
ENFORCING EQUALITY: LEGAL AND JUDICIAL ANALYSIS OF DISABILITY RIGHTS IN INDIA

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ABSTRACT

According to the census 2011, 2.21% (2.68 crore) of Indian population constitutes person with disabilities in which male constitutes 1.50 crore and female constitutes 1.18 crore. Our Indian constitution encompasses core principles of justice, liberty, equality and fraternity and it extends these principles to every citizen including person with disabilities. Albeit the Indian constitution does not articulate the prohibition of discrimination against person with disabilities but Article 14, 15 and 16 impliedly safeguards the rights of disabled persons. Article 14 which embodies the principle of equality indicates the absence of any special privilege by reason of birth and equal subject of all individuals to law. Various Government schemes were introduced by Indian Government like Sugamya Bharat Abhiyan, Deendayal Divyangjan Rehabilitation Scheme to align with Constitutional principles. India's disability framework had shifted from welfare based to rights based approach. The disability framework in India evolved via various landmark judicial judgments and laws. Globally, Disability Rights was first recognised as human rights by United Nations Convention on Right of Persons with Disabilities 2006 and signed by India on March 30, 2007. This Convention is the first comprehensive human right treaty of 21st century having been ratified by 193 countries. The Right of Person with Disabilities Act 2016 was introduced in accordance with principles of UNCRPD, depicting a leap towards equitable society for person with disabilities. Like legal framework, the Judicial interventions too plays a significant role in interpreting and enforcing the rights of disabled persons in various landmark cases. This paper analyses the laws and Judicial judgments in India towards safeguarding the rights of person with disabilities.

Keywords: Disability rights, UNCRPD, judgments, fundamental rights, DPSP, schemes.

INTRODUCTION

The Preamble of Indian Constitution which encompasses the core principles of justice, liberty, equality and fraternity and it extends these principles to every citizen including the person with disabilities. The recognition of Disability right as a human right by **UNITED NATIONS CONVENTION ON RIGHT OF PERSON WITH DISABILITIES 2006**, reflects a paradigm shift from medical model to human rights model. This Convention is the first comprehensive human right treaty of 21st century having been ratified by 193 countries.

In Indian context, both the legal and judicial framework protects the rights of disabled person. Albeit the Indian constitution does not articulate the prohibition of discrimination against person with disabilities but Article 14, 15 and 16 impliedly safeguards the rights of disabled persons. In accordance with the principles in UNCRPD, the Right of Person with Disabilities (RPwD) Act 2016 was introduced which depicts a leap towards an equitable society for disabled persons. As legal framework, the Judicial interventions too plays a significant role in interpreting and enforcing the rights of disabled persons in various landmark cases, as the Supreme Court in **recruitment of visually impaired in judicial service v. register general (2024)** held that the right against discrimination based on disability under RPwD Act is a fundamental right. The Paper analyses the role of laws and courts in India in safeguarding the right of disabled persons.

UNDERSTANDING DISABLED PERSON

The Condition of Body or mind of a person which makes it difficult for him to do certain activities and to interact with the world is called as **Disability**.¹ In **Right of Person with Disabilities Act 2016, Section 2(s)** defines the ‘**person with disability**’ as a person with long term physical, mental, intellectual or sensory impairment, which in interaction with barriers hinders his full and effective participation in society equally with others. The Person with benchmark disabilities is a specific category of person with disabilities. **Section 2(r)** of the Act 2016 defines the person with benchmark disabilities as a person of not less than 40% of the specified disabilities where the disability has not been defined in measurable terms and it also includes a person with disability where the specified disability has been defined in

¹ Disability and Health Overview, Disability and Health, (Apr.2, 2025), <https://jclg.in/wp-content/uploads/2024/01/JCLG-guide-to-bluebook-20th-edition-1-1.pdf>

measurable terms as certified by the certifying authority. The Act covers 21 disabilities such as blindness, low-vision, hearing impairment, dwarfism and mental illness.²

