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Disability rights in the workplace in India: A socio-legal analysis of challenges and solutions

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Abstract

The landscape of disability rights in India underwent a transformative shift with the enactment of the Rights of Persons with Disabilities (RPWD) Act, 2016. This legislation replaced the Persons with Disabilities (PwD) Act of 1995, marking a crucial evolution away from the outdated charity or medical/welfare model of disability towards a contemporary rights-based, biopsychosocial framework. This paradigm shift was driven primarily by India's commitment as a signatory to the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD).

The fundamental objective of the RPWD Act is profound: it seeks to uphold the dignity of every Person with Disability (PwD) and explicitly prevent any form of discrimination. Furthermore, it aims to facilitate the full acceptance, participation, and inclusion of PwDs in society, ensuring they enjoy the right to equality, dignity, and respect for their integrity equally with all others. This legal mandate moves beyond mere provision of aid; it actively seeks to dismantle systemic barriers and ensure substantive equality in the workplace and beyond.

Keywords: Disability rights, RPWD Act 2016, equality, inclusion, participation, dignity, India

Introduction

Despite the comprehensive and progressive nature of the RPWD Act, the gap between its statutory promises and the economic realities faced by PwDs remains vast. The employment and economic exclusion rates for this demographic highlight persistent systemic failures in translating legal rights into practical workplace equality. This report provides a critical analysis of the current scenario, mapping the specific legal mechanisms in place, quantifying the magnitude of exclusion using official statistics, detailing the persistent implementation and socio-cultural challenges, and examining the role of judicial activism in enforcement. The central focus is the organized employment sector in India, analyzing both hiring challenges and, critically, the factors driving retention failures^[1].

The spirit of the RPWD Act rests on the mandate for substantive equality. This principle dictates that equality is not achieved merely by treating everyone the same way (formal equality) but requires necessary modifications and adjustments to societal systems, policies, and practices to ensure full and meaningful participation for PwDs. The courts have consistently recognized this, holding that reasonable accommodation is not an act of charity but a fundamental right derived directly from Articles 14, 16, and 21 of the Constitution. The necessary adaptations required by the Act thus serve as the philosophical bedrock for achieving genuine inclusion.

The Legal Architecture of Workplace Inclusion: RPWD Act, 2016

The RPWD Act provides a comprehensive framework addressing hiring, accommodation, and grievance redressal in the workplace. This framework incorporates principles of non-discrimination and affirmative action^[2].

Fundamental Rights and Non-Discrimination

The Act establishes stringent anti-discrimination provisions in employment. Specifically, it states that no employer can deny a job to a person simply because they have a disability. Instead, employers are legally obligated to assess candidates based exclusively on their skills, qualifications, and experience, prohibiting assumptions about their abilities derived solely

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from their disability.

This is enforced through several key mandates:

1. **Equal Opportunity Mandate:** Employees with disabilities are entitled to equal opportunity in hiring and employment, along with protection against workplace harassment, mistreatment, or bias. Discrimination is defined broadly, covering instances such as verbal abuse, exclusion from crucial work assignments, or the unfair denial of promotions.
2. **Organizational Compliance:** To institutionalize fair treatment, every company in India employing more than 20 individuals is legally required to establish an Equal Opportunity Policy (EOP). Furthermore, private organizations are mandated to appoint a liaison officer whose duty is to oversee the recruitment of PwDs and ensure the provision of necessary facilities and provisions for these employees. Compliance also requires the maintenance of detailed records concerning employed PwDs, including their nature of work and the facilities provided. Failure to comply with these obligations (other than record maintenance) constitutes an offense, potentially incurring fines up to INR 500,000 for subsequent contraventions.

The Core Mechanism: The Right to Reasonable Accommodation (RA)

The concept of Reasonable Accommodation (RA) is the RPWD Act's most crucial tool for converting formal equality into substantive equality.

