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Silence of the Indian Constitution on Persons with Disabilities: Legal and Social Implications

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Introduction

The Indian Constitution serves as the foundation for all rights and protections afforded to citizens, including those with disabilities. As it doesn't explicitly mention disability as a protected category in its original text, the constitutional framework lacks explicit provisions through which the rights of persons with disabilities can be protected and promoted. In the Constitution the word disabled is used at a single instance i. e. Article 41 which says, "The State shall, within the limits of its economic capacity and development, make effective provision for securing the right to work, to education and to public assistance in cases of unemployment, old age, sickness and disablement, and in other cases of undeserved want**."**[3]This constitutional silence has major legal and social implications, which have been dealt with in this research paper.

Methodology

This study adopts a doctrinal legal research methodology to critically examine the constitutional silence on the rights of persons with disabilities (PwDs) in India and its implications. The research is qualitative in nature and follows a descriptive and analytical approach.

Objectives of the Study

1. To examine the extent of constitutional recognition (or lack thereof) of the rights of persons with disabilities (PwDs) in India.

2. To analyse how the silence of the Indian Constitution has influenced the legal status, rights, and protections available to PwDs.

3. To understand the legal and social implications of this silence in terms of discrimination, marginalisation, and lack of accessibility for PwDs.

4. To recommend legal reforms or constitutional amendments to ensure greater protection, recognition and inclusion of persons with disabilities within the Indian constitutional framework.

Literature review

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Historical Evolution of Disability Rights in India

Since ancient times the disabled were often viewed through the lens of karma and spiritual causality. The reason of their disability was considered to be their sins or misdeeds of previous births. People with disabilities were sometimes cared for as a moral duty but there was no systemic or legal framework. Society treated PwDs more with pity than rights, and their well-being depended on family or community charity. Even during the colonial period British Legislation focused mainly on custodial care, segregation, and institutionalization. Some laws like the Indian Lunacy Act, 1912 were enacted to deal with mental illness, but from a control and medical care standpoint, not rights. No meaningful effort was made to integrate them into education, employment, or society.

After independence, in the Constitution of India (1950) there was no explicit mention of persons with disabilities. Fundamental Rights (like Article 14 – Equality, Article 15 – Non-discrimination, Article 21 – Right to life) were interpreted broadly but did not address disability directly. But with the growing global influence, the landmark legislation – Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 was enacted. It was a first major step toward a rights-based approach in India. With the ratification of UNCRPD in 2007, marking a shift from welfare to rights-based framework, the government of India repealed the 1995 act and enacted the Rights of Persons with Disabilities Act, 2016. It expanded the number of recognised disabilities from 7 to 21. A Stronger focus was laid on non-discrimination, reasonable accommodation, education, political participation, and accessibility, which aligned domestic laws with UNCRPD. Despite the enactment of various laws on the disabled, the silence of the Indian constitution has posed hurdles for the realisation of the rights of persons with disabilities.

Indian Constitutional Framework: "An Ableist Constitution"

According to the 2011 census estimated that the number of people with disabilities in India is close to 2.68 crore (or 2.2% of the population)[4] — that is more than the entire population of Australia and As per the National Statistics Office report 2021, about 2.2% of India's population lives with some kind of physical or mental disability. India is believed to have a large number of people with disabilities, second only to China[5]. However, due to underreporting and definitional constraints, this figure is widely considered an underestimate. The question

[4] Census 2011, Government of India

[5] Ankita Kalra" EVOLUTION OF DISABILITY RIGHTS IN INDIA: LEGAL ISSUES AND CHALLENGES" Legal Upanishad Journal Vol 1 Issue 3 | December 2023 | pp. 233-244

that is tickling most of us is that if this is the situation, then why our constitution seem silent on persons with disabilities at places where it was necessary to explicitly mention.

