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## THE RPWD ACT'S JUDICIAL IMPLEMENTATION: A CRITICAL ANALYSIS OF THE PARADIGM SHIFT FROM CHARITY TO RIGHTS (2016)

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### ABSTRACT

The Rights of Persons with Disabilities Act, 2016 (RPWD Act) in India is examined in this essay along with its judicial interpretation and application. In accordance with the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD), it looks at how Indian courts have shifted from a welfare-based approach (under the 1995 Act) to a rights-based strategy.<sup>3</sup> By extending recognised diseases from seven to twenty-one categories, including mental illness, autism, and chronic neurological disorders, it fosters inclusion, dignity, and autonomy for people with disabilities. According to the 2011 census, the Act protects over 2.68 crore people with disabilities (PwD) from discrimination and allows them to fully participate in society while guaranteeing equal opportunities in education, employment (with a 4-6% reservation in government jobs), and accessibility. On April 19, 2017, the chief commissioner started implementation. The chief commissioner (national) and state commissioners for monitoring started implementation on April 19, 2017, but there are still issues at the district level, such as inadequate enforcement, delayed certification, low awareness, and infrastructural deficiencies. Only 30 to 40 percent of job and educational quotas are met, according to recent data. However, the act's harsh penalties—fines of up to five lakh or imprisonment—indicate its serious aim. The RPWD Act of 2016 envisions an equal India, but for it to succeed, citizens, NGOs, and the government must work together.

**Keywords-** Disabilities, Reservation, Welfare, Dignity, Implementation.

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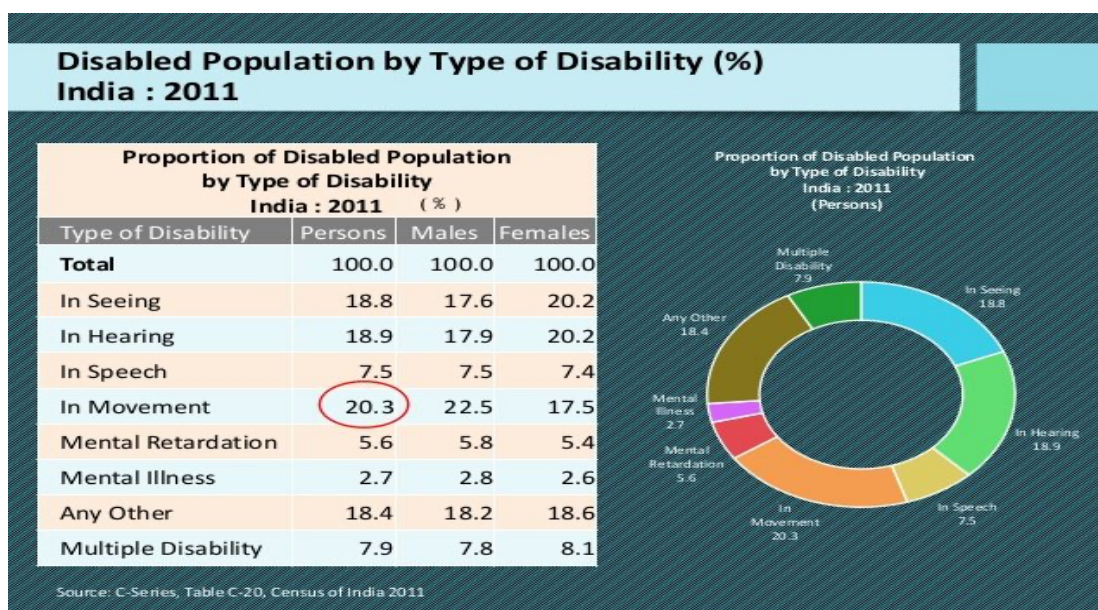
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<sup>3</sup> United Nation Convention on the Rights of Persons with Disabilities (UNCRPD)

**INTRODUCTION:**

The Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 was superseded by the Persons with Disabilities Act, 2016, which was a turning point in Indian disability law. Inspired by the UNCRPD, the 2016 Act uses a social concept of disability, whereas the 1995, Act predominantly saw disability through a medical lens.<sup>4</sup> It acknowledges that impairment and environmental, educational, or attitude barriers interact to cause disability. Fundamentally, the RPWD Act requires equal opportunity in all areas, including work and education, with a 4% reservation in government services that might increase to 6%. It creates organisations that deal with complaints and punish infractions with fines of up to Rs. 5 lakhs. Special provisions encourage inclusive guardianship reforms by protecting women, children, and individuals in need of assistance. 2.68 crore PwDs were found in India's 2011 census, highlighting the urgency of the act in the face of enduring obstacles such inaccessible settings and job gaps.<sup>5</sup>