1. **Definition and Scope:** The RPWD Act defines RA as the "necessary and appropriate modification and adjustments, without imposing a disproportionate or undue burden in a particular case, to ensure to persons with disabilities the enjoyment or exercise of rights equally with others". This mandate requires employers and service providers to provide accessibility in various forms, including accessible digital content (e.g., WCAG compliant websites), accessible formats, assistive technologies (such as screen readers, braille displays, or adaptive keyboards), and modification of standard work procedures.
2. **The Conflict with Standardization:** While legally explicit, the implementation of RA presents a significant challenge because its nature conflicts with rigid institutional standardization. RA is fundamentally individualized, requiring customized solutions rather than a uniform, one-size-fits-all approach often favoured by large organizations and bureaucratic systems. The challenge lies in balancing the resource allocation required for customization with the need for universal systems^[3].

Affirmative Action and Employment Mandates

The RPWD Act prescribes different mechanisms for affirmative action in the public and private sectors.

1. **Public Sector Obligation (Section 34):** Government establishments are under a mandatory obligation to reserve "not less than four percent." of the total number of vacancies within the cadre strength for persons with benchmark disabilities. This 4% reservation is meticulously distributed across five specific categories of disabilities, including locomotor, visual, hearing, intellectual/mental illness, and multiple disabilities. The

law includes a robust mechanism for ensuring these quotas are met, known as the carry-forward rule. If a vacancy cannot be filled in a given recruitment year due to the non-availability of a suitable PwD, the vacancy must be carried forward to the succeeding year. Only if no suitable PwD is available in the succeeding year, even after considering interchangeability among the five categories, may the employer fill the vacancy with a non-PwD candidate.

2. **Private Sector Encouragement and Incentives (Section 35):** For the private sector, the primary strategy has historically been voluntary inclusion, supported by government incentives under Section 35. The National Policy for Persons with Disabilities, adopted in 2006, laid the groundwork for providing incentives, tax exemptions, and awards to encourage private sector employment.

The original Incentive Scheme, launched in 2008-09, initially offered to pay the employer's contribution to the Employee Provident Fund (EPF) and Employee State Insurance (ESI) for three years for PwDs earning up to INR 25,000 per month. This scheme was significantly revised on April 1, 2016, with enhanced benefits: the government commitment to bearing the employer's contribution to EPF and ESI was increased up to 10 years, and, crucially, the salary ceiling was removed entirely for PwD employees. Additionally, the scheme incorporated provisions for the Department of Empowerment of Persons with Disabilities (DEPwD) to bear one-third of the gratuity amount and cover the administrative charges associated with the EPF/ESI contributions.

The Quantification of Exclusion: Statistical Mapping of PwD Employment

Empirical data reveals the stark reality of economic exclusion faced by PwDs in India, demonstrating the immense gap between legal protection and socioeconomic integration^[4].

Systemic and Implementation Challenges

The inertia in converting legal provisions into lived equality is driven by a complex interplay of administrative lapses, infrastructural deficits, and ingrained cultural biases.

Administrative and Legal Implementation Gaps

1. **Deficiencies in Reservation Enforcement:** While the 4% reservation under Section 34 is mandatory for government establishments, its application is frequently challenged. The core difficulties often involve the improper maintenance of the post-based roster register and administrative efforts to avoid the carry-forward rule. The need for the Supreme Court to consistently intervene and mandate judicial services to relax standards of suitability for PwDs illustrates the reluctance of government agencies to implement the affirmative action provisions proactively.
2. **Duplication and Fragmentation of Services:** The progressive expansion of the legal framework has unfortunately resulted in some administrative overlaps. For instance, the RPWD Act mandates the creation of Special Courts for implementation, while the Mental Healthcare Act (MHCA), 2017, established District

Mental Health Review Boards. This duplication leads to fragmentation of services and inefficient resource allocation, particularly impacting Persons with Mental Illness (PMI) who often require synchronized legislative support.