In fact the position till now was that words like "viklang, crippled, victims" which perpetuate discriminatory attitudes and negative self-image are still being used in common parlance, though officially the word "divyanjan"[6] has been started to be used since 2014. According to an article in 2022, a woman using a wheelchair was denied entry into a club in Gurugram as the club owners reportedly feared that she could "cause disturbance" to other customers.[7] The Indian Constitution guarantees a fundamental right to access public places. But this right does not extend to persons with disabilities in reality due to the silence of Article 15 on disabled people.

There are several constitutional provisions having particular relevance to disability rights but the constitutional makers have deliberately ignored incorporation of provisions for the disabled in the original text. Examples are

- Article 14: Guarantees equality before law and equal protection of laws to all persons
- Article 15: Prohibits discrimination on grounds of religion, race, caste, sex, or place of birth
- Article 16: Provides equality of opportunity in matters of public employment
- Article 21: Protects life and personal liberty
- The fundamental duties also do not include any provision for the disabled.
- Article 46**:** Mandates promotion of educational and economic interests of weaker sections and does not talk of disabled.

While the original Constitution didn't explicitly address disability, subsequent amendments have strengthened the constitutional basis for disability rights:

- The 73rd and 74th amendments[8]The Constitution strengthened local governance through Panchayats and Municipalities. Some states have used provisions in these amendments to reserve seats for persons with disabilities in local governance structures, enhancing political participation of persons with disabilities.

- Through 86th amendment,[9] by making education a fundamental right, this amendment particularly benefits children with disabilities who historically faced exclusion from educational opportunities. It provides constitutional backing for inclusive education policies.

Progressive constitutional provisions of various countries for persons with disabilities

- India's constitutional approach to disability rights differs from that of some other nations,[10] like South Africa, which explicitly mentions disability as a protected category in its equality clause. In Canada (Article 15) where the Charter of Rights and Freedoms includes disability among prohibited grounds of discrimination. Similarly in Uganda specific constitutional provisions for representation of persons with disabilities in Parliament are explicitly present. There is a provision of recognition of persons with disabilities and their education in the constitution itself.

- Similarly in Paraguay's constitution (Article 58) persons with impediments shall be guaranteed health care, recreation and vocational training to ensure their full social integration.

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[6] Office Memorandum (OM) No.: F. No. 16-39/2014-DD.III, issued by the Ministry of Social Justice and Empowerment, Department of Empowerment of Persons with Disabilities (DEPwD) Dated: 26 December 2015
[7] Anchal Bhateja "The Indian Constitution's Implicit Bias Against Persons With Disabilities *FEMINISIM IN INDIA (*Feb 22, 2022)
[8]The 73rd and 74th Amendment Act, 1992
[9] The 86th amendment act 2002
[10]Amy Raub, Isabel Latz, Aleta Sprague, Michael Ashley Stein, and Jody Heymann" Constitutional Rights of Persons with Disabilities: An Analysis of 193 National Constitutions" Harvard Human Rights Journal , Vol. 29, 2023

- Hungary's constitution (Article 70E) talks of welfare of persons with disabilities. Citizens of the Republic of Hungary have the right to social security; they are entitled to the support required to live in old age, and in the case of sickness, disability, being widowed or orphaned and in the case of unemployment through no fault of their own.

- In Gambia (Article 31) also certain provisions for the disabled are present in the constitution itself. Article 31 speaks of the right of the disabled and handicapped to respect and human dignity shall be recognized by the State and society and that Disabled persons shall be entitled to protection against exploitation and to protection against discrimination, in particular as regards access to health services, education and employment. Also a special provision is made in respect of any judicial proceedings in which a disabled person is a party, the procedure shall take his or her condition into account.

- The constitution of Finland also has an equality clause under section 6. There is a specific provision present which says that rights of persons using sign language and of persons in need of interpretation or translation aid owing to disability shall be guaranteed by an Act.

- Article 3 of German constitution speaks that no one shall be disadvantaged because of his handicap.

- The Switzerland law provides for measures to eliminate disadvantages of disabled people (article 8). It says that the Confederation and the Cantons shall strive to ensure that every person shall be insured against the economic consequences of disability and shall take measures for an adequate social security in the form of disability insurance.

