislations address these challenges, are the insufficient, what are the loopholes of these legislations and what are the suggestions or recommendations which can be made to make India disabled friendly, these are all discussed.

## **Research Methodology**

The study is primarily a doctrinal research. It includes analysis of primary and secondary sources, including Constituent Assembly Debates, statutes, rules, case laws, journal articles, books, newspaper articles, reports and other relevant materials.

## **Literature Review**

The research will utilize a human rights theoretical framework, alongside principles of social justice, to analyze the legal provisions and their impact on accessibility in public spaces. This dissertation aims to fill the existing gap by providing empirical evidence and a detailed analysis of the implementation of disability rights in public spaces, potentially influencing future legal reforms.

The first book which would be referred to is Jayna Kothari's Future of Disability Law in India (Oxford University Press, 2012). This provides a Critical Analysis of Persons with Disabilities. (Equal Opportunities, Protection of Rights and Full Participation) Act 1995.



This book comprehensively analyses this Act and also examines the historical perspective. The book also critically examines the provisions of the Act.

The next book is Rajiv Raturi and Mallika Iyer, *Disability and the Law* editors- Rajiv Raturi and Mallika Iyer (New Delhi Universal Law Publishing 2nd edition 2011). This particular book provides a summary of various provisions of the legislature along with case laws. The important aspect of this book is that it provides for Indian and foreign cases. Each concept which is discussed under the Act is addressed including Education, employment and Accessibility. For each concept set of Indian case laws and foreign case laws are provided.

Then the next book is *Law Rights and Disability* edited by Jeremy Cooper (Kingsley Publishers London Philadelphia : Jessica Kingsley Publishers, 2003) explores the intersection of law and disability rights. The book delves into various legal aspects concerning individuals with disabilities, shedding light on their rights and the challenges they face. Through a collection of essays and insights, the book offers a comprehensive examination of the legal framework surrounding disability, aiming to enhance understanding and support for individuals with disabilities.

Next one would be *Supreme Court of India Handbook Concerning Persons with Disabilities* (Supreme Court of India). The 'Handbook Concerning Persons with Disabilities' is significant resource designed to aid the legal community in addressing the issues and challenges these people face in their life. It provides practical guidance for judges and legal professionals in understanding the social model of disability within our constitutional framework. Additionally, it outlines the legal framework and key issues related to disability rights, serving as a guide to fair adjudication.

The Baquer Ali, *Disability Challenges v. Responses* (Concerned Action Now 1997) book addresses the various challenges faced by people with disabilities and explores potential responses to these challenges. It delves into topics such as accessibility, inclusion, discrimination, and advocacy for people with disabilities.

Few articles also would be referred to of which first one is *Disability Rights (Rights of Persons with Disabilities Act & National Trust Act) and Mental Healthcare Act – National Human Rights Commission* article. This article would be useful since it explains in simple

words each important provisions of the Act. Along with that educational rights – how educational institutions should ensure inclusive education are explained, what are grievance redressal mechanisms and courts, rights of persons with benchmark disability is given importance. Measures to be introduced to ensure accessibility in infrastructure, transport and other public spaces is also dealt with which would be beneficial for this paper.

The next one is NILIKA MEHROTRA- Disability Rights Movements in India: Politics and Practice- JSTOR- FEBRUARY 5-11, 2011, Vol. 46, No. 6. This essay examines the social and political environments that gave rise to the disability rights movements in India, as well as the ideologies that shaped the movements' structures, problems, opportunities, and obstacles. The late 1980s and early 1990s saw the emergence of disability movements for a number of reasons. These included the emergence of women's movements, the state policies becoming far more accountable, and the involvement and encouragement of international agencies, all of which made it easier for marginalized groups like the disabled to organize politically.

After that the next article which would be important for this paper is Anchal Mittal- Persons with Disability: The Need to Protect Against Discrimination and Safeguard Rights - 10 CPJLJ (2020) 132 Persons with Disability: The Need to Protect Against Discrimination. The article discusses the importance of protecting persons with disabilities against discrimination and safeguarding their rights. It emphasizes the need for measures to ensure equal opportunities, access to resources, and protection from discriminatory practices.

Ministry of Social Justice and Empowerment Press Information Bureau Government of India From Awareness to Action: India's Commitment to Disability Rights - October 5, 2024. This article talks about the schemes and policies implemented by Govt of India with regard to protection of disability rights. It will also explain the key legislation initiatives taken by Govt like the Rehabilitation Council of India Act 1992 the Rights of Persons with Disabilities Act 2016.

Another important article is by Yash Gautham, A Socio-Legal Critique of disability rights in India, Page 241 3.2 JCLJ (2023) 240. This article seeks to address the major deficiencies

in the PWD Act, 2016 of which one is that the definition therein is very narrow, medically oriented, and confined to seven categories specifically due to which certain disabilities like learning disabilities, long illness, etc. which are ignored. The disabled s face too much operation and marginalization in all forms of public spheres and unless concrete steps with proper execution are taken, discrimination will prevail for centuries to come. Hence this article would provide a summary of the issues and steps to be taken for providing a equitable society for disabled to live in.

## CHAPTER 2- CONCEPTUAL ANALYSIS OF DISABILITY

### Introduction

Disability as a term implies not being able to utilise one's ability fully. There is a sort of limitation in a person's ability to perform activities. In simple words, it means not having the ability to do something which other 'normal' people can do in their daily life. This can be in the form of physical, mental, intellectual, psychological and so on. It is often said that disability is a part of being human. 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. In these cases, people face certain difficulties and limitations in leading a normal life and they need to depend on someone to meet their needs, or need some special tools or devices to assist them.<sup>1</sup>

The causes of impairment are also very varied. It might be caused by birth defects, genetic or environmental conditions, injuries, or chronic diseases like diabetes. A person can be born with a disability. For example, Dyslexia which is a reading disorder that involves trouble with identifying sounds in spoken language and relating these sounds to letters and words. As one ages, one tends to develop issues like loss of memory, loss of mobility, and a need to have daily activities assisted.

Disability can be classified into four major types which include Physical Disability, Mental Disability, Visual Disability and Hearing Disability.

#### *Physical Disability*

This form of disability affects the body. A person would face difficulty to move or do other such daily activities. Physical disability indicates any physical limitations or disabilities that inhibit the physical function of one or more limbs of a certain person. It can be permanent or temporary. One such example is Dwarfism/Achondroplasia. This is a type of bone growth disorder that results in short stature or one can say dwarfism due to genetic mutation in arms and legs. It would be situation of disproportionately short stature. This

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<sup>1</sup> Disability, World Health Organization, [https://www.who.int/health-topics/disability#tab=tab\\_1](https://www.who.int/health-topics/disability#tab=tab_1)

means, in such disability a person would be having a short height compared to normal height.<sup>2</sup>

### *Mental Disability*

These disabilities often impact and limit a person's thinking, behavior, emotions, and ability to interact with others. Some mental disabilities are present from birth or childhood, while others develop later in life due to trauma, illness, or aging. So, "mental disability" refers to a serious disorder of the mind, such as mood, thinking, perception, or memory, which considerably hinders one's capacity to operate in everyday life. It includes Schizophrenia which is a severe mental disorder affecting thinking, emotions, and perception of reality. Then there is Autism which is Autism Spectrum Disorder (ASD) a neurodevelopmental disorder affecting communication, behavior, and social skills.<sup>3</sup>

### *Visual Disability*

Visual impairment as the term suggests refers to a state where the person cannot see things clearly. It refers to partial or total inability to see. Vision impairment may be caused by a loss of visual acuity, where the eye does not see objects as clearly as usual. If it is a partial inability one may often tend to use spectacles as a remedy. Such glasses would help to read, watch and see everything clearly. However, there may arise certain a situation of total inability often termed as 'Blindness'.<sup>4</sup>

### *Hearing Disability*

A "hearing impairment disability" refers to a condition where an individual experiences a partial or complete loss of hearing ability, impacting their daily life and communication. *Hearing impairment* is when a person partially or entirely loses their ability to hear sound. Hearing impairment is also called hearing loss or hard of hearing, and the severity of the

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<sup>2</sup> Physical Disabilities, Rutgers School of Arts and Sciences, <https://kines.rutgers.edu/dshw/disabilities/physical/1060-physical-disabilities#:~:text=Physical%20disability%20indicates%20any%20physical,kind%20of%20disease%20are%20various.>

<sup>3</sup> Mental Disorders, World Health Organisation, <https://www.who.int/news-room/fact-sheets/detail/mental-disorders>

<sup>4</sup> Blindness and Vision Impairment, World Health Organisation, <https://www.who.int/news-room/fact-sheets/detail/blindness-and-visual-impairment>

hearing loss classifies hearing impairment. Some people are born with a hearing disability which is referred to as Congenital hearing impairment and while others develop it later due to illness, aging, injury, or exposure to loud noise. However, in modern days we get devices like hearing aid to remedy this issue.<sup>5</sup>

### **Evolution of the Concept of Disability**

Disability is not a modern concept. It has been developing since early ages. The concept of disability has evolved significantly over time, reflecting changes in societal attitudes, medical understanding, and legal frameworks. Today, the concept of disability is increasingly understood through a combination of medical, social, and legal frameworks. The World Health Organization's International Classification of Functioning, Disability, and Health (ICF) integrates these perspectives by considering body functions, activities, and environmental factors.<sup>6</sup>

The ancient society believed that a disabled person was a sign of sin, cursed one. They believed that it was a punishment from God. Then after few years between 18<sup>th</sup> – 20<sup>th</sup> century, society considered disability as a medical issue. Then gradually after Independence, India gradually shifted towards a rights-based model by enacting various legislations. This period saw a growing emphasis on education, employment, and social integration of disabled individuals. In the contemporary world, more focus is being given to inclusivity and accessibility by introduction of laws and new Government schemes.

### **Models of Disability**

The concept of disability is to be seen as something which has evolved over time and is influenced by social or economic changes. In ancient times, this concept can be classified into four models (with regard to its stages of evolution). These models portray how people think or feel about disability. Different models address the causes of disability, how people should respond to it, and the deeper meanings of disability.

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<sup>5</sup> Deafness and Hearing loss, World Health Organisation, [https://www.who.int/health-topics/hearing-loss#tab=tab\\_1](https://www.who.int/health-topics/hearing-loss#tab=tab_1)

<sup>6</sup> The History and Evolution of Disability Models- Susan Lacke- <https://www.accessibility.com/blog/the-history-and-evolution-of-disability-models>

## **Moral Model**

The first model can be termed as moral model which is regarded as the oldest one which regards disability as a sin or misfortune and its considered a bad luck and shame for the entire family. At a historical age in India, disability is interpreted as having implications for a person's or family's character, actions, ideas, and karma. From this standpoint, disability can entail stigma, shame, and guilt, especially if it is perceived as a sign of wrongdoing. Alternatively, disability might be interpreted as a mark of honor, faith, or strength. For example, a religious person may believe that they (or a family member) were chosen to have a disability because of God's faith in them. During such times, Hindus for instance believed being blind is a result of committing misdeeds in previous birth. Hence this particular model can also be termed as religious model. Based on the religious model, disability is God's punishment for having committed a transgression by the individual or his family. Pandits prescribed all sorts of treatments from intense prayer to physical exhaustion, and for money, they agreed to do part of the ritual that was necessary.<sup>7</sup>

## **Medical Model**

Then there is the medical model whereby disability was regarded as some disease or sickness that can be cured through medical intervention. The medical paradigm defines disability as an impairment in a physical system or function that is intrinsically diseased. From this perspective, the goal is to get the system or function as close to "normal" as possible. The medical model assumes that professionals with specialized training are the "experts" on disability. People with disabilities are expected to take the advise of these "experts."<sup>8</sup> hence, it focuses on what someone cant do because of their impairment.

## **Rehabilitation Model**

Then there comes the rehabilitation model, which as the name suggests, focuses on the view that disabled are to be offered rehabilitation services for them to integrate and join with the society. The medical and rehabilitation models face criticism for their simplistic views, which can affect social assistance eligibility and discourage economic activity

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<sup>7</sup> Disability Life Writing in India- NYU Press 2023- by Mohaiminul Islam and Ujjwal Jana

<sup>8</sup> Conceptualizing disability: Three models of disability- AMERICAN PSYCHOLOGICAL ASSOCIATION  
<https://www.apa.org/ed/precollege/psychology-teacher-network/introductory-psychology/disability-models>

among those with disabilities due to fear of losing benefits. The International Year of the Disabled Person in 1981 highlighted the importance of changing social attitudes to remove barriers to participation and equality for persons with disabilities.

## **Social Model**

Lastly, there is social model, whereby focuses on the positive aspect where disability is regarded as a normal aspect of life. It focuses on the idea that disability is a normal part of life and often caused by societal barriers rather than individual impairments. This model is prominent since disability is viewed as one part of a person's identity, similar to race/ethnicity, gender, etc. According to this viewpoint, disability is caused by a mismatch between the disabled person and their surroundings. The handicaps and impediments are created by the environment rather than the condition. According to this viewpoint, the approach to treat disability is to modify the environment and society, rather than the people with disabilities. Negative preconceptions, discrimination, and oppression act as impediments to environmental change and full participation.<sup>9</sup> Thus, the social model is more inclusive and takes into account the hardship these people face in the society. The problem is not the person it is the barriers around them. It places responsibility on society to remove barriers in society and to remove inequality. From the medical model to the social model, the concept has broadened and come a long way cause in the medical model, the defect is seen in the individual, necessitating rehabilitation and cure, whereas in the social model, it shifts the focus from the individual to societal barriers. Through social model, they state that disability arises not only from medical conditions but also due to societal behaviours and inaccessible environments.

Hence, it is noted that disability is not a new concept. It is something which existed since humans existed. Rather what changes, is the perception and understanding. Earlier, Disability was frequently considered as a punishment from God or the work of the devil, resulting in shame, fear, and abuse of those with disabilities. They were frequently ostracized, denied fundamental rights such as education and job, and viewed as burdens on their families and society. Visible infirmities were occasionally exploited for entertainment,

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<sup>9</sup> Mode of Disability, Component- EPATHSHALA

[https://epgp.inflibnet.ac.in/epgpdata/uploads/epgp\\_content/social\\_work\\_education/social\\_work\\_in\\_the\\_field\\_of\\_disability/02.\\_models\\_of\\_disability/et/5220\\_et\\_02et.pdf](https://epgp.inflibnet.ac.in/epgpdata/uploads/epgp_content/social_work_education/social_work_in_the_field_of_disability/02._models_of_disability/et/5220_et_02et.pdf)



and many persons with disabilities were abandoned or forced to beg for survival. Institutionalization was a prevalent kind of care, but people with disabilities were often viewed as ill or having a low quality of life. This unfavourable view persists in some societies today, despite the fact that only people can fully control their own quality of life. However, it is also important to note that there has been changing views after few years. By the 1800s, disability was starting to be seen as a problem with social, policy, and individual health and public health ramifications. Disability was viewed as a medical issue brought on by illness, trauma, or other ailments. The medical paradigm of disability, which saw disability as a personal problem, was largely the result of this. Curing the incapacitating condition or changing the disabled person's behavior were the two main objectives of medical management. Disability has more recently been seen to be caused by social and environmental variables that operate as obstacles to people with impairments' skills. More recently, disability has been viewed as a result of environmental and societal factors that serve as barriers to the ability of persons with disabilities to participate fully in their communities or families or to obtain the care and services they need. Individuals with disability, their families, and advocacy groups have viewed disability as a consequence of an inaccessible environment and rejected the medical mode.<sup>1011</sup>

### **Disability Rights- Evolution and Recognition**

Persons with disabilities shall have all rights equivalent to other so called normal people or people without disability. Disability Rights as such means and includes the moral and legal rights and entitlements which ensures their participation in the society, inclusion and protects the dignity of such people. These rights include civil rights like voting rights, etc, right to equality, etc, accessibility and reasonable accommodation.

Traditionally, disability has been considered through the lens of religious and /or moral views, as a divine retribution or an object of charity. People with disabilities were often institutionalized and segregated. Advocacy and Legal reform in the 20th century. After World War II came the rehabilitation of wounded soldiers and the start of the medical model. Disability campaigners asked for similar recognition to be given, inspired by the

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<sup>10</sup> Marno Retief, Models of Disability- A Brief Overview, HTS Teologiese Studies/Theological Studies

<sup>11</sup> Suzanne C. Smeltzer and Colleen Meakim, Brief Historical View of Disability and Related Legislation, Advancing Care Excellence for Persons with Disabilities.

civil rights movement of the 1960s and 1970s. then later came the American Disabilities Act and other legislations. In pre-colonial and colonial India, people with disabilities were commonly dependent on charitable and ecclesiastical care. Early British legislation gave little help to those with mental illness, most falling under the Lunacy Act. Similarly after independence, India's development planning started to cover disability in its Five-Year Plans with welfarist schemes and other marginal measures. During the 1990s there was a worldwide movement for human rights and the same pushed Indian disability policy. In 1995, it was India's first significant legislation named, "The Persons with Disabilities Act", signifying a shift from welfare to empowerment. India ratified the UNCPRD in 2007 without reservations, thereby agreeing to the paradigm of rights. It triggered momentum for legal reform that culminated in the RPwD Act of 2016 which is the umbrella law.

Under the Persons with Disabilities Act, 1995 (PwD Act), disability was defined narrowly and medically, focusing on seven categories. The Rights of Persons with Disabilities Act, 2016 (RPwD Act) expanded the definition to 21 categories and recognized evolving understandings, including mental illness, learning disabilities, and acid attack survivors. With the enactment of Rights of Persons with Disabilities Act several rights have been recognised. Pointing out few important rights included under this legislation-

Under Section 3(1) of the RPwD Act, the government must ensure that individuals with disabilities have the same right to equality, dignity, and respect for their integrity as others.