**IMPORTANT LEGISLATIVE DEVELOPMENTS CONSIST OF:**

**1) Expanded Disabilities:** this relates to the Rights of Persons with Disabilities Act, 2016, which expanded the definition of "disability" from seven categories under the 1995 Act to twenty-one categories. Acid attack victims, autistic spectrum disorder, cerebral palsy, dwarfism, muscular dystrophy, Parkinson's disease, multiple sclerosis, thalassaemia,

<sup>4</sup> The Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995

<sup>5</sup> Government of India, Disabled Population by Type of Disability (%) in India (2011) census

haemophilia, sickle cell disease, and other conditions are now included.<sup>6</sup>

**2) Rights and Protections:** presenting disability as a human rights issue resulting from social, cultural, and environmental restrictions rather than as a personal shortcoming. The report, which is based on the UN Convention on the Rights of Persons with Disabilities (CRPD)<sup>7</sup> and India's Rights of Persons with Disabilities Act, 2016, criticises charitable and medical models that sustain dependency and isolation. It examines how, in spite of legal requirements, non-discrimination, accessibility, participation, and autonomy are not consistently realised through a qualitative analysis of policy documents and lived experiences. The results show that the full enjoyment of rights is still hampered by implementation gaps, a lack of accessible infrastructure, and a low representation of people with disabilities in decision-making.

**3) Accessibility Mandates:** People with disabilities need a barrier-free environment in public spaces, including as buildings, roads, and transportation. The government must guarantee universal design, and infractions can result in fines of up to five lakhs.

**4) Institutions and enforcement:** The government establishes national and state commissioners to monitor grievances, special courts to expedite trials, and national and state funds for welfare in order to properly and fully implement this act.

#### **PENALTIES:**

To guarantee compliance and shield PwD from infractions, the Rights of Persons with Disabilities (RPWD) Act, 2016 stipulates severe penalties under chapter XVI (sections 89–93). General violations of the act, regulations, and accessibility standards are punishable by fines of up to 10,000 for the first offence, up to two years in jail for consecutive violations, and a fine of between 50,000 and five lakhs. Claiming payments under section 91 that are reserved for benchmark disabilities (40% disability) fraudulently carries a maximum sentence of two years in prison, one lakh rupees, or both. Atrocities such as deliberate insults, attacks, or sexual exploitation of women and children with disabilities are punished by six months to five years in prison and fines, according to Section 92. Directors are held personally liable under Section 90. Directors who fail to give the necessary information face fines of up to 25,000 and 1,000

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<sup>6</sup> Rights of Persons with Disabilities Act, (2016) s 2(zc)

<sup>7</sup> The Convention on the Rights of Persons with Disabilities (CRPD) 2006

each day. The act establishes designated special tribunals to deal with PwD violations.<sup>8</sup>

### JUDICIAL INTERPRETATIONS:

The RPWD Act has been given new life by the Supreme Court of India. The applicability of the "Golden Triangle" of the Constitution's Articles 14 (Equality), 19 (Freedom), and 21 (Life and Liberty) to disability rights has been a major issue in recent laws.

- 1) **The Reasonable Accommodation Principle-** The establishment of "reasonable accommodation" as a fundamental right in *Vikas Kumar v. Union Public Service Commission (2021)*<sup>9</sup> is the most important development in jurisprudence. Because he did not reach the 40% "benchmark disability" requirement, an applicant with writer's cramp (dysgraphia) was refused a scribe for the Civil Services Exam. Reasonable accommodations are a fundamental equality right, according to the Supreme Court, and they are not just for people with "benchmark disabilities." Regardless of the percentage, denying someone with a handicap access to a scribe is a violation of their equal opportunity and dignity.
- 2) **Accessibility and Mobility:** In order to guarantee full participation, courts have repeatedly required that public areas and services be accessible. In *Rajiv Raturi v. Union of India (2017)*,<sup>10</sup> the Court issued comprehensive directions for the "Accessible India Campaign," instructing states to modify airports, railroads, and government buildings. It presented accessibility as an integral part of the Right to Life under Article 21, rather than merely as a convenience. In *Jeeja Ghosh v. Union of India (2016)*: This case, which involved a passenger with cerebral palsy who disembarked from an aircraft, created the precedent even though it was resolved just before the 2016 Act's full application. According to the Court, unfriendly attitudes and a lack of accessibility deprive PwDs of their "human dignity."<sup>11</sup>
- 3) **Education and Reservation:** The judiciary has actively enforced the statutory quotas which were previously neglected by the executive. *Disabled Rights Group v. Union of India (2017)*: The Supreme Court emphasized that the 5% reservation in higher