Attitude of judiciary in protecting the Rights of Disabled

The judiciary has played a proactive role in interpreting the silent provisions of the Indian Constitution regarding the rights of disabled. The Supreme Court has said that the Constitution's fundamental rights apply universally to all citizens regardless of ability or status. In the absence of constitutional guidance, courts rely on diverse sources like domestic statutes, international treaties, and moral arguments to decide disability-related cases, leading to fragmented jurisprudence. This creates inconsistent precedents across High Courts and Supreme Court benches, making the law less predictable and harder to enforce uniformly. Even in the absence of constitutional clarity, the Supreme Court's stance on disability rights has been very positive. While progressive judgments like Jeeja Ghosh v. UOI (2016) and National Federation of the Blind v. UPSC (2013) upheld disabled persons' rights, other instances like Surendra Mohan v. State of Tamil Nadu & Ors.[11] have revealed a lack of understanding or inconsistent application of disability laws. **In this case, the issue before the Supreme Court was that** the petitioner, who had 70% visual impairment, was denied selection to the post of a civil judge under the Tamil Nadu State Judicial Services. The Court upheld the state government's decision that a person with 70% blindness was not suitable for judicial service. The ruling was seen as regressive because it failed to consider the **Rights of Persons with Disabilities Act, 2016**, which recognises that disability is not a bar to employment, provided reasonable accommodations are made. The judgment was viewed as reinforcing **ableist assumptions** about capabilities. Similar was the stance of the Supreme Court in Vidhi Himmat Kataria Vs State of Gujarat[12]. Petitioners were NEET-UG 2019 candidates with locomotor disabilities, seeking MBBS admission under the Persons with Disability (PwD) reservation (5% quota under the Rights of Persons with Disabilities Act, 2016). The Medical Council of India amended Graduate Medical Education Regulations, adding Appendix H, requiring "both hands intact, with intact sensation, sufficient strength and range of motion" for eligibility under PwD quota. Petitioners were screened after results and found ineligible and were denied admission. The criticism of the Vidhi Himmat Katariya case stems from its perceived failure to adequately incorporate the principles of reasonable accommodation and the social model of disability, instead leaning on a more restrictive medical model and upholding regulations that were later deemed ableist and unconstitutional by the Supreme Court itself.

[11] (2019) 4 SCC 237

[12] Vidhi Himmat Katariya and others v. The State of Gujarat and others, (2019) 10 SCC 20

There are many other decisions of high courts in which relief were denied to persons with disabilities which were later corrected by the Supreme Court. It is evident that significant hardships for justice were faced by the disabled persons. Examples are in Omkar Ramchandra Gond v. Union of India (2024)[13]: An applicant with a speech and language disability was initially denied interim relief by the Bombay High Court for NEET (UG) 2024. The Supreme Court later ordered a fresh medical evaluation and granted interim relief. Also in Anmol v. Union of India [14](2025) case involved a visually impaired candidate being denied admission to an MBBS course despite a high rank in the PwD category in NEET-UG. The Punjab and Haryana High Court initially dismissed his petition, upholding the opinion of the medical board. However, the Supreme Court, acknowledging discrepancies and the need for a more functional assessment, ultimately directed his admission. This highlights how rigid interpretations by medical boards can lead to initial denial of relief. These judgements held against persons with disabilities especially by High Courts show that judicial discretion, while sometimes beneficial, is not a substitute for constitutional guarantees.

However, in the following cases Supreme Court have taken a positive stance and provided relief for persons with disabilities. The Interpretation of articles 14, 15, 16, 19, 21 and DPSPs have given some landmark judgements in the favour of persons with disabilities.

Judiciary has interpreted the right for equality for persons with disabilities; this means that laws cannot discriminate against them without reasonable justification. Any law or state action that arbitrarily treats persons with disabilities differently can be challenged as unconstitutional.