<sup>12</sup>Section 4 requires governments and local authorities to ensure that women and children with disabilities have similar rights as others.<sup>13</sup> Section 6 of the Act mandates the government to prohibit torture, cruel, inhuman, or humiliating treatment, and to obtain the free and informed permission of individuals with disabilities before conducting research.

<sup>14</sup>Then we have Section 11 which includes the aspect of Right to Vote and Accessibility. Here it the Election Commission of India and State Election Commissions to make all the polling booths accessible to persons with disabilities. <sup>15</sup> Then there are some sections which connect accessibility to other rights. For example, Section 12 provides for equal opportunity for persons with disabilities to have access to judicial, quasi-judicial, and

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<sup>12</sup> Section 3 Rights of Persons with Disabilities Act

<sup>13</sup> Section 4 of the RPwD Act

<sup>14</sup> Section 6 of RPwD Act

<sup>15</sup> Section 11

investigative powers without discrimination. Steps will be taken to facilitate persons with disabilities who do not have a family or a considerable amount of assistance in exercising legal rights.<sup>16</sup> Section 13 mandates the government to provide for the equal legal rights and status of persons with disabilities in every facet of life, including before the law.<sup>17</sup>

Along with this even the Indian Constitution does recognise these rights. Here, one can note Article 14 which talks about Right to Equality whereby it includes Equality before law and Equal Protection of laws.<sup>18</sup> Then Article 15 which prohibits discrimination on several grounds like caste, sex and so on. Even discrimination on basis of disability can be inferred as a ground.<sup>19</sup> Then there is Part IV which speaks about Directive Principles of State Policy (DPSP) and under this Article 41 talks about the duty of the State to secure the right to work, education and assistance for disabled.<sup>20</sup>

Indian courts through plethora of cases which would be discussed through this paper, has expanded the scope of Disability rights. When it comes to Article 21 we notice lots of cases like Jeeja Ghosh case<sup>21</sup> where the scope of disability rights mentioned. There has been lots of schemes and initiatives by the Government too to recognise these rights like Accessible India Campaign, UDID Cards which all will be discussed.<sup>22</sup>

## **History of Disability Rights Movement**

The birth of disability rights can be traced back to olden times. These disability rights movement shifted their focus completely to promote social model. The disability rights movement ensures the disabled will have equal rights in society. Basic needs such as employment, education and housing are provided. The history of Disability Right Movement can be traced through the ages. In 1800s, people with disabilities were considered to be unfit and unable to contribute to society.<sup>23</sup> The movement began in earnest in the western world after the World War when there were casualties of war and acquired

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<sup>16</sup> Section 12 of RPWD Act 2016

<sup>17</sup> Section 16 of RPWD Act 2016

<sup>18</sup> Article 14 of the Constitution

<sup>19</sup> Article 15 of the Constitution

<sup>20</sup> Article 41 of constitution

<sup>21</sup> Jeeja Ghosh v. Union of India 2016 7 SCC 761

<sup>22</sup> Ghosh, S., & Banerjee, R. (2017). Disability Rights in India: Legal Framework and Challenges. Indian Journal of Human Rights and the Law, 14(2), 102–115.

<sup>23</sup> A Brief History of the Disability Rights Movement- (ADL site)

<<https://www.adl.org/education/resources/backgrounders/disability-rights-movement>>

disabilities. In such countries there was high demand for formation of Disability Rights Movement. It is also to be remembered that during this period, Adolf Hitler considered disabled persons as of no economic use and he killed many. The Right Movements have mostly come from the people with disabilities themselves. It was during the 1980s that demand for disability rights movement came up. Many NGOs started operating in the disabled sector. Most of them were started by disabled themselves or their relatives.<sup>24</sup>

In India, the disability rights movement spans four decades. Superstitious Indians believed that a person's past transgressions caused their disability. In India, this false assumption caused a number of problems. Additionally, helping people with disabilities was viewed as charity rather than as granting them legal rights. Taking care of disabled people puts a strain on their family members. They were mostly left behind. Disability was frequently connected to prejudice and social stigma. People with disabilities have always been ostracized and cast to the periphery of society. Few organizations were addressing their needs, and there was little knowledge or support for their rights in the early 20th century. Attitudes concerning handicap gradually changed after India attained independence in 1947. Adopted in 1950, the Indian Constitution guaranteed the right to life, equality, and freedom from discrimination. But there were still no clear guarantees for the rights of people with disabilities. Some assistance programs were started by the government, although they were frequently more paternalistic than empowering.<sup>25</sup>

When the first meetings took place in the 1970s and organizations began to emerge in the 1980s, NGOs were also established. However, two facts are noteworthy enough to mention here. Nonprofit organizations were typically founded by people with disabilities or their family members, and they typically solely addressed one kind of impairment while ignoring others. In order to regulate training policies and programs for the rehabilitation of individuals with disabilities, the Rehabilitation Council was established in India in 1986. Renowned social activist Baba Amte devoted his life to empowering and assisting those afflicted with leprosy. Many people were inspired to join the Disability Rights Movement

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<sup>24</sup> Disability Rights Movement- History (Wikipedia)  
<[https://en.wikipedia.org/wiki/Disability\\_rights\\_movement](https://en.wikipedia.org/wiki/Disability_rights_movement)>

<sup>25</sup> Martand Jha, "The History of India's Disability Rights Movement" (The Diplomat, 21 December 2016) <<https://thediplomat.com/2016/12/the-history-of-indias-disability-rights-movement/>>

by him. It was also interesting to note that 1982–1993 was designated as the UN's "Decade of Disabled Persons. "The disability industry saw significant developments in the 1990s.

Hence, it was in the 1970s, the disability rights movement started to gain attraction. Activists became more vocal in their support of the needs and rights of individuals with disabilities. This era was characterized by the establishment of numerous organizations devoted to disability education and awareness. One such important group was the All India Confederation of the Blind, which was founded in 1976. In India, the 1990s were a pivotal decade for disability rights. In 1995 the historic Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act was enacted. One of the main reasons were rising up in protests by the disabled. The goals of this law were to preserve the rights of those with disabilities, encourage their involvement in society, and guarantee them equal opportunity. A major step toward acknowledging the rights of people with disabilities was taken with the Act. Hence this year is considered the bench mark year for Persons with Disability in India. After few years that is 2016, Rights of Persons with Disabilities Act\*\* replaced the 1995 Act. This new legislation expanded the definition of disability, recognized additional disabilities, and mandated accessibility, ensuring that individuals with disabilities have various rights and opportunities concerning education, employment, and accessibility.<sup>2627</sup>

### **Definition:**

There are myriad ways in which disability has been defined and this by itself has led to confusion. According to *WHO* “It is an umbrella term covering impairment, activity limitation and participation restriction.”<sup>28</sup>

Hence, according to World Health Organisation, the definition of disability was split into 3 dimension, Impairment in a person’s body structure or function, or mental functioning; examples of impairments include loss of a limb, loss of vision or memory loss, activity limitation, such as difficulty seeing, hearing, walking, or problem solving and also

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<sup>26</sup> Nilika Mehrotra, Disability Rights Movement in India- Politics and Practice, Economic and Political Weekly · February 2011

<sup>27</sup> Economic and Social Commission for Asia and Pacific, HARMONIZATION OF NATIONAL LAWS WITH THE CONVENTION ON THE RIGHTS OF PERSONS WITH DISABILITIES- National Case study Republic of India, ST/ESCAP/3070

<sup>28</sup> WHO official website- Disabilities <<https://www.who.int/topics/disabilities/en/>>

participation restrictions in normal daily activities, such as working, engaging in social and recreational activities, and obtaining health care and preventive services. So Impairments might be physical or mental, such as loss of limb, vision, or memory. The definition also includes activity limitations, such as impaired vision, hearing, movement, or problem solving. It also speaks about restrictions on daily activities, including work, socializing, and accessing healthcare and preventive services.

The United Nations Convention on Rights of Persons with Disabilities also provides a clear definition and it states ‘disability is a long term physical cognitive and sensory impairments including chronic illness which, in interaction with various barriers, may hinder their full and effective participation in society on an equal basis with others’<sup>29</sup>

According to *The Rights of Persons with Disabilities Act 2016*:<sup>30</sup>

“Person with disability means a person with long term physical, mental, intellectual or sensory impairment, which hinders his full and effective participation in society equally with others.”

According to the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995, "Person with disability" means a person suffering from not less than forty per cent of any disability as certified by a medical authority (any hospital or institution, specified for the purposes of this Act by notification by the appropriate Government). As per the act "Disability" means - (i) Blindness; (ii) Low vision; (iii) Leprosy-cured; (iv) Hearing impairment; (v) Loco motor disability; (vi) Mental retardation; (vii) Mental illness<sup>31</sup>

We often hear Government using the term ‘Benchmark disability’. Under *Rights of Persons with Disabilities Act 2016* benchmark disability refers to having at least 40% disability of any type. This 2016 legislation covers 21 types of disabilities.<sup>32</sup> According to Americans with Disabilities Act (ADA) 1990, a person with a disability is someone who has a

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<sup>29</sup> Article 1 of UNCRPD

<sup>30</sup> “Disability in India” (Vikaspedia) <<https://vikaspedia.in/social-welfare/differently-abled-welfare/disability-in-india>>

<sup>31</sup> Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995

<sup>32</sup> Rights of Persons with Disabilities Act 2016

physical or mental impairment that substantially limits one or more major life activities, has a record of such an impairment, or is regarded as having such an impairment.<sup>33</sup>

The World Health Organization (WHO) defines disability as a broad word that includes participation restrictions, activity limitations, and impairment. The physical or mental handicap itself, as well as how it impacts a person's everyday life and social inclusion, are both captured by this three-part method. In order to comprehend impairment from a viewpoint other than medical, it is imperative that several aspects be acknowledged. Then comes the Rights of Persons Disabilities Act definition which aligns with the WHO definition by emphasizing functional impact rather than mere diagnostic labels. A measurable element is then added by the Persons with Disabilities Act of 1995, which sets a threshold of 40% disability for the legal acknowledgment of disability. This can occasionally result in an oversimplification of personal experiences. A more expansive definition of disability is included in the Americans with Disabilities Act (ADA), which emphasizes both the perception of such impairments and significant limitations to key living activities. In addition to emphasizing rights and protections, this inclusion concentrates on societal conceptions of disability rather than just medical ones. The key takeaway from these definitions is that disability is not just about the person with the disability but also about how society supports and includes them. The focus on participation and activity highlights the need for societal changes like creating accessible environments and opportunities that enable people with disabilities to thrive. This shows that disability is defined in multiple ways. Different organizations and legal frameworks offer differing interpretations, reflecting the diverse character of disability. This is significant because it emphasizes the importance of clear communication and policy-making regarding disability. The varying definitions reflect an evolving understanding of disability and also focuses on the growing recognition of rights of persons with disabilities. The main essence of these definition revolve around providing crucial frameworks for understanding disability in a way that promotes equity, inclusion, and rights for all individuals regardless of their impairments. They underscore the importance of viewing disability from a holistic perspective that considers individual experiences, societal barriers, and the necessity of fostering inclusive communities.

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<sup>33</sup> Americans with Disabilities Act (ADA) 1990

## **Disability as a challenge**

Living with a disability can present a variety of challenges that can affect different aspects of life. Attitude of society matters a lot. Development of a disabled person matters on how well he or she is treated or motivated. Attitude can create or remove barriers for disabled. In society they are often stared at and ridiculed. Anything which is different from the expected “Normal” creates discontent in the society. Each type of disability comes up with few different challenges or hurdles or barriers they have to face in their daily life.

A disability can cause serious problems in a number of areas of life, such as mobility, social relationships, work, healthcare, and education. These difficulties result from impairments that restrict a person's capacity to carry out everyday tasks, whether they be psychological, cognitive, sensory, or physical. But more often than not, the handicap itself causes additional problems due to social and environmental impediments like inaccessible infrastructure, a lack of accommodations, and social stigma. Due to a lack of inclusion in public services, education systems, and businesses, people with disabilities (PWDs) commonly experience limited opportunities, discrimination, and financial challenges.

Few of the varied challenges include Accessibility, Education, Healthcare and even Transportation. They may not get proper education and they may also face issue of lack of accessible healthcare services and assistive technologies. The most important one which is discussed in this paper is Lack of Accessibility.<sup>34</sup>

### **Different challenges**

Each type of disability may face varied challenges in their day-to-day life. Some may face it with regard to education (reading, writing), accessibility, walking and so on.

### **Healthcare**

Healthcare systems remain inaccessible for disabled in India. Most hospitals lack ramps, properly functioning lifts. There are hospitals where there is only one elevator in a block which leads to crowding and pushing. There are instances where the examination tables and diagnostic machines are not wheelchair accessible. Some beds and such surfaces are at

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<sup>34</sup> Challenges faced by persons with Disabilities- *House of Lords Library*- Charley Coleman- <https://lordslibrary.parliament.uk/challenges-faced-by-people-with-disabilities/>



a particular height, which makes it difficult for people with height disability to climb. This is in case of Locomotor Disability. In the case of people with hearing impairment, they too find it difficult in hospitals cause the emergency announcements are not visualised. Not all can understand sign language which makes it difficult to communicate and understand without any dependants or interpreters. People who are suffer from blindness too face issues when in hospitals. There are instances of inaccessible hospital navigation systems, medical products and forms cannot be read or seen.

## **Education**

This has been a growing problem for people with disabilities. Children who are disabled from birth not always face a happy school life nor college life. They are subject to harassment, social exclusion. Their fellow classmates would always tease and make jokes on them, face constant stare and so on. Due to this children often not perform well in their academics, may face depression and loneliness. Children with locomotor disability have to face inaccessible school buildings: stairs without ramps, toilets not wheelchair-friendly. There is also situation of lack of assistive devices like writing boards or classroom seating. Children with hearing impairment face issues cause teachers are often untrained in Indian Sign Language. There would also be situation of social isolation in the classroom due to communication gap. This may happen to students with blindness/visual impairment. They often face exclusion or loneliness cause they will always need someone to assist them. Textbooks may not always available in accessible formats.

## **Accessibility in Public Spaces**

Public spaces literally means spaces that are open to all, open to public. Its accessible to public and individuals can come together meet and conduct their activities and so on. This means public spaces includes schools, roads, transport systems, theatre, halls, shopping centres and so on.

Accessibility is one of the basic principles underlying the rights of PWDs. It means equal access to physical spaces, information, communication, and services free from discrimination and barriers. In India, even with progressive laws such as the Rights of Persons with Disabilities Act, 2016 (RPwD Act) and nationwide campaigns like Sugamya Bharat Abhiyan (Accessible India Campaign), accessibility is an unrealized goal. Access

to public areas, transportation, and buildings continues to be a continuous difficulty for persons with disabilities. Inadequate infrastructure and a lack of globally built surroundings can create barriers, limiting individuals' movement and freedom.

It is agreed that there has been some steps taken for example introduction of low floor buses which has been regarded as a welcome move to improve accessibility. However, that's not only enough. For example a visually impaired person will find it difficult to get in the bus without any assistance and it is also nowadays seen the staff or conductor often neglect them and not help them while boarding. When inside the bus most seats are placed at high level which makes it difficult to sit for such people. There are only one or two seats in some buses reserved for disabled. Hence we see that there are few cities that have public transport and disabled-friendly infrastructure accessible to all. Buses having a high boarding height pose a significant problem for the impaired. There are no ramps and elevators in public areas and transport hubs, which render them unusable by individuals with locomotor disabilities and restricted mobility. Even when ramps are available, they are not appropriately built and there are obstacles in the way. A blind or low vision person has a hard time recognizing and boarding the proper buses since there are no sound announcement systems at bus stops. Meter fares in paratransit vehicles like autorickshaws are not available, so they have a hard time breaking down the cost of the ride.<sup>35</sup>

Now low floor buses are expensive, their costs should be lowered. Reaching the transit point, i.e., bus stand and metro station is still a major issue. Presence of physical obstacles on footpaths hampers the movement, particularly of visually impaired and less mobile people. Such obstacles are hawkers on footpath, informal places of shops. Visually Impaired pedestrians are hindered due to absence of tactile paths.

### **Physical disability**

These are certain category of people with physical disability or neurological issues. They maybe also called people with locomotor disability. It includes Cerebral Palsy, Dwarfism and so on. The main issue is that lack of ramps, elevators, and accessible restrooms can limit mobility in public spaces. Also with regard to their daily Activities they have

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<sup>35</sup> Breaking Barriers: Challenges in Accessing Public Transport for Persons with Disabilities- LINKEDIN- Chandni Ahuja - <https://www.linkedin.com/pulse/breaking-barriers-challenges-accessing-public-transport-persons-gx76f>

Difficulty with tasks like walking, standing, or using hands can affect independence. Coming to neurological issues, they may face symptoms like tremors or muscle weakness which can impede daily activities. Individuals with mobility disabilities struggle to navigate physical environments due to inaccessible infrastructure, including stairs, narrow entrances, and absence of elevators. Limited access to wheelchair-accessible transit networks also affects them. Physical disabilities can also lead to discrimination in hiring or difficulties in finding suitable work environments.

For people with physical disabilities for example, locomotor disability, paralysis, they face issues with regard to inaccessible buildings and transport. They would face accessibility issues the most in public spaces be it malls, roads etc. In some buildings elevator would not be available which makes difficult for these people to get to the top floor using stairs. In some shopping complexes or malls there would be escalators which would make it convenient but not for all types of disabled. With regard to transport, in most of the public transport vehicles like bus, metro, trains there would not be any ramps which makes these people difficult to get in the vehicle. Implementing accessible infrastructure, providing assistive devices like wheelchairs, and ensuring accessible public transportation can help mitigate these challenges.

