
BRIDGING THE GAP BETWEEN LAW AND REALITY: AN ANALYSIS OF THE RIGHTS OF PERSONS WITH DISABILITIES ACT, 2016

B Bhuvaneswari, B.Com. LL.B. (Hons.), Sree Narayana Law College, Poothotta,
Ernakulam, Kerala

Hridya Vinod, B.B.A LL.B. (Hons.), Sree Narayana Law College, Poothotta, Ernakulam,
Kerala

*There is no greater disability in society, than the inability to see a person
as more.*

-Robert M. Hensel

ABSTRACT

The enactment of the Rights of Persons with Disabilities Act, 2016 marked a significant shift in India's approach towards disability rights by replacing the welfare-oriented framework of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 with a rights-based model consistent with the constitutional guarantee of equality and India's obligations under the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD). The Act broadens the scope of recognised disabilities, strengthens legal safeguards against discrimination, and promotes accessibility, inclusive education, equal employment opportunities, and social security for persons with disabilities. Despite these progressive reforms, effective implementation continues to face considerable challenges, including inadequate accessibility, limited institutional capacity, inconsistent enforcement, and lack of public awareness. This article critically examines the legal framework established by the Rights of Persons with Disabilities Act, 2016 and evaluates the extent to which its objectives have been realised in practice. Adopting a doctrinal research methodology, the study analyses constitutional provisions, statutory provisions, and significant judicial pronouncements to assess the effectiveness of the legislation. It concludes that while the Act represents a landmark advancement in protecting the rights and dignity of persons with disabilities, its transformative potential can only be achieved through stronger implementation mechanisms, greater institutional accountability, and sustained governmental commitment to creating an inclusive and accessible society.

1. INTRODUCTION

Disability is no longer viewed merely as a medical condition requiring charity or welfare; it is increasingly recognised as a human rights issue that demands equality, dignity, and full participation in society. People with disabilities experience physical, social, economic and institutional barriers that interfere with the opportunity to enjoy equal enjoyment of their rights. These barriers often lead to discrimination and exclusion from education and the workplace, public facilities and services, and political and social life. Today, the law is much more oriented towards rights than to welfare, which means that the person with a disability is regarded as a rights holder and is given equal opportunities and equal treatment under the law.

Articles 14, 15, 16, 21, 41 and 46¹ of the Constitution of India represent the equality, dignity and social justice. There is no explicit mention of the term 'disability' in the Constitution, but the various provisions of the Constitution all place a duty on the State to ensure that the less well-off or more vulnerable sectors of society are protected and that substantive equality is achieved. Judicial interpretation has also broadened the scope of these guarantees of equality: it now acknowledges that equality is not just about the equal treatment, but also about establishing reasonable accommodation and eliminating obstacles that prevent meaningful participation.

India became a party to the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD)² in 2007, which was a major reason for the need for overhaul of India's disability law. The Rights of Persons with Disabilities Act 2016³ superseded the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act 1995, and shifted from a welfare-centred approach to a rights-based approach to the law. The Act expanded the definition of recognized disabilities, expanded protections against discrimination, added the notion of reasonable accommodation, expanded reservation in public employment and higher education, and added obligations to public authorities to make public places accessible and inclusive.

These forward-looking legislative advances have not been followed in practice. There remain insufficient access, awareness, administration and enforcement for the rights enshrined in the

¹ INDIA CONST. arts. 14, 15, 16, 21, 41 & 46.

² Convention on the Rights of Persons with Disabilities arts. 1–5, Dec. 13, 2006, 2515 U.N.T.S. 3.

³ Rights of Persons with Disabilities Act, No. 49 of 2016, India Code (2016).

legislation to be realised. A rights-based statute, the effectiveness of which of course depends on its legal structure, must also be implemented and enforced.

In view of this, this article critically assesses the Rights of Persons with Disabilities Act, 2016 focusing on its salient features, judicial interpretation and implementation issues. It also assesses the extent to which the objective of equality, dignity and social inclusion for persons with disabilities has been achieved through the implementation of the Act, and suggests measures to improve the implementation of the Act.