The Supreme Court in a landmark judgement of National Federation of the Blind v. Union Public Service Commission [15] has interpreted Article 14 to include the principle of "reasonable classification," which allows for special provisions for groups with unique needs—including persons with disabilities—without violating equality principles. This interpretation enables disability-specific legislation and policies without contradicting constitutional equality guarantees. The issue in above case was whether blind candidates could be barred from appearing for the UPSC civil services examination for certain posts. The Supreme Court ruled in favour of allowing visually impaired candidates to take the civil services examination, holding that equal opportunity must include reasonable accommodation, and that Article 14 permits affirmative action through reasonable classification. This judgment emphasized that non-inclusion or exclusion of persons with disabilities from public services or educational opportunities without sufficient justification would violate Articles 14 and 21 of the Constitution.

In *Deaf Employees Welfare Association v Union of India*[16]

A petition was filed seeking a Writ of Mandamus directing the Central and state governments to grant equal transport allowance to its government employees suffering from hearing impairment as what was being given to blind and other disabled government employees. The allowance given to the hearing-impaired employees was significantly lower than the allowance granted to other employees with disabilities. The Supreme Court allowed the petition and directed the Respondents to grant transport allowance to speech and hearing impaired persons also on par with blind and orthopaedically disabled government employees. The court held that *"*there cannot be further discrimination between a person with disability of 'blindness' and a person with disability of 'hearing impairment'. Such discrimination has not been envisaged under the Disabilities Act." It held that equality of law and equal protection of law afforded to all persons with disabilities while participating in government functions

Even in case of *Jeeja Ghosh v. Union of India* (2016), the Supreme Court has ruled that discriminatory treatment against persons with disabilities in public spaces and services violates constitutional values. The Court emphasized that reasonable accommodation for persons with disabilities is essential to ensuring substantive equality.

[13] 2024 SC 775

[14] Civil Appeal No.: 14333 of 2024 (@ Special Leave Petition (Civil) No. 27632 of 2024), decided on February 21, 2025

[15] (1993) 2 SCC 411

[16] Civil Petition 107 of 2011, decided on December 12, 2013.

Also in the case of *Rajive Raturi Vs Union of India* [17]the Supreme Court has ruled in the favour of persons with disabilities and resulted in making astounding changes in PWD act 1995.This case made the policymakers realize all the grounds of basic amenities that the disabled are missing out. Public interest litigation was filed to provide amenities to the disabled. The case brought futuristic changes to accessibility and transport of visually impaired in public transport and the necessary infrastructure India was lacking on. The recommendations of this judgment saw changes like making every educational institute accessible for the disabled, every public transport to be made accessible to the disabled, and an audit each year was directed to be conducted on how many institutions have been made accessible to the disabled and how many institutions are yet to be made.

However there is no constitutional provision on reservation of persons with disabilities but the Supreme Court has upheld in the case of Govt. of India vs Ravi Prakash Gupta [18]that 3% reservation quotas are in consonance with constitutional aims for persons with disabilities in government jobs as per interpretation of Articles 16(1) and 16(4), which allow for special provisions to ensure equal opportunity in public employment. In the same case the court clarified that the 3% reservation must be applied to all stages of employment, including promotions.

As per interpretation of article 19(1)(a) In *Nipun Malhotra vs Sony Pictures Films India Private Limited*[19]the Supreme court has made commendable judgement on rights of persons with disabilities. The petitioner in the case was aggrieved by the manner in which PwDs were portrayed in the movie titled 'Aankh Micholi'. The Supreme Court observed that the creative freedom of the filmmaker cannot include the freedom to lampoon, stereotype, misrepresent or disparage those already marginalised if stereotypical/disparaging portrayal is justified by the overall message of the film, the filmmaker's right to retain such portrayal will have to be balanced against the fundamental and statutory rights of those portrayed."

Even in interpretation of article 21 in the famous judgement of *Vikash Kumar v. UPSC* the Supreme Court[20] emphasized that reasonable accommodation for persons with disabilities is not a matter of charity but recognition of human dignity and autonomy. The Court declared that denial of reasonable accommodation constitutes discrimination and violates the right to dignity under Article 21.