3. **Certification Bottlenecks:** The RPWD Act's shift to include a broader range of disabilities, including mental illness and intellectual disability, necessitates complex assessments. Technical analysis highlights significant difficulties in standardized psychiatric disability certification, quantifying disability, and distinguishing between various mental conditions. This lack of clarity and resources in the assessment infrastructure creates bureaucratic impediments that prevent many PwDs from obtaining the requisite disability certificate, a document critical for accessing statutory rights such as reservation and incentive schemes. The staggering finding that 69.6% of PwDs reported lacking a disability certificate confirms this severe administrative bottleneck.
4. **Failure to Implement Incentive Schemes:** As previously noted, the most crippling administrative failure regarding private sector inclusion has been the failure to provide the promised resources for the incentive scheme under Section 35. By reportedly ceasing budgetary allocation after 2016-17, the executive effectively sabotaged the legal mechanism intended to drive voluntary private sector inclusion. This policy paralysis ensured that the voluntary approach to inclusion, regardless of its legislative merit, could not succeed in correcting prevailing market failures.

Physical and Digital Accessibility Deficits

The physical and digital environments of Indian workplaces consistently fail to meet the accessibility standards mandated by the RPWD Act, which severely restricts access to employment^[5].

1. **Physical Infrastructure Barriers:** Studies consistently identify inaccessible infrastructure and transportation systems as major impediments to employment. Data from the NSS 76th Round showed that a significant majority of PwDs (57.7%) faced difficulties accessing public buildings, and 40% struggled to utilize public transport. Even within worksites, employees report barriers in physical access. These deficiencies physically preclude PwDs from reaching or effectively navigating their places of work.
2. **Digital Accessibility Gaps:** The RPWD Act explicitly requires all public and private establishments to ensure their services, including digital content, websites, and mobile applications, adhere to accepted accessibility standards like the Web Content Accessibility Guidelines (WCAG). However, compliance is generally inadequate. Workplaces often lack essential assistive technologies and digitally accessible platforms. This includes internal software and online platforms that are not screen reader-compatible, and a failure to implement necessary features like captions and high-contrast displays. The judicial system has been compelled to intervene, specifically mandating that government websites and e-governance platforms must

be accessible to PwDs, underscoring the severity of the implementation deficit.

Socio-Cultural and Attitudinal Barriers (The Most Persistent Challenge)

Ultimately, the most pervasive and difficult barrier to overcome is the deeply entrenched socio-cultural attitude towards disability^[6].

1. **Pervasive Stigma and Bias:** Attitudinal barriers, stemming from stigma and misconceptions, are consistently identified as a "major barrier" to employment. Many Indian workplaces operate with "outdated mindsets," perceiving disability as an inherent limitation rather than a dimension of diversity. This results in significant unconscious bias, which perpetuates exclusionary practices.
2. **Impact on Retention and Career Growth:** This systemic prejudice impacts retention far more than physical barriers. An employee who secures a job but faces a lack of positive attitude from colleagues and managers may experience discrimination, exclusion from crucial work assignments, unfair denial of promotions, and resulting low self-esteem. This structural failure to foster an inclusive culture is a direct causal link to the alarming statistic that over 60% of PwDs acquiring a disability after birth lose their jobs. The challenge is thus twofold: ensuring initial access (hiring and infrastructure) and guaranteeing sustained cultural acceptance and career development (retention).

The Role of Judicial Activism and Precedent

In the face of chronic administrative neglect, the Indian Judiciary, particularly the Supreme Court, has emerged as a powerful force in enforcing the letter and spirit of the RPWD Act, often interpreting it as a "Super Statute" that forms the baseline for constitutional interpretation.

Reasonable Accommodation as a Fundamental Right

The Supreme Court has solidified the philosophical foundation of the RPWD Act by declaring that reasonable accommodation is a fundamental right. This judicial stance mandates that RA is not a matter of governmental or organizational discretion or charity, but a non-negotiable right flowing from the constitutional guarantees of equality (Article 14), equal opportunity in public employment (Article 16), and the right to life with dignity (Article 21). Consequently, the denial of essential facilities, such as compensatory time or a scribe during examinations, is deemed discriminatory under the Act.

Judicial Interpretation of Non-Discrimination (Section 20)

Judicial intervention has been critical in defining the scope of non-discrimination in employment^[7].