There exists barriers in accessing services. The World Health Organisation has defined such a situation, “Factors in a person’s environment that, through their absence or presence, limit functioning and create disability. These include aspects such as a physical environment which is not accessible, difficulty in accessing rehabilitative services, lack of relevant assistive technology, negative attitude from society and so on.

### **Visually impaired**

For vision impaired people, they might face difficulty in reading printed materials, trouble navigating through public spaces. These people face issues like blindness, low vision and may have difficulty in navigating environments without visual cues. There may also arise misconceptions about capabilities can lead to social exclusion. There may arise educational Barriers which may lead to limited access to materials in accessible formats can hinder learning. So here in such cases, it can be challenging to navigate unfamiliar environments. Literature, websites, and other resources may not be accessible and also materials need to

be available in alternative formats like audio since they highly depend on sounds. As mentioned before Social Isolation is another issue. People with visual impairments may feel isolated due to barriers in social interactions or participation in activities. They may also face challenge to adapt to learning environments which means educational institutions. They have to use assistance to learn since they may not be able see what is written on the books nor board.

### **Hearing impairments**

People with hearing impairments may face Communication Barriers mainly due to the difficulty hearing can hinder effective communication in conversations, meetings, and public events. Another challenge is access to Services. Many services, such as emergency announcements or public transportation information, may not be available in sign language. Another major challenge, difficulty accessing information from media or events without captions There maybe also social challenges since such individuals may experience difficulty engaging socially due to communication gaps, leading to feelings of loneliness. This means they would face social exclusion due to communication barriers. They also face issues with regard to education. They may face challenges in traditional educational settings.

### **Intellectual disability**

There are certain category of people with intellectual disability. The best example here is Down Syndrome and Autism Spectrum Disorders. Intellectual disability can impair a person's capacity to learn, absorb information, and complete daily tasks independently. They may face difficulties with communication, self-care, and social skills can hinder independence. Increasing mental health support, promoting inclusive education, and creating supportive work environments would help them. Most importantly, their struggles with social integration often arise due to communication difficulties or differences in behavior. Stereotyping as being incapable of independent living or meaningful contributions also affect them. Misunderstanding or stigma associated with intellectual disability might result in social exclusion or discrimination. A student with a disability may find it difficult to sit still or focus during a lesson, they may read and write and learn in a slow pace compared to their peers which ultimately would make them feel discouraged.

Hence it can be noted that they would also face challenges with regard to education, difficulty in academic learning. They might also need lifelong support and therapy.

### **Famous Disabled Personalities**

Most of the disabled who have made their mark in history have done it in spite of being disabled and by their own merit and struggle. One of the famous personalities, Stephen Hawking. Stephen Hawking (1942-2018) was a renowned physicist in the 20th century who made profound contributions to gravity, black holes, and cosmology. He aided in the discovery that black holes emit radiation instead of being utterly dark. Hawking had motor neuron disease, or Lou Gehrig's disease. Even though he was given only two years to live, he managed to make some great contributions to the universe study. The disease progressed to the point that he needed to use a wheelchair. Hawking also lost his voice. He was able to communicate with a speech-generating device and software designed at Cambridge. It made it possible for him to speak electronically.<sup>36</sup>

In India for example, from Beethoven to our own Srikanth Bolla who is visually impaired and now founder of Bollant industries. Srikanth Bolla went through many difficult phases. He was born in Machilipatnam in Andhra Pradesh. His family was very poor but his parents wanted to educate him and he was very bright. But he was denied admission in 'Indian Institute of Technology' because of his disability. But this did not stop him. He attended Massachusetts Institute of Technology. There he was the first international blind student. He also became a leading member of Lead India 2020 which was started by our beloved former President of India Dr.APJ Abdul Kalam.<sup>37</sup>

### **Social Perspective**

Attitude of society matters a lot. Development of a disabled person matters on how well he or she is treated or motivated. Attitude can create or remove barriers for disabled. In society they are often stared at and ridiculed. Anything which is different from the expected "Normal" creates discontent in the society. The society thinks that physically

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<sup>36</sup> Dr Stephen Hawking A Case Study on Using Technology to Communicate with the World – ACCESSCOMPUTING- <https://www.washington.edu/accesscomputing/dr-stephen-hawking-case-study-using-technology-communicate-world#:~:text=Hawking%20was%20diagnosed%20with%20Amyotrophic,control%20of%20muscles%20is%20los>

<sup>37</sup> Srikanth Bolla – FORBES- <https://www.forbes.com/profile/srikanth-bolla-1/>

challenged people would not be able to contribute to society. They may be seen as leeches of the social society schemes especially in countries where this system provides many things free to the Disabled. The family and society can consider them as a liability and reject them. The need to educate them and provide even minor adjustments for their well-being may not be tolerated. There are lots of instances where even teachers, neighbours used to look the disabled in pity as if they strange object to be handled with extra care.<sup>38</sup>

While casteism or racism are catch words because of the voting power of these individuals, politicians remain largely silent of the group who cannot speak for themselves. Proper means of education, public spaces and facilities which are disabled friendly and an attitude change will go a long way in making the disabled shine through.<sup>39</sup>

## **Conclusion**

A person with disability faces several challenges in society. Due to their limitations, they are not able to enjoy their life fully nor able to do things which a person without disability can do. They may face different challenges which may include discrimination, limited access, financial strain and so on. Majority of people also face social stigma and discrimination, Educational barriers, Healthcare and Education disparities and so on. Individuals with disabilities encounter a wide range of obstacles, which frequently necessitate customized solutions to increase accessibility, assistance, and inclusion in many parts of life. Each type of disability presents its unique set of challenges, but many of these issues intersect and can compound the difficulties faced by individuals. Understanding these problems is critical to creating a more inclusive society that meets the needs of all people, regardless of ability.

While disabilities create challenges, proper accommodations, policies, and inclusive attitudes can help reduce barriers. Advancements in technology, legislations such as Rights of Persons with Disabilities Act 2016 and societal awareness have improved accessibility and opportunities for PWDs. Encouraging inclusive education, workplaces, and healthcare systems ensures that people with disabilities can live independent and fulfilling lives.

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<sup>38</sup> Supra 7

<sup>39</sup> Umer Jan Sofi, *Social Exclusion of Disabled Persons in India and attitude towards society* (2011) 7

## **CHAPTER 3- HUMAN RIGHTS AND INTERNATIONAL FRAMEWORK AND ITS INFLUENCE ON INDIAN CONSTITUTION**

### **Introduction**

Human Rights are inherent rights all human beings have from the moment they are born. They are available to all individuals regardless of their caste, culture, creed, sex, religion or any other status without any discrimination. Human rights are norms that acknowledge and defend each person's inherent worth. Human rights regulate how people interact with one another and with society, as well as how they relate to the state and the duties that it has to them. Hence, these human rights are fundamental rights inherent to all human beings, regardless of nationality, sex, ethnicity, language, religion, or any other status. They include the right to life and liberty, freedom of expression, the right to work and education, and many more, establishing a framework for the dignity and well-being of individuals. Hence it can be classified into Social Rights, Political Rights, Economic Rights and Cultural Human Rights.

These rights are often termed as Universal rights because people all around the world are entitled to these rights. These rights are inalienable and indivisible. This means that these rights cannot be separated nor taken away. The international framework for human rights consists of various treaties, conventions, and declarations designed to promote and protect these rights globally.<sup>40</sup>

### **Universal Declaration of Human Rights**

Governments are required by international human rights legislation to take specific actions or refrain from taking specific actions in order to uphold and defend the fundamental freedoms and human rights of individuals or groups. The development of a comprehensive body of human rights law—a globally recognized and universal rule that all countries may abide by and to which all people can aspire—is one of the United Nations' greatest accomplishments. A wide spectrum of globally recognized rights, such as civil, cultural, economic, political, and social rights, have been established by the UN. Additionally, it has

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<sup>40</sup> What are Human Rights, United Nations, <https://www.ohchr.org/en/what-are-human-rights>

put in place systems to support governments in fulfilling their obligations and to advance and defend these rights.

The foundations of this body of law are the Charter of the United Nations and the Universal Declaration of Human Rights, adopted by the General Assembly in 1945 and 1948, respectively. Since then, the United Nations has gradually expanded human rights law to encompass specific standards for women, children, persons with disabilities, minorities and other vulnerable groups, who now possess rights that protect them from discrimination that had long been common in many societies. UDHR is regarded as the milestone document in the history of human rights. The Declaration was drafted by representatives from all around the world with varying legal and cultural backgrounds, and on December 10, 1948, the UN General Assembly declared it in Paris. This day is now termed as World Human Rights Day. The constitutions of numerous recently independent states and emerging democracies have been influenced by it. UDHR is a foundational document that outlines the basic human rights that should be universally protected. It set a common standard for all nations and serves as a guiding framework for international human rights law.<sup>41</sup>

The so-called International Bill of Human Rights is made up of the UDHR, the International Covenant on Civil and Political Rights and its two Optional Protocols, and the International Covenant on Economic, Social, and Cultural Rights and its Optional Protocol. Hence, this international document which consists of 30 Articles formed the foundation for international human rights law. The two major covenants derived from the UDHR are the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR). These covenants legally bind the states that ratify them to respect and ensure the rights contained within them.<sup>42</sup>

In India, the growth of human rights jurisprudence came up during the British Rule. Indians were humiliated and subjected to discrimination by the British during their rule,

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<sup>41</sup> Universal Declaration of Human Rights- United Nations- <https://www.un.org/en/about-us/universal-declaration-of-human-rights>

<sup>42</sup> Fact Sheet No.2 (Rev.1), The International Bill of Human Rights- OHCHR- <https://www.ohchr.org/sites/default/files/Documents/Publications/FactSheet2Rev.1en.pdf>



which was characterized by resistance to foreign control expressed through demands for fundamental freedoms and the civil and political rights of the populace. The struggle for civil rights and fundamental freedoms was bolstered by the freedom movement and the severe oppressive actions of the British rulers. Then the Constitution of India was adopted in the year 1949 and for framing this the first meeting which was held in the year 1946, focused on human rights. The Constituent Assembly incorporated in the Constitution of India the substance of the rights proclaimed and adopted by the General Assembly in the Universal Declaration of Human Rights . When the Constitution of India was in the making, the General Assembly proclaimed and adopted the Universal Declaration of Human Rights, which influenced the framing of India's Constitution. India was a signatory to the Universal Declaration of Human Rights. A number of fundamental rights guaranteed in Part III of the Indian Constitution are similar to the provisions of the Universal Declaration of Human Rights. It can be seen in provisions for example, consider Article 14 of Indian Constitution which deals with Right to Equality, the connected provision we see in UDHR is Article 7. Under UDHR, it focuses on prohibition of discrimination, freedom of speech and expression, freedom of peace and assembly, protection of life and personal liberty etc which all form basis for fundamental rights in our Indian Constitution. <sup>43</sup>

### **Human Rights Commission in India**

In India, National Human Rights Commission (NHRC) a statutory body established in 12<sup>th</sup> October 1993 and it was given statutory protection by the Protection of Human Rights Act 1993. It was established with the aim of promoting and protecting human rights. It is also important to note that each State also has their own State Human Rights Commission set up to deal with human rights violations within their states.

According to Article 3 of Protection of Human Rights Act 1993, the NHRC consists of Chairman who has been chief Justice of Supreme Court of India. One member who was a judge of Supreme and also one member who was a Chief judge of High Court. Its functions include to conduct inquiries on complaint received with regard to human rights violations, intervene in court proceedings which involve any allegation regarding violation of human rights, educate the people regarding such human rights available and also

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<sup>43</sup> Global Citizenship Commission, Edited by Gordon Brown, The Universal Declaration of Human Rights in the 21st Century: A Living Document in a Changing World, (Vol 2 edition 1) 2016

conduct seminars and workshops in this regard etc. Then comes SHRC which is State Human Rights Commission established in each state. It serves as a watchdog of human rights within the State. Here there would be chairperson who would be retired Chief Justice or judge of High Court. There would also be two other members. Its functions include to investigate any human rights violations or public servants' carelessness in preventing them, either on their own initiative, in response to a petition submitted to them, or in response to a court order. To get involved in any legal action involving a human rights violation claim that is currently underway. to carry out and encourage human rights studies... to support the initiatives of human rights-focused non-governmental organizations (NGOs).<sup>4445</sup>

### **Human Rights of Disabled**

Human rights are available to all human beings which means disabled also being human also should get all rights. Therefore, rights all ordinary citizens receive from birth should be also available to disabled person since he/she also comes in the category of human beings or citizens. In ancient times, persons with disabilities were often hidden from public eye and mainstream society. Those times they were subject to constant human rights violations. They were not even thought of were not thought of when the International Bill of Human Rights was drafted and adopted. Human rights which every human being Human rights, in the context of disability rights, refer to the recognition and protection of the inherent dignity, autonomy, and equality of individuals with disabilities. These rights ensure that people with disabilities can fully participate in society without discrimination or barriers, encompassing a range of civil, political, economic, social, and cultural rights. The Universal Declaration of Human Rights (UDHR), 1948 also emphasizes equal rights and dignity for all individuals, including PwDs.<sup>46</sup>

The NHRC and SHRC play crucial roles in protecting and promoting the human rights of individuals with disabilities. Their functions include monitoring, advocacy, and addressing violations of rights, which are essential for ensuring that persons with disabilities enjoy their rights on an equal basis with others. The NHRC is in charge of keeping an eye on

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<sup>44</sup> National Human Rights Commission of India, <https://nhrc.nic.in/>

<sup>45</sup> Ashwini K Ray,  
Human Rights Movement in India: A Historical Perspective, Vol 38 No32.

<sup>46</sup> Economic and Social Commission for Asia and Pacific ,Harmonization of National Laws with the Convention on the Rights of Persons with Disabilities, ST/ESCAP/3070

how human rights laws and regulations—including those relating to disability rights—are being applied. It has the power to look into complaints about rights violations of people with impairments. In order to promote the creation and modification of laws and policies that safeguard the rights of people with disabilities, the NHRC works with the government. Promoting compliance with global agreements such as the UN Convention on the Rights of Persons with Disabilities (CRPD) is part of this. Its another important as mentioned before is providing awareness and education with regard to human rights. Hence, they can conduct awareness campaigns to educate the public and others about the rights of persons with disabilities which would in turn reduce discrimination, social stare alongside promoting the inclusion of these people in various spheres of life. State-level SHRCs are responsible for overseeing the application of disability rights and other human rights protections in their respective areas. They help people with impairments access justice and deal with local issues. At the state level, SHRCs conduct public awareness campaigns and offer education on the rights of people with disabilities, much like the NHRC. Also, it would receive and address complaints regarding human rights violations against individuals with disabilities.<sup>47</sup>

### **International Conventions**

In a more globalized world, global agreements have a significant role to play in enshrining universal norms, regulating state action, and safeguarding basic human rights. An international convention is an international agreement between governments, legally binding, and subject to international law. It is typically negotiated under the aegis of international institutions such as the United Nations (UN) or regional organizations, and after ratification by an adequate number of states, it enters into force. Conventions are essential instruments for laying down standards, unifying legislation, and implementing international human rights, especially for vulnerable communities such as disabled persons.

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<sup>47</sup> RUCHITA KAUNDAL and S. SHANTHAKUMAR ASSESSING THE EFFECTIVENESS OF THE NATIONAL HUMAN RIGHTS COMMISSION, INDIA, VIS-À-VIS THE PARIS PRINCIPLES RELATING TO THE STATUS OF NATIONAL HUMAN RIGHTS INSTITUTIONS, <https://revistaselectronicas.ujaen.es/index.php/TAHRJ/article/view/7719/7702>

## **Convention on the Rights of Persons with Disabilities.**

The international framework relating to disability rights is primarily anchored in the United Nations Convention on the Rights of Persons with Disabilities (CRPD), adopted in 2006. The CRPD came into effect in May 2008. This is the most important first international treaty binding disability rights. This is done in order to ensure all the rights of persons with disabilities are addressed. UNCRPD included 50 articles of different aspects of disability related issues. It addressed inclusive education, employment, freedom, access to justice, social protection, and other core rights and freedoms. This landmark treaty marks a significant shift from viewing persons with disabilities as recipients of charity and care to recognizing them as rights holders. This means it moves from medical model to social model. The CRPD with active participation from disabled persons' organizations (DPOs), defines equal rights and inclusion at the level of education, health, civil and political life, family life, and employment. It is a blueprint for societies so that people with disabilities have equal opportunities. It was ratified by 82 states on the first day and quickly signed, and it is a landmark treaty.

UNCRPD is an international human rights treaty that protects the human rights of people with disabilities. It was adopted in 2006 and entered into force May 2008. The Preamble of this Convention makes provision for 25 primary aims. There were 82 signatories to the Convention. It is the first 21st century comprehensive human rights treaty. Inclusion, equality and non-discrimination are the primary principles which guide this. The Convention marks the culmination of years of UN attempts to change attitudes and approaches towards persons with disabilities. The change from regarding individuals with disabilities as "objects" of charity, medical attention, and social welfare towards regarding them as "subjects" with rights who are able to exercise those rights, decide about their lives through their free and informed will, and actively engage in society is taken to a higher level. It provides that all individuals with disabilities, irrespective of their nature, should have access to all human rights and fundamental freedoms and embraces a wide categorization of individuals with disabilities. It explains and specifies how all types of rights are relevant to individuals with disabilities and delimits areas where adjustments need to be introduced for individuals with disabilities to use their rights efficiently and areas where their rights have been infringed, and where rights protection must be

strengthened. The convention has generally eight key principles, the principal one being non discriminatory treatment to individuals with disabilities, equality, accessibility, equality of opportunity, full inclusion and engagement of persons with disabilities in decision-making and society, acceptance and respect.