Disability is the absence of legal capacity to do certain acts or to enjoy certain legal rights. The Term 'Disability' in **Oxford Dictionary** is defined as an impairment which can be intellectual, limitations, cognitive, improvement, sensory, exercise or mixture of all these. Incapacity impacts a person's activities and may happen at birth or in adulthood.³

CONSTITUTIONAL PROTECTION

FUNDAMENTAL RIGHTS

EQUALITY

Indian constitution guarantees fundamental right to all citizens including the person with disabilities. **Article 14** of Indian Constitution embodies the principle of equality before law and equal protection of laws. The equality under this Article indicates the absence of any special privilege by reason of birth and equal subject of all individuals to law. The equality of opportunity in employment or appointment to office under State is guaranteed to disabled persons under **Article 16** of Indian Constitution.

The **Deendayal Divyangjan Rehabilitation Scheme (DDRS)** which provides financial assistance to the voluntary organizations who involved in providing education and training to person with disabilities.⁴ **Divyangjan Rozgar Setu**, one of the module of the **PM-DAKSH** DEPwD portal which foster a geo tagged job vacancies along with private companies details. The UDID (unique identity for person with disabilities) helps the disabled persons to access various government benefits on par with others.⁵ These Schemes aligns with Article 14 by providing equal opportunities and non-discrimination of disabled person.

FREEDOM OF MOVEMENT

Article 19 of the Constitution guarantees to all the citizens of India the right to move freely

² Right of person with disabilities Act, 2016, §2 (Ind.)

³ N.H. Kumara and A. Mohan Ram, a study on legal right of person with disabilities in India, 9, IJCRT, 4910, 4911, 2021.

⁴ Dept of Empowerment of person with disabilities, national institute for empowerment of person with intellectual disabilities, 2025, <https://niepid.nic.in/ddrc/>

⁵ Press release, PIB Headquarters, India's commitment to disability rights, (Dec.2, 2025), <https://www.pib.gov.in/PressReleasePage.aspx?PRID=2197426®=3&lang=1>

throughout the territory of India. The person with disabilities have the freedom to move freely without any barriers. It is the duty of the State to provide required infrastructures to ensure the exercise of this right to freedom of movement by disabled person without any barriers.

Introduced on 3rd December 2015, the **Sugamya Bharat Abhiyan** initiative was implemented by Government to provide a universal accessibility to disabled persons. The Transportation facilities provided under this initiative helps in supporting freedom of movement of disabled persons.⁶ According to the **Press Information Bureau (2nd Dec 2024)**, 35 International Airports in India are provided with ramps and lifts with braille system, aerobridges in International airports and 709 railway station are made as fully accessible.

RIGHT TO EDUCATION

Article 21A, which is the fundamental rights states that, the State shall provide free and compulsory education to all children of between six to fourteen years in such manner as the State may by law determine. The expression '**all children**' includes the disabled persons and the fundamental rights under Article 21A can be exercised by person with disabilities.

The **Right to Free and Compulsory Education Act 2009** was introduced to enable the implementation of fundamental right under Article 21 of Indian Constitution. Under Section **12(1)(c)** of the Act, private schools to reserve 25% of seats to child belonging to disadvantaged groups. The child belonging to disadvantaged group includes the child with disability under **section 2(d)** of the Act.

The **Samagra Shiksha Shiksha Scheme** introduced on 2018-19 intends to foster education and provision of aids and assistive devices to children with special needs. According to **PIB (31 Jan 2023)**, the enrolment of children with special needs increased from 21.9 lakh in FY21 to 22.7 lakh in FY22.⁷

DIRECTIVE PRINCIPLES OF STATE POLICY

Article 39 of Indian Constitution directs the State to secure that the citizen both men and

⁶ Press release, Ministry of social justice and empowerment, Sugamya Bharat Abhiyan, (Dec.2, 2024), <https://www.pib.gov.in/PressReleasePage.aspx?PRID=2079826®=3&lang=2>

