

# A Critical Appraisal of the Rights of Persons with Disabilities Act, 2016: Harmonizing Indian Disability Law with the UNCRPD

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## Abstract

*The Rights of Persons with Disabilities Act, 2016 (RPwD Act) marks a watershed in India's commitment to equality, dignity, and inclusion for persons with disabilities. Enacted to bring Indian law in harmony with the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD 2006), the Act replaces the 1995 welfare-oriented statute with a rights-based framework. This paper offers a doctrinal and socio-legal analysis of the RPwD Act, examining its major provisions, judicial interpretation, and implementation challenges. It argues that although the Act embodies the progressive ideals of autonomy and inclusion, administrative inertia and attitudinal barriers still obstruct realization of its goals. Comparative perspectives from the Americans with Disabilities Act (1990) and the UK Equality Act (2010) are employed to suggest reforms that could strengthen India's compliance with international human-rights obligations.*

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## I. Introduction

Disability jurisprudence has evolved from a medical or charity model to a rights-based paradigm emphasizing human dignity and social participation. Historically, persons with disabilities were marginalized and denied civil liberties. The adoption of the UNCRPD (2006) represented a global recognition of disability as a human-rights issue.<sup>1</sup>

India ratified the Convention in 2007 and assumed the duty to align domestic law with its principles of equality, accessibility, and inclusion.<sup>2</sup> The earlier Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995—though path-breaking for its time—retained a welfare focus and did not fully incorporate the social model of disability.<sup>3</sup>

The Rights of Persons with Disabilities Act, 2016 expanded the legal definition of disability, increased recognized categories from seven to twenty-one, and established enforcement bodies at national and state levels.<sup>4</sup> Yet, its efficacy depends on whether it can dismantle systemic barriers and translate formal equality into substantive inclusion.

## II. Historical and International Context

The Constitution of India does not explicitly mention disability but implicitly protects persons with disabilities through Articles 14, 15, 16, 21, 41, and 46, which guarantee equality, non-discrimination, and social welfare.<sup>5</sup> Before 1995, India's legal regime was fragmented and largely charitable. The 1995 Act, enacted after the Asian and Pacific Decade of Disabled Persons (1993–2002), was the first comprehensive law but reflected a paternalistic approach.<sup>6</sup>

The UNCRPD redefined disability as an interaction between impairment and social barriers, obliging States to ensure accessibility, reasonable accommodation, and legal capacity.<sup>7</sup> India's 2016 Act sought to implement these

mandates domestically. It came into force on 19 April 2017, expanding coverage to new categories including autism, thalassemia, and acid-attack victims.<sup>8</sup>

While the Act aligns conceptually with the UNCRPD, implementation gaps—insufficient data, poor infrastructure, and bureaucratic apathy—continue to undermine its promise.

### **III. Legislative Framework and Key Provisions**

#### **A. Definition and Scope**

Section 2(s) defines a “person with disability” as one with long-term physical, mental, intellectual, or sensory impairments which, in interaction with barriers, hinder full participation in society.<sup>9</sup> This mirrors Article 1 of the UNCRPD and marks India’s adoption of the social model of disability.

#### **B. Equality and Non-Discrimination**

Section 3 guarantees equality, life with dignity, and respect for integrity.<sup>10</sup> Section 2(y) introduces reasonable accommodation, requiring modifications to ensure accessibility without imposing disproportionate burden.<sup>11</sup> Section 4 specifically protects women and children with disabilities from discrimination.<sup>12</sup>

#### **C. Education and Employment**

Section 31 ensures free education for children with benchmark disabilities aged 6–18 years.<sup>13</sup> Section 34 mandates a minimum 4 percent reservation in government jobs—an increase from 3 percent under the 1995 Act.<sup>14</sup> Private establishments are encouraged to adopt inclusive employment practices.

#### **D. Institutional Mechanisms**

The Act establishes Central and State Advisory Boards, Chief Commissioners, and Special Courts for implementation and grievance redressal.<sup>15</sup> Penal provisions under Section 89 deter discrimination and atrocities.

### **IV. Judicial Interpretation**

Judicial activism has been central to the advancement of disability rights in India.

In *Union of India v. National Federation of the Blind* (2013) 10 SCC 772, the Supreme Court held that failure to implement employment reservations constituted discrimination.<sup>16</sup>

In *Jeeja Ghosh v. Union of India* (2016) 7 SCC 761, the Court awarded compensation to a passenger with cerebral palsy who was deboarded from an aircraft, affirming dignity as a fundamental right.<sup>17</sup>

In *Vikash Kumar v. UPSC* (2021) 5 SCC 370, denial of a scribe was held to violate reasonable accommodation.<sup>18</sup> These cases cemented accessibility and equality as enforceable constitutional guarantees.

### **V. Implementation Challenges**

Despite progressive jurisprudence, enforcement remains weak.

Awareness among officials and beneficiaries is low.<sup>19</sup>

Less than one-third of departments have filled mandated quotas.<sup>20</sup>

Accessibility targets under the Accessible India Campaign (2015) remain unmet.<sup>21</sup>

Certification and UDID processes are cumbersome, deterring access to benefits.<sup>22</sup>

Private-sector participation lacks mandatory obligations.<sup>23</sup>

Budget allocations are inadequate and inconsistently utilized.<sup>24</sup>

## **VI. Comparative Perspective**

The Americans with Disabilities Act (1990) prohibits disability-based discrimination in both public and private spheres and provides direct access to courts.<sup>25</sup> India's RPwD Act, in contrast, depends on administrative complaint mechanisms.

The UK Equality Act (2010) imposes a proactive public sector equality duty, requiring anticipatory adjustments rather than reactive measures.<sup>26</sup> India could adopt similar anticipatory compliance and accessibility audits.

While all three laws embody the UNCRPD's principles, India's enforcement mechanisms remain relatively weak and complaint-driven.<sup>27</sup>

## **VII. Policy Recommendations**

1. Establish an independent National Disability Authority with quasi-judicial powers.<sup>28</sup>
2. Mandate digital accessibility (WCAG 2.1) for all e-governance platforms.<sup>29</sup>
3. Include disability awareness modules in teacher-training curricula.<sup>30</sup>
4. Provide fiscal incentives and awards for inclusive private-sector hiring.<sup>31</sup>
5. Create disability benches in High Courts and ensure accessible legal-aid mechanisms.<sup>32</sup>
6. Launch sustained public awareness campaigns to counter stigma.<sup>33</sup>
7. Strengthen Centre-State coordination through a National Council for Disability Affairs.<sup>34</sup>

## **VIII. The Way Forward**

The RPwD Act embodies constitutional morality: equality (Arts. 14–16), dignity (Art. 21), and social justice (Arts. 38, 46).<sup>35</sup> It must be integrated into every sector—education, employment, health, housing, transport, and digital governance. Achieving the Sustainable Development Goals (2030) requires mainstreaming disability inclusion across all development policies.<sup>36</sup>

## **IX. Conclusion**

The Rights of Persons with Disabilities Act, 2016 is both a legislative advance and a constitutional promise. It expands protection, institutionalizes equality, and aligns with international norms, yet its transformative potential remains unrealized. Implementation demands stronger institutions, sufficient funding, and attitudinal change. Disability rights are not acts of benevolence but expressions of justice. As Dr. B. R. Ambedkar envisioned, equality in law must culminate in equality in life. Realizing that vision requires persistent political will and societal empathy.

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