EVOLUTION OF DISABILITY LAW IN INDIA

The laws that form the framework around the rights of persons with disabilities in India have progressed from a welfare approach to a rights-based approach which focuses on equality, dignity and social inclusion. Before enacting comprehensive disability legislation, rights of the disabled were granted mainly from the concepts of Equality, Non-Discrimination and the Directive Principles of the State Policy enshrined in the Constitution⁴. These provisions demonstrated the State's concern with social justice, but lacked specific provisions related to the needs of persons with disabilities.

The first comprehensive legislation on this issue was the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995⁵. The Act came into being after India's involvement in the 'Full Participation and Equality of Persons with Disabilities in the Asian Pacific Region'⁶ and aimed to create a level playing field for all citizens with disabilities in education, employment, vocational training and social security. It majorly, however, followed a welfare style approach and only included seven types of disability, and there were no enforcement powers in place that enabled it to be implemented effectively.

Since India signed and ratified the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD), there has been a huge change. The Convention acknowledged disability as a human rights problem, and identified the obligations of State parties to ensure equality, access, non-discrimination, independent living and full participation of persons with

⁴ INDIA CONST. arts. 14, 15, 16, 21, 41 & 46.

⁵ Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, No. 1 of 1996, India Code (1996).

⁶ Proclamation on the Full Participation and Equality of People with Disabilities in the Asian and Pacific Region, Dec. 5, 1992.

disabilities in everyday life. India was bound by the Convention's principles to harmonise its legislations through this very process with the said principles.

In order to ensure the conferring of these international obligations, Parliament has passed the Rights of Persons with Disabilities Act 2016⁷, which supersedes the Act of 1995. The act greatly broadened the definition of disability from seven to twenty-one, added reasonable accommodation to its laws, improved and widened the protections from discrimination, extended statutory reservations in education and public employment, and mandated improvements to the physical environment, transportation, information and communications. The Act also embodies the constitutional jurisprudence of substantive equality, that is, equal treatment without structural inequality.

This shows a gradual movement from a welfare law towards a rights law in India with regards to the evolution of disability law. However, effective implementation of such positive changes in the statutes is crucial to ensure the realisation of the transformation which depends on institutional accountability, administrative commitment and societal acceptance.

SALIENT FEATURES OF THE RIGHTS OF PERSONS WITH DISABILITIES ACT, 2016

The Rights of Persons with Disabilities Act, 2016 represents a significant advancement in India's disability rights framework by replacing the welfare-oriented approach of the 1995 legislation with a comprehensive rights-based model.⁸ The Act seeks to promote equality, dignity, autonomy, and full participation of persons with disabilities by incorporating the principles of the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD).⁹ Some of the most significant features of the Act are discussed below.

3.1 Expansion of Recognised Disabilities

One of the most notable reforms introduced by the Act is the expansion of recognised disabilities from seven categories under the 1995 Act to twenty-one categories¹⁰. The wider list of disabilities adds autism spectrum disorder, cerebral palsy, and muscular dystrophy to the list

⁷ Rights of Persons with Disabilities Act, No. 49 of 2016, India Code (2016).

⁸ Rights of Persons with Disabilities Act, No. 49 of 2016, India Code (2016).

⁹ Convention on the Rights of Persons with Disabilities pmbl., Dec. 13, 2006, 2515 U.N.T.S. 3.

¹⁰ The Rights of Persons with Disabilities Act, 2016, § 2(zc), No. 49, Acts of Parliament, 2016 (India).

noted in the 1995 Act, as well as chronic neurological conditions, blood disorders, including thalassemia, haemophilia, sickle cell disease, multiple sclerosis, Parkinson's disease, acid attack victims, and specific learning disabilities¹¹. It allows statutory protection and welfare measures under the Act for a larger group of the population than the limited set of disabilities under the 1995 Act.

3.2 Equality, Non-Discrimination and Reasonable Accommodation

The rights to equality before the law and to be equal in the enjoyment of those rights is guaranteed, with the obligation of public authorities, employers, educational institutions and service providers to provide “necessary modifications and adjustments” that allow persons with disabilities to exercise their rights on an equal basis with other people, thereby representing the constitutional principle of substantive equality and reinforcing the trend towards an inclusive legal framework¹².