Similarly, in the landmark judgment of *Suchita Srivastava v. Chandigarh Administration* (2009), [21]the Supreme Court protected the reproductive rights of a woman with intellectual disability, affirming that persons with disabilities possess agency and autonomy under Article 21.

As per interpretation of DPSPs in *Union of India and Ors. vs. Miss. Pritilata Nanda*[22], rejection of the claim of a physically handicapped applicant who was not sponsored as per the requirement under the advertisement but was called for an interview and placed in merit list was remedied under Article 41 read with Article 16. The argument that denial of opportunity of jobs to the visually handicapped due to non-implementation of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 amounted to violation of Articles 14, 21 and 41 was accepted in Justice Sunanda Bhandare Foundation case too. [23]

Many rights crucial for persons with disabilities—including healthcare, rehabilitation, and accessibility—fall under directive principles rather than fundamental rights, limiting their direct enforceability. While courts have increasingly read these rights into Article 21 but still their realization remains challenging. Despite progressive interpretations, some limitations remain in the constitutional framework for disability rights. The directive principles direct the state to work for persons with disability according to their economic ability. The question that haunts us is that our constitution is an instrument of empowerment for women, scheduled castes, scheduled tribes and religious minorities but why is it not making accessible buildings, assistive devices and other reasonable

[17] *WP © No. 228/2006.*
[18] Govt. of India vs Ravi Prakash Gupta (2010)
[19] *Nipun Malhotra v. Sony Pictures Films India Pvt. Ltd. & Anr.*, W.P. (C) No. 11636 of 2018, decided on 17-12-2019 (Del).
[20] Vikash Kumar v. UPSC (2021),
[21] Suchita Srivastava v. Chandigarh Administration (2009),
[22] Union of India and Ors. vs. Miss. Pritilata Nanda, AIR 2010 SC 2821
[23] Justice Sunanda Bhandare Foundation vs. U.O.I., AIR 2014 SC 2869

accommodations' a fundamental right for persons with disabilities. Disability is treated more as a subject of welfare (via Article 41) than a rights-based approach. It can be said that disabled are a neglected community and our constitution, which is a grundnorm of other laws, can be rightly called an "ableist constitution".

The critical analysis on Constitutional Silence

Critical analysis is done in 2 parts one is related to legal implications and the other is related to social implication[24]

Legal Implications.

- **Contingency on judicial interpretation** : Legal protection against discrimination for disabled persons becomes contingent on judicial interpretation rather than explicit constitutional command, which undermines consistency and predictability in enforcement .The provision of reasonable accommodation which is central to disability rights is not found in the Constitution and has only been recognized through statutory and judicial interpretation only post-UNCRPD ratification by India . Without constitutional status it is harder for disabled persons to demand accommodations as a matter of right.

- **Slow and fragmented legislative efforts**: Legislative efforts to protect the rights of disabled persons were slow and fragmented due to the lack of constitutional impetus. The first comprehensive law – The Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 – came nearly 45 years after the Constitution was enforced.

- **Lack of enforceability**: Legislation derived without constitutional backing often lack teeth in terms of enforceability. For example, the 1995 Act was criticized for being welfare-oriented rather than rights-based. Its enforcement mechanisms were weak, and many of its mandates were not justiciable.

- **Reservation for PWDs in jobs** is created through statutes and executive orders, not constitutional mandates leaving it to the whims and fancies of the executive. As a result, these provisions are more vulnerable to policy shifts, judicial scrutiny, or poor implementation.

- **Weakening of moral imperative to give priority to inclusion**: Part IV (Directive Principles of State Policy) with only one provision on disability and Part IVA (Fundamental Duties) make no mention of the responsibility of the State or citizens toward PWDs. This leads to a lack of constitutional direction in framing inclusive development policies or societal responsibilities, and weakens the moral imperative for institutions to prioritize accessibility and inclusion.