⁷ Press release, Ministry of finance, Government committed to ensure quality education for all, (Jan.31, 2023), <https://www.pib.gov.in/PressReleasePage.aspx?PRID=1894915®=3&lang=2#:~:text=School%20Gross%20Enrolment%20Ratios,2.9%20crore%20in%20Higher%20Secondary>

women including disabled persons have the right to adequate means to livelihood. The **National Divyangjan Finance and Development Corporation** is a public sector which aims to empower the disabled persons economically. The NDFDC provides financial support to the person with disabilities for self-employment and income generating activities. By providing skill training and employment opportunities, the disabled person could be able to earn their livelihood and thereby promoting economic welfare.⁸ **Divyangjan Kaushal Vikas Programme** provides skill training to person with disabilities which assist them to be self-reliant.⁹

According to **Article 39A** of the Constitution, disabled persons are entitled to free legal aid and equal justice. The **Legal Service Authority Act 1987** helps the disabled to get free legal aid and equal justice. Under **Section 12** of the Act, the Person with disabilities are entitled to free legal aid.

Article 41 of the Indian Constitution states that the State to make a provision for securing the right to work, to education, to public assistance in cases of sickness, disablement, old age, unemployment, within the limits of economic capacity and development. For the welfare of disabled person, the Government enacted the Right of Person with Disabilities Act 2016 to boost the rights of disabled person to education, employment and community living. Several Schemes like **ADIP scheme, DDRS scheme and ALIMCO** supports Article 41 by providing sufficient assistance to disabled persons.¹⁰

According to **Article 47**, it is the duty of the state to raise the level of nutrition, standard of living and to improve the public health of its people. There is a connection between nutrition and disability. Research shows that the countries with high level of malnutrition report high rate of disabilities. To address the condition of malnutrition, various Government schemes were introduced by Government such as **ICDS Scheme, Poshan 2.0, Poshan Abhiyan**.¹¹

⁸ Dept of empowerment of person with disabilities, National Divyangjan Finance and Development Corporation, (last updated on Dec.18, 2025), <https://depwd.gov.in/en/national-handicapped-finance-and-development-corporation/>

⁹ Port Blair, 'Divyangjan Kaushal Vikas Initiative' launched to empower individual with disabilities, Nicobar Times, (Mar.7, 2024), <https://nicobartimes.com/local-news/divyangjan-kaushal-vikas-initiative-launched-to-empower-individuals-with-disabilities/>

¹⁰ Press release, PIB Headquarters, India's commitment to disability rights, (Dec.2, 2025), <https://www.pib.gov.in/PressReleasePage.aspx?PRID=2197426®=3&lang=1>

¹¹ Rethinking India's Nutrition Strategy, drishtiias, (Mar.17, 2025), <https://www.drishtiias.com/daily-updates/daily-news-editorials/rethinking-india-s-nutrition-strategy>

STATUTORY PROTECTION

RIGHT OF PERSONS WITH DISABILITIES ACT 2016

The Right of Person with Disabilities (RPwD) Act 2016 replaces the **persons with disabilities (PWD) Act 1995** was implemented to give effect to UN Convention on Right of Person with Disabilities. The Act aims to empower the person with disabilities by ensuring equality of opportunities and their full and effective participation and inclusion in society. The number of disabilities increased from **7 to 21**. The Act 2016 now list 21 disabilities.

RIGHTS

Section 3 of the Act states the Government have to ensure that the disabled persons enjoy the right to equality, life with dignity and respect for his integrity on par with others. The Government and local authorities have to ensure that the women and children with disabilities enjoy equal rights. **Section 6 and 7** of the RPwD Act envisages that the Government to take measures to give protection to disabled persons from exploitation, cruelty, inhumane treatment, violence and abuse.