3.3 Inclusive Education

The emphasis of the inclusive education in this Act is on education institutions that receive government funding or recognition to provide equal educational opportunities to children with disabilities, and to provide reasonable accommodation, accessible learning materials, appropriate examination facilities, trained teachers and barrier-free infrastructure to enable children with disabilities to fully participate in and reach their potential in academic studies¹³.

3.4 Employment and Reservation

Recognising employment as an essential component of independent living and social inclusion, the Act prohibits discrimination in recruitment, promotion, and service conditions¹⁴. The Act makes it clear that the definition of employment also covers the benefit of the disabled, economic independence, and removes barriers for employment, by increasing the reservations for the benchmark persons with disabilities in Government establishments from 3 per cent previously to 4 per cent and mandating reasonable accommodation when needed¹⁵.

¹¹ Id.

¹² Rights of Persons with Disabilities Act, § 3.

¹³ Rights of Persons with Disabilities Act, § 16.

¹⁴ Rights of Persons with Disabilities Act, § 20.

¹⁵ Rights of Persons with Disabilities Act, § 34.

3.5 Accessibility and Barrier-Free Environment

Accessibility constitutes one of the central pillars of the Act. The legislation obligates the appropriate Governments to formulate accessibility standards for public buildings, transportation systems, information and communication technology, and public service¹⁶. The Act aims to remove physical and technological obstacles to make education, healthcare, employment and public services accessible to persons with disabilities without requiring special services. Accessibility is, in this way, not just a welfare consideration, but an essential one to the enjoyment of fundamental rights and is acknowledged as such.

3.6 Social Security, Healthcare and Institutional Support

The Act further provides for social security, healthcare, rehabilitation, skill development¹⁷. Social security, healthcare, rehabilitation, skill development and community participation are principles covered in the Act, which has also enhanced the institutional framework for monitoring compliance and handling grievances over abuses of disability rights through the initiation of Central and State Advisory Boards, an office of the Chief Commissioner, and Special Courts for the Disability Advocates¹⁸.

Together, these provisions, show that the Rights of Persons with Disabilities Act, 2016 is no longer a welfare legislation but a wide-ranging human right based legislation aimed at ushering in equality, dignity, and meaningful participation for persons with disabilities. But, the use of these statutory provisions largely depends on the implementation, financial resources and institutional will for their effectiveness which face the reality of significant challenges.

4. JUDICIAL INTERPRETATION OF THE RIGHTS OF PERSONS WITH DISABILITIES ACT, 2016

The judicial system has been a key factor in promoting the rights of persons with disabilities by making timely judgments on the Rights of Persons with Disabilities Act, 2016 which resonate with the equality, dignity and substantive justice of the constitution. The Supreme Court, in a series of landmark cases has underscored that rights under the Act need to be realised

¹⁶ Rights of Persons with Disabilities Act, § 40–46.

¹⁷ Rights of Persons with Disabilities Act, §§ 24, 25, 27, 30.

¹⁸ Rights of Persons with Disabilities Act, §§ 60, 66.

in a way which would foster inclusion and not just legal obligation.

4.1 Jeeja Ghosh v. Union of India

The Supreme Court in **Jeeja Ghosh v. Union of India**¹⁹ concluded that the persons with disabilities are entitled to dignity which is the part of their right to life under Article 21²⁰ of Constitution of India and the treatment accorded by the respondent to the petitioner violated the petitioner's fundamental rights and awarded him compensation for the humiliation and discrimination faced by him. The judgment also fortified the Rights-based approach towards Disability jurisprudence as the dignity of Persons with Disability also was considered as one of the fundamental rights of the petitioner.

4.2 Rajive Raturi v. Union of India

The decision in **Rajive Raturi v. Union of India**²¹ was a major boost to the enforcement of accessibility standards in the Rights of Persons with Disabilities Act, 2016, which mandates that public buildings, transportation systems and other public facilities be made accessible to persons with disability.

