



Challenges in Implementation of Constitutional and Legislative Provisions for People with Disability in India.

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Abstract

The recognition and protection of the rights of persons with disabilities in India have evolved through constitutional guarantees, legislative enactments, and judicial interventions. India's constitutional and legislative framework for persons with disabilities has progressively shifted from a welfare-oriented approach to a rights-based model, particularly after ratifying the UN Convention on the Rights of Persons with Disabilities (UNCRPD). Key provisions include equality before law, prohibition of discrimination, and guarantees of inclusive education and accessibility under the Rights of Persons with Disabilities Act, 2016. The Indian Constitution lays the foundation for equality and non-discrimination, with provisions under Articles 14, 15, 16, 21, and 41 ensuring equal protection of laws, prohibition of discrimination, and the right to life with dignity. Despite these advances, implementation remains fraught with challenges. The Directive Principles of State Policy further mandate the state to promote welfare and secure social justice for marginalized groups, including persons with disabilities. Despite these advances, challenges persist in implementation, awareness, and infrastructural accessibility.

The main objective of the study is to present the Challenges in implement of constitutional and legislative provision for people with disability in India. **The study, which is based on secondary data**, aims to provide an overview of the recently passed "Rights of Persons with Disabilities Act, 2016" (RPWD) and find the obstacles to implement these provisions. This article critically examines the constitutional and legislative landscape governing disability rights in India, highlighting achievements, gaps, and the way forward towards an inclusive society.

Key Words: UN Convention on the Rights of Persons with Disabilities (UNCRPD), Indian Constitution, RPWD Act-2016, Legislative, Disability.



INTROCUCTION

Globally, persons with disabilities have been recognized as one of the largest minority groups which have been vulnerable to neglect, deprivation, segregation and exclusion. People with disabilities face a wide range of barriers such as attitudinal, physical, and social that affects social inclusion. The attitudinal barrier such as negative attitude of society towards people with disabilities acts as a social stigma about disability. The society believes that disability in a person occurs due to past sin or karma (fate), and no one can change this situation as it is God's punishment for the past sins. The cumulative effect of these barriers is to marginalize people with disabilities from the mainstream of the society and the economy. They experience disadvantage in various aspects of daily life compared to non disabled people. As per the Census 2011, out of the 121 crore population in India 2.68 crore persons were enumerated as 'disabled' which was 2.21% of the total population. Among the disabled population 56% were males and 44% were females. Out of total disabled person, 69% reside in rural areas whereas 31% in the urban areas.

The World Health Organisation defines the term disability as:

"Disability is an umbrella term, covering impairments, activity limitations, and participation restrictions. An impairment is a problem in body function or structure; an activity limitation is a difficulty encountered by an individual in executing a task or action; while a participation restriction is a problem experienced by an individual in involvement in life situations". Thus Disability is not just a health problem, it is a complex phenomenon, reflecting the interaction between features of a person's body and features of the society in which he or she lives.

India has made significant progress in recognizing and safeguarding the rights of persons with disabilities through constitutional guarantees and legislative measures. The Constitution of India ensures equality, dignity, and non-discrimination for all citizens, including persons with disabilities, under provisions such as Articles 14, 15, and 21. Additionally, landmark legislation like the Rights of Persons with Disabilities Act, 2016 has expanded the scope of protection, covering a wider range of disabilities and emphasizing inclusion, accessibility, and equal opportunity. Following rights and guarantees as mentioned below are available to the person with disability.

PREAMBLE

The Preamble provides: We, the people of India having solemnly resolved to secure Justice, Social, Economic and Political equality of status and opportunity and fraternity, assuring the dignity of the individual enact and give to ourselves this constitution.

Fundamental Rights:

Article 14: Right to Equality:

This article 14 endures that all persons should be treated equally whether abled or disabled. This article permits reasonable classification but prohibits class legislation. Unequal cannot be treated equally. If special legislation are made for upliftment of the disabled, it cannot be violate of article 14

Article 15: Prohibition of discrimination on grounds of religion, race, caste, sex or place of birth:

(1) The state shall not discriminate against any citizen on grounds only of religion, race, caste, sex, place of birth or any of them.

(2) No citizen shall, on ground only of religion, race, caste, sex place of birth or any of them, be subject to any disability, liability, restriction on condition with regard to

(a) access to shops, public restaurants, hotels and place of public entertainment; or



(b) the use of wells, tanks, bathing ghats, roads and place of public resort, maintained wholly or partly out of state funds or dedicated to the use of the general public.

Article 16: Equality of Opportunity in matters of Public Employment:

There shall be equality of opportunity for all citizens in matters related to employment or appointment to any office under the State.