- **Narrow interpretation in courts**: Laws such as the Rights of Persons with Disabilities Act, 2016 could be challenged or interpreted narrowly in courts. If a provision under a disability law is under scrutiny, the absence of an explicit constitutional foundation for disability rights makes it difficult to assert the law as a reflection of fundamental rights, weakening its defence in constitutional courts.

- **No strict scrutiny of cases as applicable to fundamental rights:** In constitutional cases, courts apply varying levels of scrutiny: strict scrutiny for fundamental rights violations and rational basis review for general policy issues. Disability-related claims often do not trigger strict scrutiny because the Constitution does not identify PWDs as a protected class. The burden of proof generally remains with disabled persons**,** making it harder to challenge exclusionary or inaccessible laws and policies. This means they need to demonstrate that the law or policy is discriminatory and negatively impacts them specifically.

- **Inequity in rights and resources**: Since persons with disabilities are in the state list , the absence of constitutional clarity leads to disparate policies and protections at the state level. Some states may prioritize disability rights; others may neglect them.

- **Only statutory authority, no constitutional status:** Unlike bodies such as the Election Commission or National Human Rights Commission, disability rights commissions (e.g., Chief Commissioner for Persons with Disabilities) are statutory bodie**s.** They have limited autonomy, powers, and authorit**y,** and their recommendations are often not binding. A constitutional mandate could have elevated their status and enforcement capacity. While

[24] Law and Vulnerable Groups" Analyzing the Indian Constitution's Approach to Disability Rights "(January 19, 2024)

certain criminal laws (e.g., BNSS, BNS) mention provisions related to mentally ill or disabled victims and accused, these are procedural and lack constitutional underpinnings ensuring equality and dignity. The consequence is that there is no constitutional guarantee of accessible courts, legal aid, or trauma-informed procedures for disabled individuals, leading to exclusion from justice mechanisms.

Social Implications

The silence of the Indian Constitution on disability rights has profound social consequences

- **History of infrastructural and attitudinal barriers**: Persons with disabilities have historically faced barriers in accessing education and employment. Government and private institutions often lacked infrastructural and attitudinal readiness to include them. Reservations and accommodations, where provided, are poorly implemented. Societal attitudes toward PWDs remain rooted in pity and charity rather than in equality and rights. This perpetuates stigmatization of PWDs as dependent or incapable.

- **Increasing marginalization, limited representation**: PWDs are often perceived through a lens of charity or pity rather than empowerment and rights. This has perpetuated negative stereotypes, leading to exclusion from mainstream education, employment, and public life. Disability is not a recognized category in political reservation or representation. As a result, persons with disabilities have negligible presence in legislative bodies, further limiting their ability to influence policy or advocate for constitutional amendments.

- **Exclusion from schools**: Despite policy-level mandates like inclusive schooling under the RPwD Act, 2016 and RTE Act, 2009, implementation remains poor. The implications of all these are that children with disabilities are often kept out of school, placed in special schools without proper pedagogy, or subjected to bullying and neglect in mainstream institutions.

- **Workplace discrimination:** The absence of a constitutional right to livelihood, reasonable accommodation, or accessibility for PWDs leads to low labour market participation. Barriers include inaccessible workplaces, bias during hiring, and lack of skill training.

- **Double discrimination: Disabled** women face double discrimination—on account of both gender and disability. The lack of constitutional status means the intersectional challenges they face are not institutionally addressed, leading to their limited access to healthcare, reproductive rights, and legal protection, greater vulnerability to sexual violence, exploitation, and neglect and exclusion from women's empowerment schemes and movements.

- **Exclusion from health facilities**: PWDs face poor public health infrastructure, Inaccessibility of hospitals and clinics, ignorance about disability-specific needs among healthcare professionals. As a consequence early intervention, rehabilitation, and assistive technologies are inaccessible for many.

- **Poor outreach of disability schemes in rural areas**: There is a Lack of awareness among families and local officials and minimal access to inclusive infrastructure or special educators. As a result PWDs in rural India are more isolated, dependent, and underrepresented, widening the urban-rural divide.