One of the few initial nations to ratify the Convention was India. India ratified the Convention on October 1, 2007, following its signature on March 30, 2007. It is important to note that this Convention does place on the state parties few obligations which includes implementing and following the provisions of the Convention, bringing national laws into compliance with it, and creating a country report. For effective implementation, the concerned Central Ministeries were advised to prepare and take effective measures which is suitable for them. The State Governments were also asked to furnish a status report in this regard so that the same could be utilized towards preparing the Country Report. Rigorous monitoring and follow-up was being done in this regard so as to fulfill obligations of the Convention. This convention is monitored by Committee on Rights of Persons with Disabilities and as of latest updates, 191 parties have ratified this Convention with the recent one being Bhutan.

When we refer this Convention at a glance we see it is broadly a human rights treaty. Many of the provided rights which includes Right to life (Article 10), Right to Education (Article 24) are the major provisions one can note in any human rights law. Only few provisions for example right to accessibility to physical environment (Article 9), to personal mobility (Article 20) which revolve around disability.<sup>48</sup>

There are in total 50 Articles to this Convention. The first Article starts with Purpose and it states that it is to promote, protect and ensure the full and equal enjoyment of all human rights and fundamental freedoms by all persons with disabilities, and to promote respect for their inherent dignity. Then the second Article provides for definitions of the terms used in this Convention. The third Article provides for few general principles and next article provides for General obligations which the states or parties must fulfil. From Article 5 onwards, each right is discussed in detail. Article 5 starts with Equality and Non-

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<sup>48</sup> United Nations Convention on the Rights of Persons with Disabilities and Mental Health Law by Peter Bartlett- MODERNLAW REVIEW- Volume 75 No 5 September 2012 pp 752-778

Discrimination.<sup>49</sup> It is also important to note that this Convention establishes the Committee on the Rights of Persons with Disabilities to ensure all States ensure compliance.

Article 3 is one of the most important provisions in this Convention. It provides for eight fundamental principles which should be followed by every member countries which frames laws. The eight principles are taken into account and used as a guide to determine the usefulness of the rights or powers granted to people with disabilities. These principles include respect for individual autonomy and freedom to make one's own choices, non-discrimination, full and effective participation and inclusion in the society, acceptance of persons with disabilities, equality of opportunity, accessibility, equality and finally respect for the rights of children with disabilities and also their evolving capacities. Focusing on the accessibility principle we see that the convention has focused on ensuring reasonable accommodation, accessible and universal designs to ensure accessibility. Access enables disabled persons to access services and commodities offered by both private and public entities. Establishing accessible infrastructure and the integration of advanced Internet and Communication Technology is important to ensure the availability of the system for disabled individuals. Access goes beyond tangible things to encompass all users, including persons with disabilities. New city pathways like those constructed by Delhi Metro Rail Corporation are accessible to persons with disabilities. Visually impaired people can ride unattended, purchase tickets, and enter trains on their own, resulting in increased dignity and independence. To achieve accessibility and equality, we must remove barriers that prohibit individuals with disabilities from fully fulfilling their human rights. Individuals with disabilities can live independently and fully participate in all aspects of life due to accessibility. Accessibility is essential in the built environment, including buildings, roads, housing, transportation, and public services.<sup>50</sup>

Since, this topic pertains to accessibility focus should be shifted to Article 9 which specifically mentioned about disability. Article 9 of CRPD mandates universal accessibility in transportation, buildings, information, and technology. This Article focuses on directing

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<sup>49</sup> Fredric Margret, The Disabilities Convention: Human Rights of Persons with Disabilities or Disability Rights?, Vol 30 NO 2 (may 2008)

<sup>50</sup> Training Guide - The Convention n the Rights of Persons with Disabilities' , UN OHCHR, <[https://www.ohchr.org/Documents/Publications/CRPD\\_TrainingGuide\\_PTS19\\_EN%20Accessible.pdf](https://www.ohchr.org/Documents/Publications/CRPD_TrainingGuide_PTS19_EN%20Accessible.pdf)> accessed 25 October 2021

the State Parties to mandatorily take measures to ensure persons with disabilities access equally with others to an environment, to transportation, information and communication and to other facilities and services open to public. So here the states should check and eliminate any hindrances or barriers to accessibility which apply even to buildings, roads, transportation, housing, medical facilities and workplaces. This article also mandates States to develop and implement certain minimum standards and guidelines to improve the accessibility of facilities and also also ensure that private entities that offer these services take into account all aspects of accessibility for persons with disabilities. Some other provisions like Article 24 which focuses on Education states the need for recognising the rights of persons with disabilities to education and also to provide accessible educational facilities to them. Then under Article 25 which deals with Healthcare, it states that the parties shall acknowledge that people with disabilities are entitled to the best possible level of health without facing discrimination because of their impairment. States Parties shall take all necessary steps to guarantee that individuals with disabilities have access to gender-sensitive health services, including rehabilitation connected to health. Article 27 which is titled work and employment deals with working status and the right to employment for such people. States Parties acknowledge that people with disabilities have the right to work on an equal basis with everyone else, including the right to earn a living through employment that is freely selected or accepted in a labor market and workplace that is accessible, inclusive, and open to people with disabilities.

Then there are other Conventions also for instance (International Covenant on Civil and Political Rights (ICCPR), 1966 which protects the rights of PwDs to participate in society without discrimination. Then there is International Covenant on Economic, Social, and Cultural Rights (ICESCR), 1966 which ensures the right to education, healthcare, and employment for PwDs

The ratification of the CRPD in 2007 prompted India to amend its existing laws related to disability. The Rights of Persons with Disabilities Act, 2016 was thereby enacted to align with the CRPD, enhancing legal rights and protections. It is important to note the convention has raised awareness about disability issues and has empowered advocacy groups in India to campaign for the rights of persons with disabilities. The principles of the CRPD have influenced to an extent various government programs and policies, promoting

inclusive education, employment, and accessibility initiatives. Thus, the influence of international conventions like the CRPD has been pivotal in shaping disability rights in India, fostering an environment that supports equality, accessibility, and inclusion for persons with disabilities. <sup>51</sup>Focusing mainly on accessibility, it is worthy to note that following India's ratification of the CRPD, the country enacted this law, which mandates accessibility in public buildings, transport, and information and communication technology (ICT). This legal framework provides specific requirements and standards for accessibility. The right of people with disabilities to work on an equal basis with others is acknowledged by States Parties which includes the right to earn a living through employment that is freely chosen or accepted in a labor market and workplace that is accessible, inclusive, and open to people with disabilities. The Indian government has also started a number of initiatives to increase accessibility in order to comply with the CRPD. Accessibility is one of the rights that people with disabilities and their families can now demand due to the influence and compliance of the treaties. <sup>52</sup>

### **Constitutional Framework- human rights perspective**

In India the constitutional framework relating to disability as reflected in Rights of Persons with Disabilities Act 2016, emphasizes equal opportunities, protection of rights and full participation of persons with disabilities. The Constitution secures to the citizens including the disabled, a right of justice, liberty of thought, expression, belief, faith and worship, equality of status and of opportunity and for the promotion of fraternity. Fundamental rights which are provided under Part III of the Constitution (Art 12-35) which are basic human rights which are protected and which play a crucial role in safeguarding the rights and liberties of its citizens. They help in ensuring individual liberty, equality and justice. They are available to all citizens including disabled. Few such important provisions include Article 14 which guarantees Right to Equality, Article 15 which prohibits discrimination, Article 21 guarantees right to life and personal liberty, Article 25 which provides for freedom of religion.

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<sup>51</sup> Jayna Kothari, The UN Convention on Rights of Persons with Disabilities: An Engine for Law Reform in India, Vol 45, No 18, May 2010

<sup>52</sup> Francesco Seatzu- United Nations Convention on the Rights of Persons with Disability- A commentary- Pages 225-242 Article 9 Accessibility



The Constitution of India as adopted on 26 January 1950 did not have a direct provision expressly mentioning rights of disabled persons. However, it can be traced indirectly to various provisions. Any right, fundamental or constitutional, must be given to the disabled population also by virtue of Right to Equality as mentioned under Article 14 of the Constitution.

Article 14 provides for Equality before laws and equal protection of laws. As per Article 14, “State shall not deny to any person equality before the law or the equal protection of the laws within the territory of India”.<sup>53</sup> This means that Article 14 of Indian Constitution treats all people the same in the eyes of the law. It is described in two parts – which states and commands the State not to deny to any person ‘equality before the law’. Another part of it also commands the State not to deny the ‘equal protection of the laws’. The underlying principle which is portrayed by this Article is that Equals must be treated equally while unequals must be treated differently. This provision is very important and it is regarded as the cornerstone of Indian democracy. It is also part of Golden triangle along with Article 19 and 21. This right is significant for ensuring that all citizens have equal access to education, employment, and other opportunities. This equality also extends to individuals with disabilities, protecting them from discrimination. Then we have Article 15 which states “The State shall not discriminate against any citizen on grounds only of religion, race, caste, sex, place of birth or any of them.”<sup>54</sup> It prohibits discrimination on the basis of religion, race, caste, sex, or place of birth, which includes safeguarding against discrimination faced by persons with disabilities. It allows the state to make special provisions for disadvantaged sections, including people with disabilities. Then we have Article 21 which guarantees right to life and personal liberty.<sup>55</sup> This article secures the right to life and personal liberty, which has been interpreted by the Indian judiciary to include the right to live with dignity. This has implications for the rights of persons with disabilities to access essential services and facilities.

Indian Constitution is founded on human rights and social justice principles. India was a signatory to the Universal Declaration of Human Rights. A number of fundamental rights guaranteed to the individuals in Part III of the Indian Constitution are similar to the

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<sup>53</sup> Art 14 of the constitution

<sup>54</sup> Article 15 of the Constitution

<sup>55</sup> Article 21 of the Constitution

provisions of the Universal Declaration of Human Rights. The Preamble, Directive Principles of State Policy, and Fundamental Rights in the Constitution reflect the commitment of the state towards its people. These legislations intend that the government acts in a constructive way to enhance the status of underprivileged groups. It's vital to note that the rights that have been classified under Part IV of the Indian Constitution's 'Directive Principles of State Policy' must be realised throughout time. Part III, on the other hand, has established fundamental rights that are essential to democracy and are to be implemented immediately. For example, rights covered by Articles 14 to 32 are fundamental/enforceable rights, but Articles 36 to 51 are directive principles that are theoretically non-justiciable.

When we refer to the Indian Constitution, Part IV which provides for Directive Principles of State Policy (Art 36-51). These principles are borrowed from Irish Constitution. These are form of guidelines or ideals for achieving welfare. The State should follow these ideals while formulating policies and enacting laws for the country. It contains Article 41<sup>56</sup> which provides that “States shall make effective provision for securing the right to work, to education and to public assistance in cases of unemployment, old age, sickness and disablement, within the limits of its economic capacity and development.” Directs the state to ensure the right to work, education, and public assistance for disabled persons. Article 41 directs the government to ensure social security and welfare for vulnerable sections, including persons with disabilities (PwDs). The subject of ‘relief of the disabled and unemployable’ is specified in the state list of the Seventh Schedule of the constitution. This provision basically revolves around right to work which focuses on providing employment opportunities to disabled through various schemes and policies. It highlights the importance of ensuring that every citizen has the opportunity to work. For persons with disabilities, this provision mandates the state to create favourable conditions that enable them to access the job market. Employment opportunities should be made available without discrimination on the grounds of disability. It also provides for right to education and public assistance. It focuses on providing inclusive education and also assistance through pensions, healthcare and financial aid. These principles are non- enforceable before court of law unlike Fundamental Rights. So it is important to note that Article 41 which provides a foundation for laws and programs targeted at enhancing the

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<sup>56</sup> Article 41 Constitution of India

socioeconomic circumstances of people with disabilities, it is not subject to judicial review. In order to encourage inclusion and assistance for individuals with disabilities, the government is obliged to align its policies with the values outlined in this article.

The Indian Constitution included the issue of disability in the list of legislative obligations shared by the Centre and States. With the signing of the Proclamation of Equality and Full Participation of People with Disabilities in the Asian and Pacific Region, India's Parliament gained the authority to legislate on disability problems. Article 249 of the Constitution empowers Parliament to legislate on any matter listed to fulfill the country's international obligations. The Persons with Disabilities (Equal Opportunities, Protection of Rights, and Full Participation) Act, 1995, was adopted on January 1, 1996, to implement the Proclamation, despite being a signatory to multiple treaties. The 1995 Persons with Disabilities (Equal Opportunities, Protection of Rights, and Full Participation) Act was a watershed moment in India's disability movement.

Under the Rights of Persons with Disabilities Act 2016 legislation, Section 3(1) also points out that the appropriate government would ensure that the persons with disabilities should enjoy the right to equality, life with dignity and respect for his/her integrity on equal footing with others. There is also another provision in this legislation which is Section 3 (3) which prohibits discrimination on the ground of disability. No person with disability shall be discriminated on the grounds of disability, unless it is shown that the concerned act or omission does have a proportionate means of achieving a legitimate aim. These provisions are in consonance with Article 14 and Article 15 of the Constitution. Article 14 talks about Right to Equality which we can now see in Section 3(1) which implies Right to Equality of Disabled. Article 15 of Indian Constitution is a core component of Right to Equality and it deals with prohibition of discrimination on the grounds of caste, sex, place of birth and so on. Hence, one can note by analysing Section 3 (3) that here the legislation aims to prevent discrimination on the ground of disability which is a major positive change to the legal framework with regard to disability rights.

The next provision which is important in this regard is Section 6 of the 2016 legislation which protects persons with disabilities from being subjected to cruelty, inhuman treatment or torture. The government should mandatorily take measures to prevent this. This provision too is in consonance with Indian Constitution. Then there is another provision

which is Section 12 of the Act which states that persons with disabilities shall also have the right to access a court or body without any discrimination.<sup>57</sup>

In country like India, various laws and schemes have been brought about to implement this provision of which we would discuss Right of Persons with Disabilities Act 2016. The National Policy for Persons with Disabilities, 2006, Accessible India Campaign and so on.

## **Conclusion**

The human rights and international frameworks relating to disability play a crucial role in shaping a more inclusive society. Instruments such as the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD) not only emphasize the inherent dignity of individuals with disabilities but also hold states accountable for ensuring their rights are protected and promoted. These frameworks advocate for the elimination of barriers, the provision of reasonable accommodations, and the recognition of disability as a social issue rather than merely a medical one. As countries like India work towards aligning their national policies with these international standards, it is vital to actively implement and monitor these rights in public spaces and beyond. Ultimately, fostering a culture of respect and inclusivity, underpinned by robust legal frameworks, is essential for achieving equality and enhancing the quality of life for individuals with disabilities. However, currently in reality accessibility remains a key challenge despite strong legal provisions under the RPWD Act and schemes of Government. Ensuring effective implementation and enforcement is crucial to achieving a fully inclusive society for persons with disabilities.

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<sup>57</sup> Handbook on the Rights of Persons with Disabilities Act 2016- HUMAN RIGHTS LAW NETWORK

## **CHAPTER 4 – INDIAN LEGAL FRAMEWORK**

### **Introduction**

Disability, which has traditionally been a question of charity or medicine, has become a significant human rights issue globally. This shift is evident in the legal framework in India, wherein disability is being considered more and more as a constitutional and legal right and not necessarily a social issue. The Indian legal framework, originally welfare-focused, has come to adopt a rights-based model increasingly, in line with global norms, especially after India signed the UN Convention on the Rights of Persons with Disabilities (UNCRPD) in 2007. Legislative and judicial statements over time have helped in enlarging the rights of PWDs and compelling the state to facilitate access, involvement, and protection from discrimination and exclusion.

The Indian Constitution does not even explicitly provides for disability provisions and so on. However, it can be interpreted through various important provisions like Article 24 which deals with Right to Equality, Article 15 which deals with Prohibition of Disceimination on the grounds of caste, religion. Now disability is also a ground for such discrimination. other constitutional principles include Article 21 and Article 41 of the Indian Constitution.

### **Statutory framework**

India is regarded as the one of the first few signatories which signed the United Nations Convention on the Rights of Persons with Disabilities (CRPD). Article 4<sup>58</sup> which comes under General Obligations mandates state parties to ensure full realisation of human rights and also fundamental freedoms for all persons with disabilities. This means that the member states have to make laws policies which ensures the disability rights are protected. It is clearly stated in first sub clause of clause 1 of this Article to adopt all legislative and other measures for implementation of rights under this Convention. The third clause of Article 4 also states that States Parties are required to actively involve and closely consult with people with disabilities, including children with disabilities, through their representative organizations when developing and implementing laws and policies to implement the current Convention and in other decision-making processes pertaining to

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<sup>58</sup> Article 4 of the Convention of the Persons of Rights with Disabilities

people with disabilities. In the Constitution's 7th Schedule, "relief of the disabled" is listed under the State List.<sup>59</sup> Initially, this proved to be a stumbling hurdle. However, as India began to formally recognise worldwide disability-related agreements and treaties, Parliament gained the authority to codify India's commitment domestically. The signing of the Proclamation of Equality and Full Participation of People with Disabilities in the Asian and Pacific Region by India sparked action in the Indian Parliament.