4.3 Vikash Kumar v. Union Public Service Commission

The petitioner in **Vikash Kumar v. Union Public Service Commission**²² was a civil services aspirant who wished to avail the facility of a scribe for holding the test. The authorities denied the request on the ground that he did not satisfy the prescribed benchmark disability criteria. This judgment significantly broadened the definition of what constitutes reasonable accommodation within the context of substantive equality guaranteed by Articles 14 and 21²³ of the Constitution and reiterated India's commitment under the UNCRPD.

The courts have consistently interpreted disability rights legislation in a progressive and purposeful manner, as reflected in the above decisions. The Supreme Court has interpreted the Act based on constitutional values and international human rights principles and not limited to

¹⁹ Jeeja Ghosh & Anr. v. Union of India & Ors., (2016) 7 SCC 761.

²⁰ INDIA CONST. art. 21.

²¹ Rajive Raturi v. Union of India & Ors., (2018) 2 SCC 413.

²² Vikash Kumar v. Union Public Service Commission & Ors., (2021) 5 SCC 370.

²³ INDIA CONST. arts. 14, 21.

the literal provisions of the statute. These judicial decisions have made a huge contribution to the legal safeguards for people with disabilities in the causes of dignity, accessibility, reasonable accommodation, and substantive equality. However, significant obstacles remain in the way of implementing the Act effectively in practice, even in these progressive interpretations.

5 IMPLEMENTATION CHALLENGES UNDER THE RIGHTS OF PERSONS WITH DISABILITIES ACT, 2016

Despite the progressive approach of the Rights of Persons with Disabilities Act, 2016 towards an approach based on rights, many practical and institutional challenges remain to effective implementation of the act. Many persons with disabilities do not fully realize the rights granted by the act because between the legislative goals and the implementation of the Act there is still a gap.

5.1 Inadequate Accessibility

One of the main issues affecting the implementation of the Act is accessibility. Despite the laws that have been passed to ensure access for persons with disabilities, in many cases public facilities, whether in the form of transportation systems, education centres, public buildings or digital platforms, are not equipped with the necessary facilities to allow persons with disabilities to enjoy equality with others in their access to education, healthcare, employment, and public services.²⁴

5.2 Employment and Educational Barriers

Even though the Act includes reservation in public jobs, and fosters inclusive education, there is often a lack of uptake of reserved positions in government bodies, and private employers lack awareness about their duty to make reasonable accommodation.²⁵ Likewise, many of the schools are still lacking trained special educators, useful teaching facilities, assistive learning materials, and inclusive teaching practices. This has led to the goal of creating equal opportunities in education and work being only partially achieved.

²⁴ Rajive Raturi v. Union of India & Ors., (2018) 2 SCC 413.

²⁵ Rights of Persons with Disabilities Act §§ 16, 20, 34.

5.3 Lack of Awareness and Social Stigma

Social attitudes remain a serious barrier to the implementation of disability rights. Meanwhile people with disabilities do not know about all the laws they have to abide by and welfare provisions they are entitled to under the Act, and employers, educational institutions and public bodies do not have sufficient awareness of their obligations.²⁶ This combination of persistent stereotypes and misconceptions is another cause of discrimination, exclusion and decreased opportunities for persons with disability, especially in the face of legal protections.

5.4 Weak Enforcement Mechanisms

All legislation is only effective if it is well enforced. The statutory requirements are not always effectively monitored and this leads to lack of compliance with accessibility and antidiscrimination requirements, particularly regarding inadequate staffing and lack of financial resources. As a result, numerous violations go uncorrected and there is only limited effectiveness to the law.

5.5 Rural–Urban Disparities and Resource Constraints

There are some disparities between rural and urban areas on the implementation of disability rights. Limited resources, lack of trained professionals and uneven distribution of these across and within regions of the country, and financial constraints are other factors that prevent the effective implementation of the Act in various regions of the country.²⁷

The challenges described above illustrate that progressive legislation is not enough to ensure the rights of persons with disability. Implementation is only possible with joint efforts of the Government, public authorities, educational institutions, employers and the society as a whole. Without addressing these institutional and societal challenges, the intention of transforming goals envisioned under the Rights of Persons with Disabilities Act, 2016 will only be partially realised.