Article 21: Right of life and personal liberty:

Article 21 ensures right to life & liberty to all persons whether abled or disabled. This Article is a guarantee against state encroachment upon the personal liberty of a citizen and that the procedure established by law will be faithfully followed before a person is deprived of his life or personal liberty.

Right to Education: Article 21-A:

The Constitutional 86th Amendment Act, 2002, has added a new article 21 after Article 21A and has made education for all children of the age of 6 to 14 a fundamental right. It provides that the state shall provide free and compulsory education to all children of the age of 6 to 14 years in such manner as the state may, by law, determine.

DIRECTIVE PRINCIPLES OF STATE POLICY:

Directive Principles of State Policy are of utmost significance while bringing about social-economic equality and justice which should be the main obligation of the State and the society when it intends to do something for the welfare and rehabilitation of the differently abled. Directive principles of State Policy can be used as governing pillars for the governments to undo injustice and step-motherly treatment meted out to this hapless and helpless section of Indian society for centuries.

SPECIAL LEGISLATIONS

The Mental Health Act, 1987:

The social attitude towards mentally ill persons has for a long time been one of hatred and exclusion. Persons acquiring mental illness had to suffer from that stigma throughout life. "nursing homes. This Act also seeks safeguards citizens who may be thrust in the psychiatric hospitals or nursing homes without sufficient causes. The Act aims to fix and regulate responsibilities for the mentally ill persons who become incapable of managing their needs and affairs or taking decisions in their own interest. In addition, by virtue of the Act the Central Authority and State Authorities at the State levels for mental health services have been set up. The State Mental Health Authorities have been empowered to regulate the licensing and control of psychiatric hospitals and nursing homes for mentally ill persons.

The Rehabilitation Council of India Act, 1992:

The Rehabilitation Council of India Act, 1992 was enacted to replace the earlier Rehabilitation Council, which had been registered under the Societies Registration Act of 1860, and to give it statutory authority. The purpose of the Act is to establish the Rehabilitation Council of India to regulate and monitor the training of rehabilitation professionals and personnel. It also aims to promote research in rehabilitation and special education for persons with disabilities and to maintain a Central Rehabilitation Register listing rehabilitation professionals registered with the Council.



The Persons with Disabilities (Equal Opportunities Protection of Rights and Full Participation) Act, 1995:

People with disabilities have historically not been seen as rights bearers and have often been recipients of charity and welfare, viewed as objects of pity rather than as authors of their own destiny. The Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 is a significant piece of legislation because it recognizes and protects the rights of persons with disabilities for the first time. Later 2016 amended this act.

The National Trust for Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities Act, 1999:

In response to changing societal attitudes and medical advancements, it became necessary to include a wide range of disabilities under the law. To take affirmative action for persons with Autism, Cerebral Palsy, Mental Retardation, and Multiple Disabilities, the Act was enacted. It acknowledges the diverse competencies among these individuals and states that the Central Government aims to establish a National Trust called the National Trust for Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disability. The trust is described as promotive, proactive, and protectionist, with the goal of upholding rights, promoting development, and safeguarding the interests of such persons.

Renu Addlakha, (2013) Disability studies in India, Global discourses, Local realities published by Routledge India (Taylor & Francis Group). The study brings together multiple contributors to examine how global disability rights discourses—rooted in human rights and social justice—intersect with India's unique socio-cultural, political, and economic realities. It Bridges global discourses with local lived realities, showing both convergence and dissonance. It Provides a foundation for future scholarship and activism in disability rights in South Asia.

Arlene S. Kanter, Routledge Publication, (2014).The Development of Disability Rights Under International Law: From Charity to Human Rights. The book states that the Convention on the Rights of the Person with Disability (CRPD) brought into being the right to equality, the right to live with dignity, the right to live an autonomous life, the right to participation and live in harmony within the community, and the right to „supported decision making“ and „inclusive education“ The book makes a comparative analysis of the status of the PWDs amongst the nations which are implementing the policies to provide protection to the PWDs and actually bringing a change in the attitudes of the public towards the disabled. It examines what level of protection or what level of enforcement is needed to achieve the objectives envisaged in the CRPD.

Della Fina et..al (2017) The United Nations Convention on the Rights of Persons with Disabilities: A Commentary .This book is a commentary on the Convention on the Rights of the Person with Disabilities (C RPD). It provides clause-by-clause scrutiny of the provisions in the Convention. It says that with regard to Person with Disabilities, this Convention is a significant piece of literature that addresses the unequal treatment suffered by the PWDs and the obstructions they face. This treaty acts as a focal point of all the international efforts taken in easing the lives of the disabled and removing the barriers and making them enjoy human rights to the fullest.

Objectives:

- To identify the major challenges faced by India in achieving disability related legislations.
- To identify the barriers that hinder awareness and utilization of government schemes by PwDs
- To provide strategic suggestions to overcome the identified barriers.