In 1995, the government finally acknowledged the disabled's quest for rights. The 1995 Persons With Disabilities (Equal Opportunities, Protection of Rights, and Full Participation) Act (or PWD Act) was enacted.<sup>60</sup> Then later only the international convention came up along with the national initiatives to codify disabled people's rights. In 2006, the Convention on the Rights of Persons with Disabilities was published. India signed the agreement without reservation in 2007. The job of bringing India into compliance with the UNCRPD's articles was also assigned to the Indian government. Consequently, a new Bill was presented to Parliament in 2012 with the intention of superseding the 1995 Act. A revised Bill was introduced in 2013 after certain changes were made to the original wording following discussions in Parliament. It took a further three years for Parliament to formally approve the Bill, though. Consequently, both Houses of Parliament passed the Rights of Persons with Disabilities Bill in 2016. The Act became operative on April 19, 2017, after the President signed the measure on December 27, 2016.

### **Persons With Disabilities (Equal Opportunities, Protection of Rights, and Full Participation) Act 1995**

The Persons with Disabilities (PWD) Act of 1995 is a historic legislative initiative by the Government of India to provide a structured and enforceable legal framework for protecting the rights of people with disabilities. The Act, which is based on India's commitment to the Proclamation on the Full Participation and Equality of People with Disabilities in the Asian and Pacific Region (1992), represents the country's alignment with global standards on disability inclusion, particularly prior to the UN Convention on the

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<sup>59</sup> 7<sup>th</sup> Schedule of Indian Constitution', < <https://www.mea.gov.in/Images/pdf1/S7.pdf>> accessed 25 October 2021

<sup>60</sup> THE PERSONS WITH DISABILITIES (EQUAL OPPORTUNITIES, PROTECTION OF RIGHTS AND FULL PARTICIPATION) ACT, 1995, ACT NO. 1 OF 1996, <<https://legislative.gov.in/sites/default/files/A1996-1.pdf>> accessed 25 October 2021

Rights of Persons with Disabilities (UNCRPD), which India ratified in 2007. The Persons with Disabilities Act, 1995 (PWD Act) was India's first comprehensive legislative attempt to recognize and uphold the rights of persons with disabilities. Among its many objectives, the creation of a barrier-free environment through accessibility was one of the foundational aspirations.

This is the first legislation which came up with regard to protection of disability rights. Affirmative action, education, employment, research and manpower development, early diagnosis and disability prevention, education, employment, and institutions for individuals with severe disabilities were the key focuses of the Act. The Act was passed by the Lok Sabha on 12<sup>th</sup> December 1995 and it actually came into enforcement on 7<sup>th</sup> February 1996. Under the Act, people with disabilities were granted a 3% reservation in government jobs and educational institutions. In other words, the state kept looking for methods to assist those who have disabilities. The enactment of the Act is noteworthy as it recognises and protects the social and economic rights of persons with disabilities for the first time. It is important to note that through this Act responsibilities are given to Central and State government and even local governments to provide necessary services and facilities to the disabled.<sup>61</sup> Hence, it actually could be noted that it is for the first time, people with disabilities were given explicit legal status with enforceable rights under Indian law. This legislation also created structures such as Chief Commissioners and Commissioners at the State level to oversee implementation and grievance redress. It offered a unified approach to disability, encompassing education, employment, accessibility, and affirmative action. It shifted the narrative from charity to rights-based inclusion, reflecting a broader paradigm shift in global disability discourse. The main features of the legislation are as follows-

- The Act covers seven categories of disabilities: blindness, low vision, leprosy-cured, hearing impairment, locomotor disability, mental retardation, and mental illness.
- It mandates free education for children with disabilities up to the age of 18 and reserves 3% of seats in government and government-aided educational institutions.

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<sup>61</sup> PWD Act 1995- Dr. JaganMohana Rao- <https://www.slideshare.net/slideshow/pwd-act-1995/249786290>

- It includes awareness campaigns and steps to reduce the incidence of disability through preventive health care and early intervention which is mentioned in Section 25.
- Establishment of Central and State Coordination Committees and Executives. The Chief Commissioner for Persons with Disabilities at the central level to monitor implementation.

This Act defines disability as a condition which includes low vision, blindness, hearing impairment, locomotor disability, mental illness.<sup>62</sup> It also defines ‘persons with disability’ as an individual suffering from not less than forty per cent of any disability as certified by a medical authority’’<sup>63</sup>

### **Relevance of Statute**

This particular legislation is very relevant cause it is the first ever legislation which was created to address the issues face by disabled. It explains for the first time the rights of disabled and grants them remedies and protection. It was framed in accordance with UNCRPD Convention.

For the first time, disability was officially established in the Indian legal system as a field of rights, and not just welfare. Along with that it provided for an enabling Framework that means it sought to develop an enabling environment to ensure the active participation of people with disabilities. This legislation also Offered a national plan for state governments to formulate plans, schemes, and barrier-free infrastructure. It imposed responsibilities on both the public and private sectors to promote inclusion.

### **Recognition of Rights**

Under this Act special focus has been given progressive features like employment, rehabilitation of such persons and also help in creating accessible environments where they can be productive in society. The main objectives of this particular legislation include to create a barrier free accessible environment for these people, to tackle any hardships or

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<sup>62</sup> Section 2 (i) of Persons With Disabilities (Equal Opportunities, Protection of Rights, and Full Participation) Act 1995

<sup>63</sup> Section 2 (t) of Persons With Disabilities (Equal Opportunities, Protection of Rights, and Full Participation) Act 1995



exploitation of such persons and also to list out responsibilities states should take note of towards the protection of disabled, protection of rights, provision of medical care, education and employment of such persons. It is to be noted that this legislation covers important rights such as Right to Education by guaranteeing free education for children with disabilities upto 18 years of age. Then it also talks about Right to Environment by providing reservation for persons with disabilities. It also prohibited discrimination in recruitment or promotion based on disability. It also provides for institutional mechanisms which will also be discussed.

There are some important provisions which should be clearly mentioned. Firstly there is Section 25<sup>64</sup> which deals with the Prevention and Early Detection of Disabilities. This section states appropriate Governments and local authorities to take certain steps for the prevention of occurrence of disabilities. Then access to education is provided from Sections 26 to 31 which focuses on education. Every child with disability shall have the right to free education till the age of 18 years in integrated schools or special schools. It is important that appropriate transportation, removal of architectural barriers and restructuring of modifications in the examination system shall be ensured for the benefit of children with disabilities. Sections 44 to 47 is also important in this regard cause it deals with non discrimination. It is mandatory that all Member states should prevent any laws or actions which discriminate individuals on their disability. This is particularly connected with Accessibility. Cause there is discrimination with regard to the fact that people who do have any disability can access all services unlike those with disabilities. Accessibility for impaired individuals will be prioritized in public buildings, rail compartments, buses, ships, and aircraft. Toilets in public spaces and waiting rooms must be accessible for wheelchair users. In addition, lifts will include Braille and acoustic symbols. Ramps must be provided in all public areas to ensure accessibility. Section 44 deals with non discrimination in transport. Establishments in the transportation sector must take specific efforts to help individuals with disabilities within their economic capabilities and development. There is a need to customize rail compartments and buses. They should ensure wheelchair users have easy access to vessels and aircrafts, and adapt bathrooms in rail compartments, vessels, and waiting rooms. Section 45 deals with non discrimination in

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<sup>64</sup> Section 25 of 1995 Act

the road. Here the government should take appropriate measures like assisting visually impaired individuals, public highways by having audio signals installed at red lights. Curb cuts and slopes should also be constructed for easy access. To accommodate wheelchair users, zebra crossings should have engravings for blind or low-vision individuals, as well as adequate warning signals. Then the following section deals with accessibility with regard to infrastructure (Non Discrimination in built environment) . Then the most important section which is providing easy accessible facilities in buildings. This can be done by ramps in public buildings or even adaptation of toilets for wheel chair users and putting up braille symbols and auditory signals in elevators or lifts. Ramps in hospitals, primary health centers and other medical care and rehabilitation institutions would also be helpful. These sections collectively form the statutory foundation for accessibility under the 1995 Act. However, due to vague wording and lack of specific timelines or penalties, enforcement was limited, which is one reason the 2016 Act significantly strengthened accessibility mandates. Then there is one more important aspect of this legislation which Social Security. Sections 66 to 68- this is one of the important chapter and it deals with Social security measures for the disabled. This chapter aims to provide support and safeguards for persons with disabilities to help them live a life with dignity and access essential services. This chapter ensures that persons with disabilities are not left out of the social safety net. Helps them lead a dignified and self-reliant life, even when facing employment or health challenges. Provides a framework for state and central governments to create targeted welfare schemes.

In these sections, it is stated that the appropriate Governments and the local authorities shall undertake or cause to be undertaken rehabilitation of all persons with disabilities. It is important to note that the government may, by notification, create insurance systems for the benefit of people with disabilities. This may include health insurance, life insurance, and disability insurance. The schemes seek to provide financial protection. If a disabled person enrolled with a Special Employment Exchange has been unemployed for more than two years, the government may award an unemployment benefit. This provision recognizes

the job challenges that people with impairments confront and aims to provide interim financial relief.<sup>65</sup>

## **Impact**

This legislation has created a huge impact since this is the first ever legislation to protect disability rights. It brought disability rights into the mainstream of discourse and policy debates. The Act also facilitated the setting up of national and state commissions on disability rights. It created a legal framework for disability-related litigation and public interest litigation. It became a rallying cry for groups that promoted inclusion.

However, it came up along with lots of concerns and challenges. Major one include it does not cover all types of disability. Hence, it has a narrow scope. Only seven types of disabilities were recognized, omitting conditions such as autism, cerebral palsy, learning problems, and so on. Along with that there were no fines or remedies for noncompliance.

There are several cases in this regard for example in the case of *Union of India v. National Federation of the Blind*<sup>66</sup>. This case was relating to employment rights. This case involved the non-implementation of the three percent quota for employees with disabilities in government sector jobs, as mandated by the Persons with Disabilities (PWD) Act of 1995. The National Federation of the Blind, which is an apex organization engaged in the cause of securing the rights of the visually challenged, has filed this petition in public interest to bring to light discrimination against blind and low vision individuals by excluding them virtually from the recruitment process to government positions in contravention of the scheme of reservation under Section 33 of the Persons with Disabilities (Equal Opportunities, Protection of Rights, and Full Participation) Act. It is alleged by the petitioner that respondents have not extended reservation to blind and low vision applicants in all their recruitments from 1996, as per Section 33 of the Disabilities Act.<sup>67</sup>

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<sup>65</sup> Features of Persons with Disabilities (Equal Opportunities Protection of Rights and Full Participation) – IPLEADERS- Pranav Sethi <https://blog.ipleaders.in/features-persons-disabilities-equal-opportunities-protection-rights-full-participation-act-1995/>

<sup>66</sup> Union of India v. National Federation of the Blind 156 (2009) DLT 446

<sup>67</sup> Section 33 of 1995 Act

So, owing to the legal mandate, several government departments disregarded or exaggerated the quota, depriving thousands of qualified individuals of employment opportunities.

The Supreme Court ruled that the reservation should be properly implemented and enforced at every level of recruitment, including promotions. This ruling had a far-reaching effect, compelling the government to ensure uniformity in its various departments. Numerous individuals with disabilities who had been unjustly denied employment were able to regain their rightful position in the public sector.<sup>68</sup>

### **Addressing Accessibility**

This legislation does cover the aspect of accessibility through the above explained provisions. It did suggest steps like directing state authorities to take measures for barrier-free access in public buildings. It also recommended ramps, elevators, Braille signage, and adapted toilets. The provisions can be seen from Section 44 to Section 47. Some steps included adapting toilets in rail compartments and waiting rooms to make it inclusive and let the wheelchair users also use them conveniently. Then when it comes to road, installing appropriate warning signals and providing smooth pavements for wheelchair users are some of the important steps. Along with that ramps in hospitals, primary health centers and other medical care and rehabilitation institutions should also be established.<sup>69</sup>

However, its vision for accessibility remained largely aspirational due to structural and legal limitations. The term “accessibility” is never clearly defined in the Act. The Act's accessibility provisions applied only to government and public sector establishments. Private commercial buildings, educational institutions, and transportation services remained largely unregulated.

### **Institutional Mechanisms**

There are two important committees under this Act, Central Coordination Committee and Central Execution Committee. The former is constituted under Section 3 of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act,

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<sup>68</sup> Landmark Cases that Shaped Disability Rights in India- ROBOBIONICS-  
<https://www.robobionics.in/blog/landmark-legal-cases-that-shaped-disability-rights-in-india>

<sup>69</sup> The Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995

1995, is chaired by the Minister for Social Justice and Empowerment. The members included Parliamentarians, representatives from disability organizations, and disability professionals. It is the national focal point for disability issues and helps develop comprehensive policies to address the challenges faced by individuals with disabilities. The organization advises the Central Government on disability-related policies, programs, legislation, and projects. It also reviews and coordinates the activities of all Ministries/Departments and Non-Governmental Organizations involved in disability issues. The Central Coordination Committee is chaired by the Secretary of the Ministry of Social Justice and Empowerment and established under Section 9 of the Persons with Disabilities Act, 1995.<sup>70</sup> It is responsible for implementing the choices. The Central Coordination Committee may assign additional tasks to this entity.

Section 9 talks about Central Execution Committee. The Central Executive Committee is to be composed of the Secretary to the Government of India in the Ministry of Welfare, Chairperson, ex officio Chief Commissioner, Member, ex officio Director-General for Health Services, and five individuals with disabilities who are nominated by the Central Government to represent non-governmental organizations or associations dealing with disabilities and such other members. The main functions of this particular committee is provided in Section 10 of the Act. This committee shall work as per the directions of the Coordination committee and also perform functions delegated to it by the Coordination Committee. This is the executive body and is responsible for carrying out the Central Coordination Committee's decisions. These committees are found at State also.

Along with that Chief Commissioners are also part of the mechanism. Section 57 speaks about Chief Commissioners. These commissioners should have particular knowledge relating to rehabilitation. They have the power to look into complaints relating to violation or depravation of rights of disabled or even there exists a situation of non implementation of laws, rules, regulations for welfare and protection of rights of persons with disabilities. Established by the Central Government, the CCPD was tasked to oversee implementation of the Act at the national level. Attend to complaints regarding denial of rights. Make suggestions for policy reforms to central and state governments. Conduct inspections and file annual reports to the central government.

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<sup>70</sup> Section 9 of 1995 Act

Every State Governments may also appoint a commissioner to look into complaints relating to disabled living in a State. The powers and functions is almost the same as chief commissioner, the only change being its relating to State Government. This is provided under Section 60 of the Act. The main functions include Coordination with the State Government departments for schemes and programs for people with disabilities. Oversee State Government funds for their optimum utilization. Safeguard the rights and infrastructure of people with disabilities. Report to the State Government at periodic intervals on the implementation of the Act and forward a copy to the Chief Commissioner.

This legislation paved the way for future advancements. The Persons with Disabilities Act, 1995 was a milestone in India's journey toward a more inclusive society. By legally codifying rights and mandating state responsibility, it laid the groundwork for future progress in disability law and policy. Its focus on accessibility, although nascent, planted the seeds for later, more robust frameworks. As such, the Act holds immense historical and legislative significance in the evolution of disability rights in India. This legislation faced lots of challenges. It was criticised due to narrow definition of disability that means it only covered major seven categories of disability. Along with that the grievance redressal mechanism system was weak. These commissions are quasi-judicial functions and decisions were generally advisory which led to lack of enforcement capacity and non-compliance. It is also important to note that while the Act mentioned barrier free access it did not provide for any concrete standards or universal design norms. Most of its provisions applied to government entities or public bodies which means the private sector had no binding mandate to follow such provisions.

The deficiencies in its accessibility provisions catalysed the disability rights movement and eventually created the RPwD Act, 2016—a more robust, inclusive, and enforceable legislative framework.<sup>7172</sup>

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<sup>71</sup> Ibid 8

<sup>72</sup> Journey of Disability Rights in India -LINKEDIN- Maira -<https://www.linkedin.com/pulse/journey-disability-rights-india-maira-q-fyrdf/>

## **Rights of Persons with Disabilities Act 2016**

The Rights of Persons with Disabilities Act 2016 replaces the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995. This legislation came up as a result of ratification of the UN Convention on the Rights of Persons with Disabilities (CRPD) in 2007. It adopts a rights-based, inclusive, and participatory framework, seeking to empower PWDs by legally ensuring equality, dignity, and full societal participation.

This legislation has clearly defined two important terms, 'Persons with disability' and 'Persons with Benchmark Disability'. "Person with disability" means a person with long term physical, mental, intellectual or sensory impairments which, in interaction with barriers, hinders his full and effective participation in society equally with others. "Person with benchmark disability" means a person with not less than 40% of a specified disability where specified disability has not been defined in measurable terms and includes a person with a disability where specified disability has been defined in measurable terms, as certified by the certifying authority.

Key changes brought about by this Act include expanding the scope of definitions in a considerable manner. Previously in the 1995 Act only 7 disabilities were recognised. With this legislation it expanded to over 20 types of disabilities including autism, learning disabilities etc. it was also mentioned before that the 1995 Act did not put in any enforceable penalties for non compliance, however, this was changed and penal provisions were included. This legislation also provides for mandatory time bound accessibility standards which should be followed. Along with that all obligations got extended to private sector establishments. Five percent reservation is provided to all government institutions.

This Act has over 101 sections. With the enactment of the Act the interests of disabled were safeguarded and prevented discrimination against them which in turn called for inclusive society. Due to the UN Convention mandating the States and private individuals to ensure rights of disabled people were protected, the member States have to enact a law or modify the law to bring it on par with Convention and respective Constitution. India being one of the member enacted this Act to fulfil the obligations. This legislation ensures that the right to equality and ensure that disabled people are able to live a dignified life.

Another important feature of this Act it also provides that if an employee while being in his employment acquires any form of disability then he should not be dismissed or removed. He should be transferred to any other suitable post. Special provisions are also provided for persons with Benchmark disabilities that is from Section 31 to Section 33.