²⁶ Convention on the Rights of Persons with Disabilities art. 8, Dec. 13, 2006, 2515 U.N.T.S. 3

²⁷ Disability and Poverty in India: Policy Framework, Socioeconomic Challenges, and Implications for Inclusion, 11 EPRA Int'l J. Multidisciplinary Res. 12 (2025).

6. THE WAY FORWARD: RECOMMENDATIONS FOR STRENGTHENING DISABILITY RIGHTS

The Rights of Persons with Disabilities Act, 2016 provides a comprehensive legal framework for protecting and promoting the rights of persons with disabilities. However, the realisation of its objectives depends upon effective implementation, institutional accountability, and sustained policy initiatives. The following measures may significantly strengthen the enforcement of the Act.

6.1 Strengthening Accessibility

The Government should ensure that strict compliance is enforced both with the accessibility requirements specified in the Act and by implementing periodic accessibility audit plans and effective penalties on non-compliance to prevent delay and ensure equal opportunities with regard to public services.

6.2 Enhancing Inclusive Education

Teachers and administrators should also receive continuous training programmes, and the educational institutions should be financially and technically supported to develop infrastructure, train special educators and be able to have the necessary technologies and learning materials.

6.3 Promoting Equal Employment Opportunities

Government departments should help promote the non-discrimination and reasonable accommodation principles as practiced and executed in the workplace, which helps persons with disabilities achieve effective employment. It is also important that the employers are encouraged to establish inclusive policies and practices in the workplace and make reasonable adjustments for people with disabilities in order to ensure that they can work to their full potential.

6.4 Improving Institutional Accountability

The Chief Commissioner and State Commissioners for Persons with Disabilities' offices should be well resourced and supported to carry out effective monitoring on compliance with the

provisions of the Act and regular inspections, as well as grievance redressal mechanisms should be made transparent.

6.5 Creating Public Awareness

Raising awareness and educating the public, employers, educational institutions and public authorities about your rights protected under the Act would be most beneficial to removing the misconceptions, social stigma and increase in acceptance and inclusion for persons with disabilities on a wide scale.

6.6 Leveraging Technology for Inclusion

With the increasing digitisation of public services, it is important to put greater focus on digital accessibility. Government websites, online learning resources and e-governance services should be designed in a way that makes them accessible according to the internationally accepted accessibility standards in order to allow persons with disabilities to access digital services without external assistance and with an effective outcome.

The implementation of these recommendations would greatly help in attaining the goals of Rights of Persons with Disabilities Act, 2016. An inclusive society and a society that is equal opportunities will only be created with the cooperation of all this spheres of society including the Government, judiciary, educational institutions, employers, civil society organisations and the community.

7. CONCLUSION

The Rights of Persons with Disabilities Act, 2016 (RPWD) is a noteworthy step in the history of evolution of the Rights of Persons with Disabilities in India by moving beyond the old welfare-centric approach to a broader Rights based approach. Drawing inspiration from the principles contained in the constitution of India and the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD), the Act acknowledges the value of the inherent dignity, equality, and autonomy of persons with disabilities and the need to promote their full and effective participation in society. The legislation has significantly enhanced the legal protection afforded to persons with disabilities by means of provisions on non-discrimination, reasonable accommodation, inclusive education, accessibility in employment, healthcare and social security. But then any law with ambitions of success requires the support of its

implementation. However, basic barriers like lack of accessibility, enforcement issues, lack of awareness, administrative shortcomings and stigma remain barriers in achieving the goals of the Act. While judicial action has for sure increased the definition on the scope of disability rights by underlining substantive equality and reasonable accommodation, there's still a need for systemic changes to make these rights put into practice. Thus, the realization of the “rights” in the Daily life of the Person with Disability is an important indicator of the success of the Rights of Persons with Disabilities Act, 2016. It is clear that the inclusive and accessible society can only be achieved through a joint effort undertaken by all key stakeholders including the Government, Judicial departments, public authorities, educational institutions, employers, and civil society. The constitutional aspirations of equality, justice, and opportunities on equal footing for all people with disabilities can only be achieved through sustained implementation of Universal Design, institutional accountability and accepting equality.