The Awareness Generation and Publicity Scheme was implemented by Department of Empowerment of Person with Disabilities (DEPwD) to give publicity to PwD and civil society about the legal rights of PwD in constitution, RPwD Act 2016 and to spread awareness about schemes implemented by Government.¹²

EDUCATION

Section 16 of the Act states that the State to ensure that the children with disabilities are accessible to inclusive education in educational institutions. The State had to foster education and opportunities in sports, to provide plausible accommodation and ensure that the education is imparted in appropriate languages for the children who are blind or deaf. To promote the education of the student with disabilities, the DEPwD provides six **scholarship schemes**¹³ such

¹² Dept of empowerment of person with disabilities, awareness generation and publicity, (2025), <https://depwd.gov.in/en/awareness-generation-in-service-training/>

¹³ Govt of India, scholarships for persons with disabilities, (2023), <https://socialwelfare.vikaspedia.in/viewcontent/social-welfare/differently-abled-welfare/schemes-programmes/scholarships-for-persons-with-disabilities?lgn=en>

as –

- Pre-matric scholarship
- Post-matric scholarship
- National fellowship scholarship
- National overseas scholarship
- Top class education
- Free coaching

SOCIAL SECURITY

It is the duty of the Government to formulate the programmes and schemes to safeguard them by enabling them to live independently and to promote their right to adequate means of livelihood (**section 24**). **Indira Gandhi National Disability Pension Scheme** was introduced by central Government in 2009 to support the disabled people in India.¹⁴ Under **Section 26**, the Government can make health insurance schemes for the employees with disabilities. **Nirmaya Health Insurance Scheme** was implemented to afford health insurance to person with disabilities.¹⁵

RESERVATION

The other benefits are provided to disabled person such as reservation in higher education of not less than **5%**, in government jobs of not less than **4%** and **5%** reservation in allotment of land and all poverty alleviation programmes.¹⁶

PENALTIES

Under **section 89** of the Act, a person who flouts any provision of this Act will be punishable

¹⁴ Social justice and special assistance department, Indira Gandhi National Disability Pension Scheme, (2000), <https://sjsa.maharashtra.gov.in/en/scheme/indira-gandhi-national-disability-pension-scheme/>

¹⁵ Ministry of social justice and empowerment, Nirmaya Health Insurance Scheme, (last updated on Dec. 12, 2025), <https://www.myscheme.gov.in/schemes/nhis>

¹⁶ N.H. Kumara and A. Mohan ram, a study on legal right of person with disabilities in India, 9, IJCRT, 4910, 4917, (2021).

with fine of Rs.10,000 and in case of subsequent contravention, punishable with a fine of not less than Rs.50,000 which may extend to 5,00,000. The punishment for atrocities on disabled person will be punishable with imprisonment not less than 6 months which may extend to five years and with fine.

THE REHABILITATION COUNCIL OF INDIA ACT 1992

The Rehabilitation council of India was constituted by the RCI Act 1992 to regulate and monitor the training of **rehabilitation professionals** providing services to disabled persons and to maintain a central rehabilitation register of all qualified professionals. The Act also states the action against the unqualified persons who delivers services to person with disabilities.¹⁷ The **Department of empowerment of person with disabilities and Ministry of social justice and empowerment** operates this rehabilitation council. The aim of the Act includes the following:

- Standardising the training
- Regulating and monitoring the professionals
- Maintaining the central rehabilitation register
- Promoting research
- Recognising the qualification for rehabilitation professionals
- Recognition of qualifications with other countries

NATIONAL TRUST FOR WELFARE OF PERSONS WITH AUTISM, CEREBRAL PALSY, MENTAL RETARDATION AND MULTIPLE DISABILITIES ACT 1999

The Act aims to form a national level body for to provide welfare to person with autism, cerebral palsy, mental retardation and multiple disabilities. According to **Section 10** of the Act, the following are the objectives of the Act –

¹⁷ Dept of empowerment of person with disabilities, Rehabilitation Council of India, (last updated on Dec.18, 2025), <https://depwd.gov.in/en/rehabilitation-council-of-india/#:~:text=The%20rehabilitation%20Council%20of%20India,sevices%20to%20person%20with%20disability>

- To empower the person with disability to live independently
- To foster facilities for enabling the disabled person to live independently with their family
- To provide support to registered organisations
- To take measures to protect the disabled person in event of death of guardian
- To enable the disabled person to have equal opportunities and to protect their rights.
- To formulate procedure for appointment of guardian or trustees for disabled persons