One of the cases which spoke about the wide scope of this legislation is Disabled Right Group v. Union of India 2017<sup>73</sup>. PIL was filed before SC due to non implementation of reservation provisions for disabled people. People suffering from orthopedic disability should have the right to move freely and they should have access to adequate pedagogy facilities. Here, the SC did state the fact the fundamental basis of the 2016 legislation was on the idea that there are barriers created by society which affect disabled rights. The Act aims at ensuring that disabled people are provided with adequate opportunities to progress. All public facilities like buildings, libraries should be accessible to them. The court also pointed out that 2016 Act widened the scope of welfare provisions. hence, the court ordered that all educational institutions must comply with the policies of the Act and also follow reservation policies.

### **Duties of Government**

Chapter 8 (Section 39- 48) of the legislation provides the duties of the appropriate government in protecting the rights of the disabled. As per Section 39<sup>74</sup> It is mandatory on the part of the Government to conduct sensitisation programs and campaigns to create awareness. These programmes are conducted to promote values of inclusion and respect for dignity, to recognise the skills of disabled and to respect the decisions made by these people relating to their family life and so on. The government should conduct orientation and other programmes for employers and co-workers.

Section 41 becomes relevant to this paper cause it provides the duty of the government to take appropriate steps to ensure all public transport are made accessible to disabled people. This includes toilets and other facilities in such transport system and even parking which must be designed to make it accessible to disabled.<sup>75</sup> Section 43 mandates the government shall promote the development and distribution of consumer goods which would be

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<sup>73</sup> AIR ONLINE 2018 SC 543

<sup>74</sup> Section 39 of 2016 Act

<sup>75</sup> Section 41 of the 2016 Act



commonly used by disabled people. This means that technology, print including electronic media everything should be accessible to people. Last important section in this regard is Section 48. This provides for social audit. It is the duty of the government to undertake social audit for all schemes and programs to be conducted.<sup>76</sup>

### **How Accessibility addressed?**

The concept of accessibility lies at the heart of inclusive development. Accessibility is at the heart of inclusive and participatory communities. The 1995 Act marked the beginning of statutory recognition of accessibility in India, while the 2016 Act, enacted after India's ratification of the UN Convention on the Rights of Persons with Disabilities (UNCRPD), significantly expanded and enforced these provisions.

The evolution from the 1995 to 2016 Act reflects India's shift from a welfare-centric to a rights-based approach to disability. Accessibility, once treated as a desirable goal, is now a legal and moral obligation. Hence, the 2016 Act not only aligns India with international best practices but also sets a precedent for embedding universal accessibility in all spheres of life. For people with disabilities (PwDs), access is a right, not a privilege. The legal acknowledgment of this right has progressed dramatically in India, beginning with the Persons with Disabilities (Equal Opportunities, Protection of Rights, and Full Participation) Act, 1995 and progressing to the Rights of Persons with Disabilities Act, 2016.

India's first thorough attempt to enshrine the rights of people with disabilities in legislation was the 1995 Act. In Chapter VIII on Non-discrimination, Sections 44 to 46 were the main sections that addressed accessibility. The regulations provided for barrier-free access to public buildings and businesses, as well as adaptation of transportation networks. However, the Act lacked a precise definition of accessibility, sanctions for non-compliance, and specified enforcement measures. However, as time progressed as mentioned before, with India's adoption of the UN Convention on the Rights of Persons with Disabilities (UNCRPD), a paradigm shift from a welfare-based strategy to a rights-based, enforceable framework was signaled by the RPwD Act, 2016. Chapter V (Sections 40–46) of the Act made accessibility a legal requirement rather than merely an objective. Important

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<sup>76</sup> Section 43

developments took place including a thorough explanation of accessibility that takes into account the virtual, digital, physical, and communication realms. The definitions became more clear and there was actions taken implementing accessibility guidelines for both public and private spaces. Timelines for mandatory compliance was provided. Penalties, grievance redressal procedures, and the function of disability commissioners are examples of enforcement mechanisms. We should note that Persons with Disabilities Act addresses certain aspects of accessibility. For example Section 30 (b) of the Act makes provision for removal of architectural barriers from schools and colleges. Section 44 to 46 deals with physical accessibility in transport and other public spaces. Then there also exists the National Building Code India 2005 which actually explained in detail of how buildings should be constructed to make accessibility easier for the disabled. It is important that accessibility should be an integral part of all laws and bye laws of the States. The Ministry of Urban Development which plays a pivotal role in making such schemes and changes had made provisions strictly as per the National Building Code as barrier free structure for several buildings.

Hence it is clearly noted that the RPwD Act makes accessibility a statutory requirement under Sections 40 to 46, with an emphasis on inclusive design and barrier-free spaces. It requires retrofitting of public buildings for accessibility and providing ramps, lifts, tactile paths, signage, accessible toilets. With regard to Transportation (Section 41) there is a need for accessible public transport including buses, metros, and railways. Reserved seating and infrastructure changes (e.g., low-floor buses) should be done and also training of transport staff in disability sensitivity.

Another important government initiative is the Twelfth Plan. The twelfth Five Year plan which ran from the year 2012-2017 also played an important. One of its main focus was infrastructural development. Hence, it provides attention also towards provide adequate disabled friendly spaces or facilities in all modes of transport which includes roadways, railways, airways and so on. Steps should be taken to provide barrier free environment in all government buildings and to even make government websites accessible. Even the

Central Government plays an important role in financing the States in creating a barrier free and accessible physical environment.<sup>77</sup>

Hence, the 2016 Act is more comprehensive compared to 1995 with regard to accessibility.<sup>78</sup>

### **Institutional Mechanisms**

The remedial bodies or institutional mechanisms provided under this Act is much more broader compared to 1995 Act. Chapter XI provides for establishment of Central and State Advisory Boards on Disability and District Level Committee. These are the apex policy making bodies. Section 60 provides for establishment of Central Advisory Board. Its functions and constitution is mentioned under these provisions that is from Section 60 to 65. There shall be a chairman and vice chairman along with three members of Parliament. They are to be in office for term of three years. Section 66 to 71 explains about State Advisory Board at each State. It shall consist of five members with expertise in disability rights and also five members to represent each district in that state. The main function of the State Advisory Board to monitor the functioning all state departments which are working for welfare of disabled and also advice concerned state in framing necessary policies.

Another important body is the District Level Committee which is provided in Section 72 of the Act which helps to remedy the local grievances of disabled people. The functions are prescribed by the State Government.

As per the previous legislation we do have the Chief Commissioner and State Commissioner. This is provided in Chapter XII of the Act. the Central Government appoints the Chief commissioner and this body can perform functions just like civil court which means power to summon witness and production of documents and so on. It is provided in detail from Section 74 to 78. Then there is State Governments appointing State

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<sup>77</sup> FIRST COUNTRY REPORT ON THE STATUS OF DISABILITY IN INDIA- Submitted in pursuance of Article 35 of the UN Convention on the Rights of Persons with Disabilities- by the Ministry of Social Justice and Empowerment – Department of Empowerment of Persons with Disabilities.

<sup>78</sup> REVIEW OF INDIAN LEGISLATION FOR PERSONS WITH DISABILITIES article by Mr Avinash and Mr Sunil Kumar- Vol 9 Issue 4- Apr 2023

Commissioners which is provided in Section 79. Till section 83 the functions powers of State Commissioners are mentioned.

The most important distinct feature is that Special Courts can also be set up under this Act in each state with approval of Chief Justice of respective High Court. As per Section 84 of the Act for speedy trial the Court of Sessions would be considered a Special Court to deal with disputes under this Act. There shall also be a special Public Prosecutor in this regard. This particular court would hear and decide on matters relating to violations of rights of persons with disabilities.<sup>79</sup>

### **Existing other measures- Schemes and Guidelines**

There were around 26.8 million people with disabilities in India, the number might likely be much higher.<sup>80</sup> Over the past three decades, there has been a paradigm change from considering disability as a welfare issue to acknowledging it as a human rights and development issue, while the rights of this disenfranchised population have long been under-addressed. Numerous government initiatives, policy frameworks, and programs reflect this change, with a strong emphasis on inclusion, empowerment, and accessibility. These government schemes and guidelines play an important role in ensuring accessibility.

### ***National Policy for Persons with Disabilities (2006)***

This particular policy was framed in the year 2006 by the Department of Empowerment of Persons with Disabilities under Ministry of Social Justice and Empowerment. This policy was India's first national-level expression of its commitment to promoting equal opportunity, protecting rights, and full involvement of people with disabilities in all aspects of life.

The policy was pioneering in that it aligned India with worldwide disability rights movements, most notably the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD), which India adopted in 2007. This was the first formal **national-level policy framework** that outlined a rights-based approach to disability inclusion.

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<sup>79</sup> Rights of Persons with Disabilities Act 2016- IPLEADERS- *Gautham Badlani*- [https://blog.ipleaders.in/rights-of-persons-with-disabilities-act-2016/#Advisory\\_Board\\_and\\_District\\_Level\\_Committee](https://blog.ipleaders.in/rights-of-persons-with-disabilities-act-2016/#Advisory_Board_and_District_Level_Committee)

<sup>80</sup> Person with disability challenges- THE WIRE- <https://thewire.in/health/persons-with-disabilities-challenges-india>

It was formulated with an aim to ensure the rights of disabled are protected and also to ensure their inclusion in the society. There was a growing need to understand the challenges faced and also create a healthy environment so they can lead better quality life and also be entitled to equal rights and opportunities.

The National Policy recognizes that Persons with Disabilities are valuable human resource for the country and seeks to create an environment that provides them equal opportunities, protection of their rights and full participation in society. The main two goals put forth by this policy are to provide rehabilitation measures and prevention of disabilities. Programs aimed at preventing diseases that lead to disability and raising knowledge of the steps that should be done to prevent disabilities throughout pregnancy and thereafter will be strengthened and their reach broadened. Focus would be also to physical rehabilitation, which covers medical interventions, counseling, early detection and intervention, and the supply of equipment and aids. Professional development for rehabilitation will also be a part of it. Vocational education and educational rehabilitation will be promoted.

This policy also aims to provide special care to women and children with disabilities. Women with disabilities need to be shielded from abuse and exploitation. Given their special needs, special programs will be created for women with disabilities in the areas of education, employment, and other rehabilitation services. Measures will be done to offer short-term residences for women with disabilities, as well as hostels for houses for elderly disabled women, as well as working disabled women. It has been observed that caring for children can be quite challenging for women with disabilities. The government through this policy would be able to create a program that will give disabled women financial assistance so they may hire childcare providers.

Another focus was to implement social security measures since these people and their families might incur additional expenditure for their daily necessities, medical care etc. since this research particularly focuses on accessibility matters, the schemes focus for providing barrier free environment should also be highlighted. A barrier-free environment allows those with impairments to walk freely and access built-in facilities. Barrier-free design aims to create an environment that promotes independence and allows individuals to participate without assistance in all daily activities. To ensure accessibility, public buildings, sites, and transit systems will be as barrier-free as possible. Hence, the policy

mandates that all public buildings, transport infrastructure, and workplaces must become barrier-free. It also advocates for retrofitting public transport, including buses, trains, and airports, to accommodate mobility and sensory impairments. It encourages design modifications in future transport systems.

Focus is also given to education and employment in this scheme. Education, employment, and vocational training.<sup>81</sup> Along with that sports, cultural activities are also given importance. Steps like ensuring accessibility to recreational, cultural, and sporting venues such as hotels, beaches, sports arenas, auditoriums, and gym halls. Travel agencies, hotels, and volunteer organizations should cater to the requirements of people with disabilities while organizing leisure activities.

Panchayati Raj Institutions play a critical role in implementing the National Policy by addressing local issues and developing programs that align with district and state objectives. These institutions will incorporate disability-related components into their projects. It is also required that long-term maintenance and appropriate utilisation of the infrastructure built during execution.<sup>8283</sup>

### ***Sugamaya Bharat Abhiyan (Accessible India Campaign)***

On December 3, 2015, the Department of Empowerment of Persons with Disabilities (DEPwD) began the Accessible India Campaign (Sugamya Bharat Abhiyan), a national campaign to ensure universal accessibility for Persons with Disabilities. An accessible physical environment is for all people, not specifically for persons with disabilities. Steps must be taken to eliminate obstructions and barriers to indoor and outdoor facilities, such as schools, medical facilities, and workplaces. Transportation is part of independent living, and individuals with disabilities, like all other individuals, use transportation in order to travel from one place to another. Transportation consists of air travel, buses, taxis, and trains.

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<sup>81</sup> <https://depwd.gov.in/policy/national-policy/>

<sup>82</sup> Ibid 8

<sup>83</sup> Government Initiatives for Redressal of Disability in India-  
[https://www.mospi.gov.in/sites/default/files/reports\\_and\\_publication/statistical\\_publication/social\\_statistics/Chapter%208%20-National%20redressal.pdf](https://www.mospi.gov.in/sites/default/files/reports_and_publication/statistical_publication/social_statistics/Chapter%208%20-National%20redressal.pdf)

The Accessible India Campaign (Sugamya Bharat Abhiyan) is a national initiative aimed at attaining universal accessibility for people with disabilities (PwDs) to have equal opportunities and live their lives. In an inclusive society, individuals can act autonomously and fully engage in all parts of life. The program aims to improve the accessibility of the physical environment, transportation system, and information and communication ecosystem.<sup>84</sup> Hence the main aim of this is to create more accessible and barrier free environment for disabled persons. This will ensure that persons with disabilities can fully enjoy their life cause this will ensure their full participation. There is currently even an application which can be used to address the issues.

India is a signatory to the UN Convention on the Rights of Persons with Disabilities (UNCRPD). Article 9 of UNCRPD casts an obligation on all the signatory governments to take appropriate measures to ensure to persons with disabilities access, just like others, to the physical environment, to transportation, to information and communications, including information and communications technologies and systems, and to other facilities and services open or provided to the public. The convention focuses on implementing accessibility measures on buildings, roads, medical facilities, hospitals and workplaces. It also mandates that the appropriate Government shall take steps to establish, apply, and enforce minimal accessibility standards and guidelines for public buildings and services. Private organizations offering public facilities and services must give preference to accessibility for the impaired. To enhance the accessibility of public buildings and facilities, we provide live support and intermediaries like guides, readers, and expert sign language interpreters. Hence these policies were framed as part of following and enforcing this Convention.

So as per the motive of framing a policy, a barrier free accessible environment is a must for disabled. There is a need to built accessible environment.

### Buildings and Infrastructure

An accessible government building is one, where a person with disabilities has no barrier in entering it and using all the facilities therein. To improve access to indoor and outdoor

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<sup>84</sup> Department of Empowerment of Persons with Disabilities- Govt of India Ministry of Social Justice and Empowerment- <https://depwd.gov.in/accessible-india-campaign/>

amenities, such as schools, medical facilities, and businesses, barriers should be removed. These would include not only buildings, but also footpaths, curb cuts, and obstructions that obstruct pedestrian movement. To make sure the buildings and infrastructure helps the disabled one need to check if it meets the standards and if not make changes to make it universally accessible. These standards are mentioned in Rights for Persons with Disabilities Rules 2017, the Harmonized Guidelines and Space Standards for Barrier Free Environment for Persons with Disability and Elderly Persons. This particular document is regarded as Accessibility Standard which should be mandatorily followed while developing existing buildings or establishing new ones.

***Rights for Persons with Disabilities Rules 2017, the Harmonized Guidelines and Space Standards for Barrier Free Environment for Persons with Disability and Elderly Persons.***

These rules were notified on June 15, 2017. These rules are very important cause it mentions the duties and role to be followed by Government , private employers and so on. Along with that, it also provides how these provisions of the law should be implemented.

The Harmonised Guidelines 2016 issued by the Ministry of Housing and Urban Affairs prescribed accessibility standards for public buildings. Rule 15 (1) of the Right of Persons with Disabilities Rules provided for these guidelines. Now it is called the Harmonised Guidelines for Universal Accessibility in India 2021 cause these guidelines were updated in 2021 by the Central Public Works Department (CPWD) in collaboration with the Ministry of Housing and Urban Affairs. The main objectives are to ensure universal accessibility, to promote inclusion and protect the rights and dignity of the disabled. The Harmonised Guidelines for Universal Accessibility conceives of an accessible and inclusive India. All individuals, irrespective of age, gender, ability, health status, or socio-cultural background, should have an equal chance to move, function, participate, and engage in daily activities with dignity and independence. The Harmonized Guidelines and Standards for Universal Accessibility in India, 2021 bolsters the national call for an accessible India.

Harmonized Guidelines and Standards for Universal Accessibility in India, 2021 consolidate the national directive towards accessible and self-sufficient India.



(Athmanirbhar Bharat). This eight-chapter document seeks to inform and direct stakeholders designing, planning, and implementing accessibility in built environments, and worthy citizens. This article presents an integrated approach to accessibility in India, from a barrier-free to universal design paradigm. As per these guidelines there is a need for Automatic door entries or low-threshold entrances, Elevators with braille displays and announcement boards. Toilets that can be used by wheelchair users with the facility for support bars, PwD reserved parking lots close to entrances, Accessible metro stops and bus stops, Low-floor buses with a ramp or a lift.<sup>8586</sup>

### ***Rights for Persons with Disabilities Rules 2017, the Code of Practice for Bus Body Design Approval***

This is yet another important standard which should be mandatorily followed with regard to Transportation system accessibility. The Accessible India Campaign also takes into account accessibility with regard to public transport services be it buses, trains and so on. Hence, with respect to that, one has to follow the standards prescribed by the Rights for Persons with Disabilities Rules 2017. This is to ensure smooth and barrier free travel experience for PwDs.