Methodology

This is a conceptual research paper based entirely on secondary data sources. The data was collected through books, peer-reviewed journal articles, official UN and government reports, and credible online databases. The findings were synthesized thematically to develop critical insights.

Findings:

1. Data Deficiency

Census 2011 reported only 2.21% of India's population as disabled, but WHO surveys suggest 16% of adults have severe disabilities. Over a billion people, about 15% of the world's population, have some form of disability or the other, (WHO & World Bank, 2011) and around 80 percent of them live in developing countries, making the worldwide population with disabilities collectively one of the poorest and most marginalized segments of society (ILO, 2007; DFID, 2000). Without credible data, policy design and resource allocation remain ineffective.

2. Weak Enforcement & Monitoring

Laws exist but enforcement is inconsistent due to: Lack of monitoring bodies. Low accountability among authorities. Penalties for non-compliance are rarely imposed.

3. Infrastructure & Accessibility Gaps

Public spaces, schools, transport, and workplaces often fail to meet accessibility standards.

4. Bureaucratic Delays

Obtaining disability certificates, pensions, or benefits involves complex procedures. Delays discourage beneficiaries from accessing entitlements.

5. Limited Financial Resources

Insufficient budget allocation for disability welfare schemes. State governments often struggle to implement central laws effectively.

6. Social Stigma & Lack of Awareness

Disability is still viewed through a charity or welfare lens, rather than as a rights-based issue. Many persons with disabilities (PwDs), their families, and even officials are unaware of rights guaranteed under laws like the Rights of Persons with Disabilities Act, 2016. Limited dissemination of information in accessible formats (Braille, sign language, regional languages).

7. Fragmented Policy & Coordination.

Overlap between central and state responsibilities leads to poor coordination. Disability policies are often sidelined compared to other welfare priorities.

8. Employment Barriers

Reservation policies (4% in government jobs under the RPwD Act) are poorly implemented. Private sector participation remains limited.



9. Education System Gaps

Inclusive education policies exist but: Schools lack trained special educators. Infrastructure is not disability-friendly Implementation of provisions under laws like the Right of Children to Free and Compulsory Education Act, 2009 remains inadequate for PwDs. Despite mandated reservations, implementation in jobs and higher education is inconsistent.

10. Disability commissioners often lack adequate powers and resources to monitor compliance.

11. Legal and Judicial Barriers

Access to justice is difficult due to: Physical inaccessibility of courts Lack of legal aid awareness. Slow judicial processes delay relief.

12. Technology and Digital Divide

Assistive technologies are expensive and not widely available. Government websites and services are often not fully accessible.

Summary Table of Challenges

Challenge	Impact on Implementation
Data Deficiency	Poor policy design, underestimation of needs
Weak Enforcement	Laws remain symbolic, limited accountability
Accessibility Gaps	Exclusion from public life and services
Social Stigma	Discrimination, reduced opportunities
Policy Fragmentation	Inefficient coordination, duplication
Employment/Education	Limited economic independence

Suggestions:

While India has a strong legal framework for protecting the rights of persons with disabilities, including constitutional equality (Articles 14, 15, and 21), implementation remains the key challenge. Bridging the gap requires:

- Stronger enforcement
- Greater awareness
- Inclusive infrastructure
- Adequate funding
- Societal attitude change
- Accurate disability census & surveys for evidence-based policymaking.
- Stronger enforcement mechanisms with empowered disability commissioners.
- Universal accessibility standards in infrastructure, ICT, and transport.



- Awareness campaigns to shift from welfare to rights-based perspectives.
- Inclusive education and skill development to improve employability.
- Private sector incentives for inclusive hiring and workplace accessibility

Ethical Considerations

- **Informed Consent & Participation:** Social work practice must involve the informed, voluntary participation of community stakeholders, especially marginalized groups.
- **Confidentiality and Data Use:** All secondary data used were from public and credible sources. If primary data is to be included in future research, ethical clearance and confidentiality protocols must be followed.
- **Cultural Sensitivity:** All interventions must respect local traditions and avoid imposing top-down models of development.
- **Social Justice and Inclusion:** Ethical practice must prioritize equity, ensuring no individual or group is left behind.

Conclusion

Despite this robust legal framework, the implementation of these provisions remains a major challenge. Structural barriers, lack of awareness, inadequate infrastructure, and limited administrative capacity often hinder effective enforcement. Many public spaces, educational institutions, and workplaces continue to be inaccessible, while social stigma and discrimination persist at various levels of society. Furthermore, coordination gaps between central and state governments, insufficient budget allocation, and weak monitoring mechanisms contribute to the slow realization of these rights. As a result, persons with disabilities in India frequently face exclusion from education, employment, healthcare, and social participation.

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