- **Accessibility in public infrastructure:** due to no constitutional mandate implementation is patchy, with minimal accountability; PWDs face daily mobility challenges, restricting access to work, education, leisure, and public services.

- **Low visibility of PWDs in key areas**: The visibility of PWDs in media, leadership roles, education, and employment remains low. It is quite evident from that there are few positive narratives or role models to challenge stereotypes, and the dominant image of PWDs continues to be as “victims” or “recipients of charity.”

- **Lack of awareness:** Many PWDs and their families are unaware of available schemes, legal protections, or procedural rights. This leads to low demand for services, under-utilization of benefits, and powerlessness in confronting discrimination.

- **Vulnerabilities During emergencie**s: persons with disabilities face unique vulnerabilities during emergencies. However, the Constitution provides no specific safeguard for them during such crises. Relief

measures often overlook disabled populations, and there is no constitutional obligation for inclusive disaster planning, which exacerbates their marginalization.

- **Social exclusion leading to mental health issues**: The absence of structural inclusion fosters isolation, loneliness, and psychological distress among PWDs, particularly among youth causing social exclusion results in higher rates of depression, anxiety, and suicide among disabled persons, with inadequate mental health support.

Conclusion and suggestions

- The Indian Constitution, a progressive document lauded for its inclusive ideals, unfortunately remains largely silent on the explicit recognition of the rights of persons with disabilities. This constitutional silence has had far-reaching legal and social consequences, resulting in the marginalization of nearly 2.2% of the country's population. While the judiciary and legislature have made commendable efforts through statutory interventions like the Rights of Persons with Disabilities Act, 2016 and through landmark judgments, the absence of a clear constitutional mandate has limited the full realization of rights for PWDs.

- Legal implications of silence are inconsistent enforcement of anti-discrimination provisions, inadequate constitutional safeguards for affirmative action, and the vulnerability of statutory protections to policy shifts and under implementation. Socially, it has led to continued stigmatization, exclusion from education and employment, inadequate access to healthcare and public spaces, and the perpetuation of systemic invisibility in political and civil life.

- India's ratification of the UN Convention on the Rights of Persons with Disabilities has marked a moral and legal commitment to disability rights, but a constitutional affirmation remains important for translating this commitment into a rights-based, enforceable framework. It is therefore necessary that the Constitution be amended to recognize disability as a distinct ground of discrimination, ensure substantive equality, and mandate inclusive development across all sectors.

- Key recommendations include disability rights should be explicitly recognised in Articles 15 and 16 and add a separate article to recognize their rights. Given the gaps in legislations and social inclusion, a constitutional amendment explicitly recognizing the rights of persons with disabilities is crucial. Such an amendment could:

- Insert a new Article recognizing the rights of persons with disabilities.

- Include disability as a ground for non-discrimination in Article 15.

- Mandate affirmative action for persons with disabilities under Article 16.

- Expand Directive Principles of State Policy to include disability-inclusive development.

- International examples like the South African Constitution, which explicitly prohibits discrimination based on disability, can serve as a model for India.

- Strengthen enforcement mechanisms, ensure budgetary allocations, and monitor compliance at the state and district levels.

- Conduct mandatory accessibility audits of public infrastructure, digital services, and educational institutions.

- Enforce reservation policies, provide reasonable accommodations, and sensitize educators and employers.

- Introduce measures to increase political participation of persons with disabilities, including reserved seats in legislatures or local bodies.

- Train judges and lawyers on disability rights jurisprudence to ensure consistent and informed interpretation of laws.

- Invest in long-term campaigns to combat stigma and promote inclusive values in society.

- Potential developments include Courts increasingly emphasize the Constitution's transformative potential in addressing structural barriers faced by persons with disabilities, Greater recognition of how disability

intersects with other identities like gender, caste, and religion and also strengthening the constitutional basis for reasonable accommodation as an essential component of equality

- Only with such foundational change can India move beyond a model of charity and welfare toward a truly inclusive democracy where persons with disabilities are recognized as equal citizens, capable of participating fully and independently in society.