PwDs, just like other people, are dependent on mobility to move around and be independent. Transport includes air transport, buses, and railway transport. Accessibility is paramount in airports, railway stations, and public transport. Transportation system accessibility covers the physical environment, such as surfaces, steps, ramps, corridors, entrances, emergency exits, indoor and outdoor parking areas, lighting, signs, alarm systems, and toilets, and carriers and related systems such as ticket reservation, information portals, and websites. Examples include accessible coaches in railways and low-floor buses with large doors in roadways. This is what is explained as what is being planned to be implemented through this policy.

Under these guidelines directions are provided which should be followed In any public transport system. Specific construction requirements for example in sleeper coaches, safety

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<sup>85</sup> Guidelines- <https://cdn.nic.in/SJ/PDFFiles/GuidelinesIndia.PDF>

<sup>86</sup> Harmonised Guidelines and Standards for Universal Accessibiity 2021- Divyangjan [https://divyangjan.depwd.gov.in/content/upload/uploadfiles/files/HG2021\\_MOHUAN%20%281%29\\_merge\\_d.pdf](https://divyangjan.depwd.gov.in/content/upload/uploadfiles/files/HG2021_MOHUAN%20%281%29_merge_d.pdf)

requirements in such coaches. Some of the points mentioned under these guidelines are as follows- Mandates all public transportation systems to be accessible within five years of the notice. It also extends to buses, trains, metro rails, waterways, and air transport. Retrofitting of already existing infrastructure and purchase of only accessible vehicles in the future.

Regular training of drivers and conductors in facilitating PwDs is mandatory. Non-compliance by authorities or private operators can attract fines, license cancellation, and administrative action.

This policy of Government also talks about Standards of Accessibility. Accessible India Campaign is to work with all Central and State Governments to drive accessibility in sectors such as police stations, hospitals, and tourism. Sector-specific accessibility needs are important in ensuring access to public infrastructure and services. Sector-wise accessibility standards and guidelines are made available by the respective Ministries/Departments, e.g., Housing and Urban Affairs.

It is also important to note that there is sunset clause under this scheme which means that this campaign would have been closed down on March 2024 after which it would be merged with Barrier free environment component under Scheme for Implementation of Persons with Disabilities Act 2016. Then there is Sugamya Bharat app which was launched on march 2<sup>nd</sup> 2021. This is a smartphone app was launched to improve accessibility across three verticals through crowdsourcing efforts. Complaints are sent with this smartphone app.

The public can submit accessibility issues connected to the built environment, including transportation, at any time and from any location in India. A PMU team has been formed to oversee the effective administration and deployment of the Sugamya Bharat App. The Sugamya Bharat App project will be combined with the Barrier Free Environment component of the SIPDA Scheme. The crowdsourcing software will continue to collect public feedback on the accessibility of government and private infrastructure and services.<sup>87</sup>

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<sup>87</sup> Accessible India Campaign-

<https://cdnbbsr.s3waas.gov.in/s3e58aea67b01fa747687f038dfde066f6/uploads/2023/10/202405091838118783.pdf>

## **Scheme for the Implementation of Rights of Persons with Disabilities**

Before moving forward, just to be clear one has to analyse the Scheme for Implementation of Rights of Persons with Disabilities Act (hereinafter SIPDA). The Ministry has been Implementing the Scheme for Implementing of Persons with Disabilities Act, 1995 (SIPDA) for providing financial assistance for undertaking various activities outlined in the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995, particularly relating to rehabilitation and provision of barrier-free access. Grant-in-aid is provided under this Scheme to State Governments and various bodies set up by the Central and State Government, including autonomous bodies and Universities. The main objective of the Scheme is to assist various implementing agencies to take steps with a multi sectoral collaborative approach towards effective implementation of various provisions of the RPwD Act.

On 28<sup>th</sup> January 2016 this scheme came into effect. The main activities mentioned under this scheme includes- To create barrier-free surroundings for individuals with disabilities, such as access to the built-up area in schools, colleges, academic and training institutions, offices and public structures, recreation areas, health care facilities/hospitals, etc. These would involve offering ramps, rails, lifts, wheelchair-accessible toilets, brail signage and sound signals, tactile floor coverings, creating curb cuts and slopes in pavement for the easy passage of wheelchair users, engraving on the road surface of zebra crossings for the blind or for people with low vision, engraving on the platform edges of railway stations for the blind or for people with low vision, and creating suitable disability symbols, to mention but a few.

For making government websites at the center/state and district levels accessible to individuals with disabilities To enhance the accessibility of built environment, transport system and information and communication eco-system. To assist State Government to organize camps of issuance of disability certificates. To create awareness campaign and sensitization programmes. To promote accessibility of libraries, both physical and digital and other knowledge centres.<sup>88</sup>

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<sup>88</sup> Department of Empowerment of Persons with Disabilities- Government site- <https://depwd.gov.in/sipda/>

So we see that there are many schemes which provide assistance to disabled in India. Another one of them is Assistance to Disabled for Purchase/Fitting of Aids and Appliances (ADIP) Scheme. It assists the needy disabled persons in procuring manufactured, modern appliances in order to enhance their economic potential. This scheme is implemented through NGOs. <sup>89</sup>

Though the government is doing many landmark gestures for the upliftment of Persons with Disability, often they are not enough. Inclusiveness does not come as easily in Private institutions, in jobs where there is visibility of the person, in schools, higher education institutions. The need for Disabled friendly spaces is also yet to catch up in public area and transport.

### **Disability Card**

Unique Disability Identification Card ( known as the UDID Card) was introduced in the year 2016 by the Department of Empowerment of Persons with Disabilities under the Ministry of Social Justice and Empowerment. Through this project all disabled persons would get a unique disability card which is a part of a large national database. The project aims to encourage transparency, efficiency in the system of delivering the government benefits to the person with disabilities. There is also an online website UDID portal whereby these along with disability certificates can be issued through this portal. This project should be mandatory followed by all States. <sup>90</sup>

Hence the main purpose of this particular programme is to national database which consists of all relevant information and disability specific details across the country. Along with that it also aims at enhancing the delivery of benefits to PwDs, such as pensions, skill training, scholarships, educational support, rehabilitation, and concessions in public services like buses and railways. <sup>91</sup>

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<sup>89</sup> Govt of India-Ministry of Social Justice and Empowerment, *ADIP Scheme* Pg:2 (The Scheme and Objectives)

<sup>90</sup> Unique Disability Id- Department of Empowerment of Persons with Disabilities, Ministry of Social Justice and Empowerment government website- <https://swavlambancard.gov.in/>

<sup>91</sup> Varjram Ravi- UDID Project- <https://vajiramandravi.com/udid-project>

## Judicial Decisions

### 1. Rajiv Rasturi v. Union of India<sup>92</sup>

This is one of the most landmark case in the area of disability rights and in this case the apex court did uphold accessibility as a Human Right and fundamental right. The judgment was delivered by a 3 judge bench. This judgment is considered a landmark case which reshaped the scope of accessibility rights for PwDs in India. This judgment was delivered based on a report by the Centre for Disability Studies, NALSAR University of Law and upholds the social model of disability. As explained in one of the previous chapter, social model of disability aims for inclusion of PwD in society and decision aiming process. As the term suggests it focuses in social change by removing all social barriers by preventing their full participation.

This ruling was given by a three-judge bench led by Chief Justice of India DY Chandrachud, Justice JB Pardiwala, and Justice Manoj Misra on a PIL filed in 2005 by Mr Rajive Rasturi, an individual who is visually challenged, for orders to facilitate effective access to public places by persons with disabilities. Mr Rajiv is a visually challenged person who works with human rights organisation. He filed a petition seeking directions to ensure safety and accessibility in public spaces such as roads, transport. At the time of filing the petition Disabilities (Equal opportunities, protection of rights and full participation) Act, 1995 was the Act in force. By a judgment dated 15th December 2017, 4 this Court, speaking through Justice AK Sikri, identified eleven action points pursuant to the RPWD Act and the Accessible India Campaign for compliance. These action points pertained to the accessibility of a range of infrastructure, including government buildings, railways, airports, ICT ecosystem and transport carriers. The Union of India, all States and Union Territories were directed to file their compliance affidavits, and the case was re-listed after three months. Most of the States and Union Territories did not provide the required information and failed to file their compliance affidavits within the period of three months.

In November 2023, the court again looked upon the matter, and noted that there was poor progress made by Union States and UT in implementing provisions of the Act. Therefore,

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<sup>92</sup> [2024] 12 S.C.R. 827

this Court was of the view that a comprehensive exercise was necessary to assess the situation on the ground. Accordingly, the NALSAR-CDS was directed to submit a report on the steps required to be taken in accordance with the guidelines and the Accessible India Campaign to, inter alia, make all State and Central Government buildings, airports, railway stations, public transport carriers, all Government websites, all public documents and the ICT ecosystem fully accessible to PWDs. Hence, while examining implementation of the directive, the Court instructed the Centre for Disability Studies at the NALSAR University of Law to formulate a report on measures to be taken in order to make public spaces and buildings completely accessible to persons with disabilities. The most recent decision was based on a report submitted by NALSAR - Centre for Disability Studies, led by Professor Dr. Amita Dhanda, titled "Finding Sizes for All- A Report on the Status of the Right to Accessibility in India," which was prepared by the Centre in collaboration with people with disabilities, disabled people's organizations, and accessibility experts.

This particular case focused on Rule 15 of the RPwD Rules 2017. This particular rule addresses accessibility standards and guidelines for public spaces and services. It comes under Chapter 6 which deals specifically with regard to Accessibility. Rule 15 talks about mandatory standards which should be followed by every establishment to provide barrier free accessibility to physical environment, transport and information and communication technology.

The ruling authored by CJI DY Chandrachud, after examining international conventions such as the United Nations Convention on the Rights of Persons with Disabilities, and judgments stated that accessibility is a mandatory prerequisite for PwDs to exercise all their other rights and also accessibility should also focus on transforming new infrastructure and initiatives. The court held that Rule 15(1) is ultra vires the scheme and legislative intent of mandatory compliance of the RPWD Act. Court also listed principles of accessibility to be considered - Universal design, Comprehensive inclusion across Disabilities, Assistive Technology Integration and Stakeholder consultation. Hence, The Court held that Rule 15 of the Rights of Persons with Disabilities (RPWD) Rules, 2017, which had earlier been described as "guidelines," was ultra vires (beyond legislative power) because it was not enforceable, as the RWD Act 2016 intended. The government must replace the aspirational suggestions with binding rules within three

months under this ruling. This reading down of Rule 15 from voluntary standards to statutory requirements on the backdrop of the mission of the RPWD Act is a major move towards accessibility rights that seeks to provide PWDs with meaningful access to public spaces and facilities, which is a prerequisite for them to be able to exercise other rights.<sup>9394</sup>

## **2. Disabled Rights Group v. Union of India<sup>95</sup>**

This particular revolved on two major issues namely one related to the non-implementation of 3% reservation of seats in educational institutions as provided in Section 39 of the Disabilities Act, 1995 and Section 32 of the Disabilities Act, 2016. Second equally important issue raised in this petition, which is intimately connected with the first issue, is to provide proper access to orthopaedic disabled persons so that they are able to freely move in the educational institution and access the facilities. A writ petition was filed by the Disabled Rights Group (DRG), a non-profit organization dedicated to advocating for the rights of persons with disabilities.

This case was pending for several years due to the lack of response from respondents in implementation of the Act. section 39 of 1995 Act talks about reservations and it states that all Government educational institutions and other educational institutions receiving aid from the Government, shall reserve not less than three per cent seat for persons with disabilities.

In this case, the court had mandated the respondents and all Union state territories to issue Directions to ensure the reservation of seats in educational institutions for PwDs. Then this case came up again the year 2024. Here the issues were Whether the mandated reservation of 3% (now 5% under the RPwD Act, 2016) for persons with disabilities in educational institutions was being implemented and also Whether educational institutions were adhering to legal requirements under Sections 16(ii), 25(1)(b), and 40 of the RPwD Act,

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<sup>93</sup> Vision IAS- Supreme Court upholds accessibility for PwDs as a Human and Fundamental Right  
<https://visionias.in/current-affairs/news-today/2024-11-11/social-issues/supreme-court-upholds-accessibility-for-pwds-as-a-human-and-fundamental-right>

<sup>94</sup> Disability rights india – Supreme Court in Rajive Raturi case holds the recommendatory nature of Sectoral Accessibility Guidelines under Rule 15 as ultra vires the RPWD Act. Grants 3 months to UOI to make corrections in consultation with stakeholders  
<https://www.disabilityrightsindia.com/2024/11/supreme-court-holds-recommendatory.html>

<sup>95</sup> AIRONLINE 2018 SC 543, AIRONLINE 2017 SC 74

2016 to ensure access for individuals with orthopaedic disabilities. Hence, we see this judgment is a form of check whether as per the 2017 judgment is being followed and directions implemented.

The Supreme Court said that despite the statutory obligations under the Persons with Disabilities Act of 1995 (and subsequently the RPwD Act of 2016), there was gross non-adherence to seat reservation, accessibility, and pedagogic assistance to students with disability. The Court held that numerous universities did not make the reservation required and did not have proper facilities for serving students suffering from orthopedic disability. In addition, the Court stressed the need for pedagogical adaptations to meet these children's unique needs. The Supreme Court hence ruled that schools and colleges should satisfy the 3% (now 5%) reservation norm for differently abled students and report such compliance to competent authorities. If such compliance is not made, institutions are liable under law under the RPwD Act, 2016. The Court further ruled that withholding proper facilities to differently abled persons from educational institutions was discriminatory. It advocated the rights-based and inclusive perspective, emphasizing the necessity of the full involvement and integration of persons with disabilities. The University Grants Commission (UGC) was requested to examine and implement the recommendations made by the petitioners to enhance the infrastructure.<sup>9697</sup>

### **3. Jeeja Ghosh v. Union of India 2016<sup>98</sup>**

Jeeja Ghosh is a disabled individual working with the non-governmental organization ADAPT (Able Disable All People Together). She filed a PIL. Ms. Ghosh had been invited to go to an international conference in Goa. The conference was meant to be about people with disabilities and their families. Ms. Jeeja Ghosh was asked by crew members of the aircraft to present her boarding card, which she did. They then ordered her off the aircraft. Even though she made earnest appeals to them and asked them to remember that she had to reach Goa for the conference, they refused to let her board. After getting back to the airport and having an argument with airline staff, she realized that the Captain had ordered her to

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<sup>96</sup> DheyayaLAW- Disability Rights Group v Union of India

<https://www.dheyayalaw.in/disabled-rights-group-v-union-of-india>

<sup>97</sup> Supreme Court Observer- Seven judgements on disability rights authored by D.Y. Chandrachud-

<https://www.scobserver.in/journal/seven-judgements-on-disability-rights-authored-by-d-y-chandrachud/>

<sup>98</sup> AIR 2016 SUPREME COURT 2393



be off-loaded due to her disability. So here Jeeja Ghosh, an experienced campaigner for disability rights, was forcibly taken off a flight in 2012 simply because she had cerebral palsy. Although she was a regular traveller, she was treated unfairly because of ignorance and intolerance. The experience led to a legal dispute which went up to the Supreme Court, where she argued that her basic rights had been violated. In the petition she stated that due to this incident till the date of filing the petition she used to have constant nightmares relating to event. As a result of this shock she even had to take medications. She missed the whole conference just because of this attitude.

The court, in its verdict, reiterated the dignity and autonomy of individuals with disabilities. It ruled that airlines as well as other providers of services have to provide accessibility and also show respect to individuals with disabilities. The Court found that the airline treated the Petitioner unfairly, inappropriately, and without sensitivity. The interpretation of the right to equality should prioritize human dignity. Article 21 of the Constitution ensures the right to life. As a result, individuals have the right to live with dignity. The State is responsible for ensuring that people with disabilities have the same rights and freedoms as everyone else in the community. The case was a milestone, placing major emphasis on sensitivity training and more stringent legal enforcement across all areas, including employment.

### 3. Vikash Kumar vs. Union Public Service Commission (2021)<sup>99</sup>

The appellants are civil service aspirants and they are suffering from Dysgraphia which is also known as writers' cramp. They were preparing for the UPSC exam to attempt it in the year 2017. They applied under category of locomotor disability and hence they were provided with a scribe for the written test. Then in 2018 the Examination rules came out and it stated that those who have minimum of 40% disability would only get a scribe. Hence while applying for the exam they declared themselves to have more than 40% and hence requested for a scribe. However, UPSC rejected his request stating he did not meet the criteria required for attempting the exam. The applicant was even declined the disability certificate stating his disability was less than 6%. The case first came before the Administrative Tribunal which rejected the claims and then High Court upheld the Tribunal decision. Then it came to Supreme Court.

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<sup>99</sup> AIR 2021 SUPREME COURT 2447

The Supreme Court addressed the question of providing reasonable accommodations for applicants with impairments in competitive test. The court found that rigid definitions of disability should not be used to limit rights, and that people who have genuine difficulties should be provided with reasonable accommodations.

4. Arman Ali v. Union of India 2019<sup>100</sup>

The petitioner, a cerebral palsy disability rights activist, visited Gold's Gym to strengthen his upper body and lose weight. He was treated rudely by unfriendly staff who put him through a grueling initiation workout and off-topic inquiries regarding his medical history condition, before he was informed to pay extra for a trainer. Following discrimination, the petitioner claimed a writ suit. The Social Welfare Department and Gold's Gym denied the claim on the grounds of necessity in taking safety measures for people with disabilities in order to avoid injuries and medical repercussions.