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<sup>8</sup> Ibid

<sup>9</sup> AIR (2021) SC 56

<sup>10</sup> AIR (2017) 9 SCC 413

<sup>11</sup> AIR (2016) 4S.C.R 638

education institutions (Section 32 of the RPWD Act) is mandatory. It directed educational institutions to submit compliance reports, ensuring that reservations were not merely "on paper."<sup>12</sup>

- 4) **Employment and Promotion:** *State of Kerala v. Leesamma Joseph (2021)* in this case Court affirmed that the right to reservation extends to promotions for PwDs. It clarified that the legislative intent was to ensure representation at all levels of service, rejecting the government's argument that reservation applied only to initial recruitment.<sup>13</sup>

## IMPLEMENTATION DIFFICULTIES: THE DISPARITY BETWEEN THE LAW AND REALITY

The effective rights of disabled people are hampered by social stigma and prejudice since there is a big disconnect between the laws' provisions and their active execution.

### 1) Inadequate Data and Institutional Inertia-

- i. **Postponed Rules:** After 2016, a number of states postponed announcing state-specific regulations for years, leaving a legal void for enforcement.
- ii. **Weak Commissions:** The Chief Commissioner's and State Commissioners for Persons with Disabilities' offices frequently lack the civil court's punitive authority to severely implement their decisions.
- iii. **Data Gaps:** Developing policies is challenging due to a chronic shortage of disaggregated data on the new 21 types of impairments.

2) **Digital and Infrastructure Barriers:** Despite the Rajiv Raturi ruling's requirement for upgrading, audits show that the great majority of public buildings are still inaccessible. Many government websites and applications do not adhere to the Guidelines for Indian Government, indicating the persistence of digital obstacles. PwDs are not included in the "Digital India" narrative because to websites (GIGW) standards for screen readers.

3) **The Obstacle to Certification:** There have been administrative obstacles to the

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<sup>12</sup> AIR (2018) 2 SCC 97

<sup>13</sup> AIR (2021) SC 3076

"Unique Disability ID" (UDID) requirement. The strict requirement for medical certification frequently undermines the goal of prompt accommodation, as mentioned in *Vikash Kumar*. For recently added disorders like autism or learning difficulties, the medical evaluation boards frequently lack expertise or are inaccessible.

The RPWD Act has been successfully transformed from a static statute into a dynamic tool of social justice by the Indian judiciary acting as a catalyst. A global standard in disability jurisprudence is the Supreme Court's understanding of reasonable accommodation as the State's active duty rather than a passive concession. The "implementation gap" poses a threat to these successes, though. The following actions are essential to closing this gap:

**i. Sensitisation:** Executive officers and lower judges must receive mandatory training on the "Social Model" of disability.

**ii. Harmonisation:** Strictly aligning other laws (such as building codes and transportation statutes) with the accessibility requirements of the RPWD Act.

**iii. Punitive Enforcement:** Courts must progressively employ the Act's criminal provisions (Section 89) to penalise officials who fail to comply.

iv. **Streamlining administrative and legal access:** mandate the digitisation of all services related to disabilities, such as employment, online applications, status monitoring, and grievance resolution. Health, education, retirement, technology, assistive technology, etc.

## CONCLUSION:

The RPWD Act of 2016 has established a solid basis for the transformation of disability rights in India, changing the focus from welfare to entitlements and from pity to personhood. The Indian judiciary has strongly supported this legislative vision, which was motivated by the UNCRPD. In addition to broadening the scope of rights, the courts have established reasonable accommodations and accessibility as essential components of equality and dignity under the Constitution through progressive rulings like those in the cases of *Vikash Kumar*, *Rajiv Raturi*, *Leesamma Joseph*, *Kunal Singh*, *Pragya Prasun* and *Gulshan Kumar*. An increasing institutional commitment to inclusiveness is indicated by these judicial achievements. A society evolving toward the idea of "nothing about us without us" is shown in the

acknowledgement of 21 types of disabilities, required reservations, and the emphasis on participation. Public agencies, educational institutions, and state governments are progressively complying with accessibility regulations, and digital efforts such as the UDID card demonstrate a desire to simplify entitlements. The direction is clear and momentum is growing, despite ongoing implementation issues. Every ruling, policy change, and awareness campaign helps break down environmental and attitudinal barriers. As long as the executive, judiciary, and civil society continue to work together, and India is well-positioned to fulfil the RPWD Act's full potential by bolstering enforcement and sensitisation efforts. The transition from charity to rights is no longer merely a legal goal; it is a developing reality, and persistent efforts can guarantee that people with disabilities have equal opportunities, autonomy, and dignity in all areas of life. In order to eradicate the social stigma minimizing the discrimination it is required that the existing legal framework and mechanism should be reformed and strengthened so that the equal opportunities to persons with disability may be insured.