JUDICIAL ANALYSIS: LANDMARK RULINGS AND INTERPRETATION

What's sauce for the goose is sauce for the gander- if a person is allowed to do a thing without any impediment then others also should be allowed to do the same thing without any obstruction. All indigenous residents of a country should be treated equally, and no one should be undermined and unheeded for their mental or physical disability. Our Indian constitution upholds the principle of equality and advocates it through its predominant organ called **THE INDIAN JUDICIARY**. Our Indian judiciary has 'spate of remarkable judgments' concerning the equitable representation of people. The Indian judiciary incentivizes inclusive education and promotes employment safeguards for the people suffering from physical disabilities. In a landmark case of **Vikash kumar v union public service**¹⁸, the appellant suffered from writer's cramp requested for a scribe during the civil services examination. The disability mentioned is not a benchmark disability despite that, the court applied the principle of reasonable accommodation and marked that the state has a positive obligation to provide additional facilities to disabled people to ensure their full participation in various fields. To reduce the hindrances suffered the Supreme Court ordered all the educational institutions to comply with the reservation provisions of the rights of persons with disabilities Act, 2016 and ordered the UGC and BCI to undergo inspections regarding reservation facilities in the educational institutions¹⁹. The Apex court has also made various essential observations regarding the rights of the disabled persons. The judiciary does not stop or limited its scope within reservations, the

¹⁸ Jayna Kothari | SCO Explains: Vikash Kumar v UPSC supreme court observer 2024

¹⁹ Nithya Rhea Rajshekhar, Seven judgements on disability rights authored by D.Y. Chandrachud | supreme court observer, 2024

decisions of the judiciary analyzes, deciphers and unlocks the hindrances harnessed by them in various arenas. In a case based upon the “incomprehensibility of Impugned Judgment” the Supreme Court underlined the importance of accessibility of judgments for persons with disability. The court even condemned the practice of printing and scanning as time consuming and pointless and ordered the courts and tribunals to upload the digitally signed accessible versions of judgments for the convenience of the disabled persons and upholds the right to legal accessibility. The court highlighted that threats against women with disabilities are not uncommon and can lead to feeling of powerlessness. However, the court clarifies that it did not support any kind of stereotypes that disabled persons are weak; rather it aimed to emphasize the increased vulnerability. The case was about the rape of a schedule caste girl with visual impairment.

The court cited certain guidelines to create an awareness regarding their rights and ordered that the testimony of the disabled persons must be viewed with equal importance; it should not be disregarded because of their disability²⁰. The court advocates that the disability does not curb the right to make decisions guaranteed under the Article 21 of the Act in a similar litigation²¹. In the amid of these the judiciary vouched the rights of the disabled persons to access the public amenities with full societal freedom²², ensured their right to dignity, respect in air travel²³ and has even raised its voice against the illegal termination in employment²⁴ thereby, acts as radical in assuring the rights of the disabled. These compilation of decisions stands as a cornerstone of justice and ensures, assures, guarantees, projects, fosters, reflects the wider scope and concern of the Indian judiciary in ensuring the rights of the disabled persons. These decisions decimate the stereotype regarding their disability and intricately weave the legal evolution in our country and broader vision of our regime.

CONCLUSION:

From stereotypes to evolvements- the paths are filled with numerous parliamentary discussions, legislative remarks, projects, judicial decisions, interpretations etc. The significance of efforts overtaken by the Indian government lies in its ground level

²⁰ Patan Jamal Vali v. State of Andhra Pradesh, 2021 sec Online sc 343(Ind.) :

²¹ Suchita Srivastava & Anr. v. Chandigarh Administration, (2009)

²² Rajive Raturiv. Union of India & Ors., (2018)

²³ Jeeja Ghosh and Anr v. Union Of India & Ors, (2016)

²⁴ Bhagwan Dass & Anr. v. Punjab State Electricity Board, (2008) 1 SCC 579:

implementation. The proper implementation and establishment of various reforms have beautifully evolved a unique society possessing perfect qualities.