The Court ruled that the Rights of Persons with Disabilities Act of 2016 applies to both government and private facilities. The government has a positive duty to conduct, encourage, assist, and promote awareness campaigns and sensitization programs protect the rights of people with disabilities. The Court found that the State of Assam and its Social Welfare Department workers are insensitive to the challenges experienced by individuals with disabilities.

The Court mandated training on disability rights for all Social Welfare Department officials in Assam, along with awareness campaigns and accessible rules, to be implemented within two months. The court also ordered compensation to this party. Hence it can be noted through this case it as highlighted the need to create awareness to public and all private establishments about on how to treat persons with disabilities with respect and dignity.

5. Akshat Baldwa v. Yash Raj Films 2023<sup>101</sup>

This case revolved around the question as to whether the disabled persons have the right to access audio visual media and entertainment in an accessible format?

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<sup>100</sup> 2019 SCC Online Gau 4822

<sup>101</sup> 2023 DHC

The petition was made by people with visual and hearing impairments to make films accessible through inclusion of accessibility features, in line with the RPD Act of 2016. The movie "Pathaan," produced by Yash Raj Films, was cited as a sample for accessible features, such as audio description subtitles and closed captions. The petitioners pointed out challenges for the disabled in gaining access to audio-visual information both from traditional cinemas and online streaming websites. Petitioner contented that subtitles and audio descriptions are always necessary in movies cause they form accessibility features for visual and hearing impaired.

The Court also recognized the need for accessibility of audio-visual information by persons with disabilities. Section 42 of the RPD Act mandates that the government ensure that audio, print, and electronic media content is accessible. The Court asked the Ministry of Information and Broadcasting (MIB) to consult stakeholders and draft "Draft Guidelines of Accessibility Standards in the Public Exhibition of Feature Films in Cinema Theatres for Persons with Visual and Hearing Impairment." The guidelines need to be notified by July 15, 2024, so accessibility features become obligatory.

## **Conclusion**

In conclusion, the review of the Indian legal framework on access in public spaces shows both progress and ongoing challenges. The 1995 Persons with Disabilities Act was a path-breaking law at its time. It provided the legislative and administrative infrastructure for disability inclusion. Yet its limited scope, non-enforceability, and old-fashioned worldview rendered it unsuitable for an accelerating rights discourse. The enactment of the RPwD Act in 2016 was more than a legal revision; it represented a paradigm shift from regarding individuals with disabilities as passive recipients to active citizens with rights.

Although the contribution of the 1995 Act towards mainstreaming disability issues cannot be overestimated, its shortcomings emphasized the imperative for progressive, effective, and inclusive legal reform, which reached fruition in 2016 legislation.

The Indian Constitution embodies constitutional rights that uphold equality and prohibit disability-based discrimination, yet in practice, the fulfillment of these rights remains imperfect. Legislative efforts like the Rights of Persons with Disabilities Act,

2016, are crucial steps in the direction of acknowledging and responding to the needs of people with disabilities. Yet, there are still gaps in enforcement, awareness, and integration of accessibility norms in urban planning and public infrastructure.

The Intervention of judiciary through the instrument of public interest litigations (PIL) a form of non- adversarial or modern form of adjudication of rights has also resulted in more focus for the realization of their rights.<sup>102</sup>

In India, the court has played a transformative and corrective function in enhancing the rights of individuals with disabilities. Although the Constitution and legislation enactments provide the normative basis, the interpretive authority of the judiciary is often utilized to render these rights effective. It can be seen from plethora of cases and landmark judgments ranging from the mentioned *Jeeja Ghosh v. Union of India* 2016 to *Rajiv Rasturi v. Union of India* 2018 and the other landmark cases explained here.

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<sup>102</sup> *Supra* 11

## **CHAPTER 5- RECOMMENDATIONS AND SUGGESTIONS TO IMPROVE ACCESSIBILITY**

### **INTRODUCTION**

Individuals' ability to function independently and participate in social situations can be unaffected by physical restrictions, cognitive difficulties, or personal circumstances as long as their living environments offer comprehensive accessibility. It's critical to recognize that, although we are all temporally able-bodied beings, we may experience physical, sensory, or mental difficulties at certain stages of our lives. It follows that having access to services, infrastructure, and information becomes essential for human survival. Therefore, accessibility need not only be viewed as a fundamental human right but also as an essential duty of the surroundings that support human diversity and the range of roles that it plays in society. A multifaceted, multidimensional, and metacontextual feature of the built environment is accessibility.<sup>103</sup>

### **SUMMARY**

The first chapter deals with the introduction aspect whereby I have introduced the concept of disability. How this paper would be relevant in today's world is discussed. The importance of understanding the concept of disability and relevance of disability rights is vital in contemporary world. Then I mentioned the scope of this particular study I'm conducting, the research questions which would be answered through this paper, the hypothesis which would be proved and finally the materials I would be referring to prove my hypothesis and present my dissertation.

The second chapter gives a thorough explanation of the notion of disability, highlighting its multidimensional nature and the social perceptions that over time have changed. Disability is defined as a constraint in an individual's capacity to perform activities which under normal circumstances would be manageable for someone. Disability includes physical, mental, intellectual, and psychological impairments that can arise due to various health conditions like cerebral palsy or depression. The chapter emphasizes that disability is not only the result of health conditions but also of the interaction with environmental and

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<sup>103</sup> Ministry of Housing and Urban Affairs, Harmonised Guidelines and Standards for Universal Accessibility in India 2021 (Issued on March 2022).

social elements, which can comprise negative attitudes, inaccessible infrastructure, and poor social support. The chapter also explores the historical development of the perception of disability, presenting a transformation from ancient beliefs associating disability with divine punishment to a contemporary one within the framework of medical, social, and legal constructs. It brings to the foreground World Health Organization's International Classification of Functioning, Disability, and Health (ICF) as a modern concept that accounts for interactions among bodily functions, activities, and environmental settings. The chapter ends by pointing towards India's slow transition in conceptualising disability after independence, showing how attitudes in society have changed dramatically over time.

The third chapter is titled Human Rights and International Framework and its Influence on Indian Constitution. This chapter delves into the notion of human rights, stressing that they are natural rights that belong to every human being from birth, regardless of their status or background. It highlights that human rights are universal, inalienable, and indivisible, covering a wide array of rights such as social, political, economic, and cultural rights. These rights establish a framework essential for the dignity and well-being of individuals, advocating against discrimination based on caste, culture, religion, or any other status. The chapter also discusses the international framework for human rights, comprising treaties, conventions, and declarations aimed at promoting and protecting these rights globally. A strong focus is given to the Universal Declaration of Human Rights (UDHR) that was endorsed by the United Nations General Assembly in 1948. As one of the pillars of international human rights law, the UDHR provides a shared standard for countries and defines fundamental freedoms and rights. It has been an essential influence on the constitutions of newly independent nations and fledgling democracies like India. The story explains how the UDHR forms part of the International Bill of Human Rights that consists of the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social, and Cultural Rights (ICESCR). The covenants establish states' legal obligations once they are ratified to enforce the rights enshrined in them. The chapter then goes deeper into the historical background of human rights in India and documents the development of human rights jurisprudence from the British colonial era. The suppression Indians experienced under the British inspired a struggle for basic freedoms and civil liberties, which eventually impacted the Indian struggle for freedom. The Indian Constitution, which was adopted in 1949, was influenced heavily by the

principles outlined in the UDHR and by the hopes of human rights among the people of India. In short, Chapter 3 describes the interaction between international human rights norms and India's legal development of human rights, and the significant role played by the Universal Declaration of Human Rights in shaping the Indian Constitution. From the same perspective, it gives a detailed description of how the global norms of human rights have been inserted into Indian law, and the significance of these rights in enhancing individual dignity and public welfare.

The fourth chapter talks about the Indian Legal Framework. How Indian laws deal with disability rights? Chapter 4 explores the changing ground of disability rights under the Indian legal order, tracing a move away from the consideration of disability through charity and medical perspectives to that of a foundational concern of human rights. This change is significantly driven by India's accession to the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD), which took place in 2007. The chapter highlights the increasing affirmation of disability as a legal and constitutional right, driving an agenda of rights over mere welfare. The Indian Constitution does not have any explicit provisions regarding disability; still, it can be understood by interpreting the different articles such as Article 24 (Right to Equality) and Article 15 (Prohibition of Discrimination) that now include disability as a ground for discrimination. Articles 21 (Right to Life and Personal Liberty) and 41 (Right to Work, Education, and Public Assistance) also add to the legal framework for disability rights. India's status as a pioneering signatory to the UNCRPD creates a root obligation to realize human rights for people with disabilities. Article 4 of the UNCRPD requires state parties to enact legislative measures to ensure these rights and engage people with disabilities actively in policy-making processes. The chapter chronicles the historical evolution that led to the passing of the Persons with Disabilities (Equal Opportunities, Protection of Rights, and Full Participation) Act in 1995. The act was a milestone piece of legislation that marked India's formal acknowledgment of the rights of people with disabilities in conformity with international norms and national legislation. Subsequent to the UNCRPD ratification, further initiative led to the proposal of the Rights of Persons with Disabilities Bill in 2012 that ultimately gave rise to the new 2016 Act. The 1995 PWD Act has been identified as a landmark legislation, offering a structured legal framework for the protection of rights of persons with disabilities in India. It focuses on the requirement of a barrier-free society and makes efforts towards compliance with

international best practices and standards of disability inclusion. The historical importance of the Act is in its holistic approach to safeguard and advance disability rights, covering dimensions such as affirmative action, education, employment, and early detection. In total, Chapter 4 highlights the progressive development of the Indian legal system with respect to the rights of the disabled, showcasing a paradigmatic change towards recognizing and implementing such rights as fundamental entitlements instead of just social benefits. The incorporation of international agreements and domestic measures is an important milestone towards promoting an inclusive society for the disabled in India.

The last chapter is a form of overall conclusion and provides suggestions to improve the existing laws and also ensure smooth accessibility to disabled.

Accessibility is an inalienable human right and one of the pillars of an inclusive society. Despite progressive laws, barrier free access remains a dream. Even though there have been legislations to address this issue, accessibility is still a distant dream. Even as progressive laws such as the Rights of Persons with Disabilities Act, 2016 (RPwD Act) were adopted in India, inconsistencies in implementation, absence of awareness, and institutional ableism tend to deny actual inclusion. People with visual impairment still find it difficult to start from the entrance of railway station to platform without any assistance. People who depend on wheelchair assistance also still find it difficult to board a bus or a train cause till date not all buses have ramp facilities. The transport systems like trains or metros do not have ramps which make these people depend on some others to get in. The width of the coach door also becomes an issue. In some public transport systems, the ramp facilities are not in a good position. Incline is not smooth and does not help to use it effectively. In accordance with the World Health Organization and World Bank's World Report on Disability, inaccessibility within the built environment, public transport network, and communication systems highly prevents PWDs from integrating into society.

As mentioned, there exist the Harmonised Guidelines and Space Standards for Universal Accessibility in India 2021; several initiatives have been taken up, such as the 'Accessible India campaign'. Universal accessibility is also underlined while revamping city infrastructure in several State government programmes. However, the accessibility still remains a challenge in many cities.



Inadequate available transportation impedes the mobility of million individuals with disability, as well as their access to education, health care, and economic opportunities. Inclusive mobility seeks to eliminate these disparities by making transportation services accessible, affordable, and equitable to all individuals, irrespective of socioeconomic status, age, ability, or place of residence. Even though the Rights of Persons with Disabilities Act (RPWD), 2016, has given the clear mandate that the Central and State governments will ensure accessible public transport for persons with disabilities, this present scenario reflects that even now there is lots of work to be done. It is to be noted only some buildings are accessible and most buildings, bus stops and other places lack ramps, elevators.

There have been instances which I've noted which helps me prove the aspect that legal framework need to be still modified to address the accessibility issues. Nowadays, not all educational institutions nor not all buildings are disabled friendly. The parking spaces in shopping complexes and malls also need to be disabled friendly. Even though vehicles driven by disabled has a seal on it, most staff who work at parking lots tend to charge and also not assist in parking the car. Their attitude is not friendly. Along with that even in toll stations when modified vehicles with disabled seal drive through they are also charged at the normal rate. They are actually exempted from paying the charge as per the Rule 11 of Exemptions and Discounts as per National Highways Fee ( Determination of Rates and Collection ) Rules 2008.<sup>104</sup> hence this all proves that life of disabled is still not going well. They still face lots of challenges in today's world.

One of the biggest challenge is the weak enforcement of laws. While there are proper, clear guidelines for accessibility, it is proven just above that many institutions ignore these requirements. Even though there exists violations it is still unchecked because of no proper monitoring mechanisms. There are not even strong penalties. And also many of the challenges faced by disabled individuals stem from stigma, lack of awareness, and societal indifference. It can also been seen when reading the legislation that the laws asks all authorities to build accessible systems in accordance with their economic ability. This proves that there exists only low level of importance to welfare of disabled.

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<sup>104</sup> EXEMPTIONS AND DISCOUNTS AS PER NATIONAL HIGHWAYS FEE (DETERMINATION OF RATES AND COLLECTION) RULES, 2008

## **Suggestions/Recommendations**

As per the research done by me , I did understand the fact that the current legal provisions are still inadequate in addressing the accessibility issues.

1. The common barriers include physical barriers for instance seating arrangements in transport system, public spaces which lack ramps, elevators and so on. Many institutions or organisations lack support and rehabilitation services for these people. These people find difficulty in navigating environments. Proper signs and boards, railings all should be kept.
2. Many states lacking timely implementation of the Act, low notification of State Rules, and the setting up of State Advisory Boards and District Committees. The RPWD Act 2016, however, largely remains on paper. Its implementation varies across states. While there are some states that have started implementing the law there are some states which have not. Hence we see still in todays world implementation is an issue. The main reasons include poor budget allocations for the PwD program. Also, Effective implementation necessitates the active engagement of states and districts, as well as effective coordination among numerous departments and agencies, which is challenging to achieve. Hence, implantation should be made strict.
3. Infrastructure, transport, reading materials, information (websites, apps, etc.), commodities, and services all need to be available, according to the RPwD Act and the associated Rules. Inequalities in access to buildings, inaccessible medical devices, lack of suitable signs, restricted doorways, interior stairs, inadequate toilet facilities, and challenging parking spaces all put obstacles in the way of employment, recreation, sports, and equal basic desires like a visit to a relative or viewing a play. Establishing a world of schools with no available bathrooms compounds the sector further. The discussion has not yet reached the service providers. Make universal design training mandatory for government ministers, urban planners, architects, and contractors, emphasizing universal design principles and the particular requirements of different disability groups, including people with short stature. The training should encompass a variety of disabilities and increase awareness of less obvious conditions.

4. Although the Act mandates universal design, most standards target wheelchair users. There is no established standard or template for ensuring infrastructure access for persons with short stature, creating uneven accommodations. Few public facilities conduct yearly audits or offer accessibility reports. The absence of consequences for lateness or failure to comply allows authorities to ignore requirements. Government administrators, planners, and private contractors often are not trained in unseen or lesser-known disorders such as achondroplasia. Develop and apply accessibility standards beyond wheelchair use to accommodate people of different heights and other special needs. This should include such consultation with advocacy bodies for people with disabilities to make sure all stakeholders are involved in the creation of these standards.
5. Create easy-to-understand and easily accessible avenues for people to file accessibility complaints or concerns in public areas. This should provide alternatives in terms of communication to suit different people's needs.
6. Another suggestion which I personally feel would help in improving the accessibility include- reserving more than two parking spaces for people with disabilities and proper assistance should be given while parking the car. The strict rules regarding fee concession should be followed; otherwise, penalties should be mandated. There should be elevators in every building and its must have auditory feedback and the buttons should be at a lower level so that people in wheelchair and also people with short height can access it. Wheelchairs and proper accessibility services should be available at every public space.
7. The most significant barrier can be buildings and infrastructure that ignore the needs of wheelchair users. On the other side, building accessible paths, doorways, and restrooms will make surroundings more usable for everyone, not just wheelchair users. Installing rest equipment that reduces travel distances or the need to stand for extended periods of time is also required for persons who are unable to walk without the use of walking aids such as canes, have difficulty traveling long distances, have internal impairments, and so on.

Hence, there is an urgent need for proper awareness about this. The Nodal Ministry and other concerned Ministries should put administrative mechanisms and plans in place in earnest. The Act details specific mandates and timelines. . To successfully implement the Act, awareness and capacity-building of all concerned parties are crucial. Penalties for non-compliance with access to public services are needed to deter default. There should be issue the UDID cards at the earliest and ease the application for the correction.

The right to accessibility is not a new or distinct human right, but rather an essential component of current human rights frameworks. Accessibility is more than a convenience; it is a fundamental prerequisite for allowing people, particularly those with disabilities, to exercise their rights completely and fairly. Individuals who lack accessibility are effectively excluded from many parts of society, including education, job, healthcare, and participation in cultural and civic activities. Accessibility guarantees that people with disabilities are not excluded and may participate in the same possibilities as everyone else, making it an essential component of maintaining equality, freedom, and human dignity.

We have analysed plethora of cases in this paper and it can be noted that In India, the court has played a transformative and corrective function in enhancing the rights of individuals with disabilities. Although the Constitution and legislation enactments provide the normative basis, the interpretive authority of the judiciary is often utilized to render these rights effective. The judiciary has in turn contributed to this disability legal field in a huge way by providing recognition of Reasonable Accommodation as a legal necessity. It also focused on expansion of Legal Capacity through judgments supporting autonomy and supported decision-making and also holding public authorities accountable for inaccessible infrastructure, lack of implementation, or discriminatory practices. There is an urgent need to change the existing provisions to make implementation and enforceability of all measures stricter and provide an inclusive society for the disabled that truly accommodates the needs of all, allowing everyone to engage fully in society.

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