1. **Protection Against Termination:** Courts have consistently invoked Section 20 to protect employees who acquire a disability during service. Rulings prohibit termination based on disability and mandate that the employer must consider alternate, suitable employment for the individual, even if they can no longer perform their original post (e.g., a teacher reassigned to administrative functions).
2. **The Ravinder Kumar Dhariwal Precedent:** A landmark decision in *Ravinder Kumar Dhariwal v*

Union of India (2021) established a critical precedent regarding PwDs who acquire mental illness. Justice Chandrachud recognized that the CRPF employee, who acquired a serious mental illness, was entitled to reasonable accommodation because his disability made him uniquely vulnerable to engaging in behaviour that might be considered inappropriate or unbecoming compared to his able-bodied counterparts. The Court reasoned that initiating disciplinary proceedings against him for conduct linked to his mental disability would be a violation of his right to non-discrimination under the RPWD Act. The final order mandated the CRPF to reassign the appellant to an alternative suitable post carrying the same pay and benefits. This ruling emphasizes the depth of the accommodation mandate, extending it to protect PwDs from penalties arising directly from their condition.

Enforcement of Reservation and Suitability Standards

The judiciary has provided necessary corrective action where the executive and recruitment agencies failed. The Supreme Court has mandated a positive interpretation of reservation under Section 34, and quashed discriminatory rules, such as those barring visually impaired candidates from judicial services. Crucially, the judiciary requires that the suitability of a PwD candidate must be assessed based on a functional evaluation of their abilities, rather than relying solely on a medical certificate. Furthermore, courts have enforced the relaxation of suitability standards where necessary to fill the 4% quota, ensuring that the legislative intent of reservation is not defeated by rigid minimum score requirements when eligible PwD candidates are available.

Comprehensive Solutions and Recommendations

Achieving the vision of substantive equality articulated in the RPWD Act requires a concerted, multi-sectoral strategy that addresses legal loopholes, administrative deficiencies, and cultural resistance.

Legislative and Regulatory Reforms

1. **Mandatory Quotas in the Private Sector:** Given the evidence demonstrating the failure of the voluntary, incentive-based mechanism—driven largely by the reported lapse in government funding for Section 35—the argument for mandatory private sector quotas has gained significant strength. Introducing a mandatory quota (e.g., 2% to 3%) for private establishments above a defined employee threshold is a necessary intervention to correct systemic market failures and compel inclusion.
2. **Revamping and Funding the Incentive Scheme:** Section 35 must be immediately and robustly funded. The government must ensure dedicated budgetary allocation is restored and that the enhanced provisions (10-year EPF/ESI subsidy, no salary cap) are streamlined through effective mechanisms like the Direct Benefit Transfer (DBT) system^[8].
3. **Administrative Synchronization:** To eliminate duplication and resource wastage, the government should undertake a review to synchronize the grievance redressal and judicial review mechanisms of the RPWD Act with other relevant legislation, particularly the MHCA, 2017. Furthermore, investment in standardized,

resource-backed assessment and certification infrastructure is essential to ensure PwDs can easily obtain the necessary documentation required to exercise their rights.

Corporate Strategies for Substantive Inclusion

Corporate commitment must move beyond compliance rhetoric to deep structural and cultural change.

1. **Universal Design and Accessibility Audits:** Organizations must proactively adopt universal design principles for both physical workspaces and digital infrastructure. This includes conducting mandatory, regular digital accessibility audits to ensure all internal software, employee interfaces, and external communications comply with internationally accepted standards, thereby overcoming the observed digital access gaps. The provision of essential assistive technologies should be treated as a standard operational cost, not an exception.
2. **Combating Attitudinal Bias:** To address the persistent, high-impact barrier of negative workplace culture, mandatory, continuous sensitivity training, diversity inclusion workshops, and reverse mentoring programs are crucial. Shifting "outdated mindsets" requires sustained effort to foster a positive, empathetic business culture that views disability as a factor of diversity, essential for maximizing employee retention and performance.
3. **Leveraging the Business Case:** Corporate success stories validate the strategic benefits of inclusion. Companies like RPG Group and Godrej Properties demonstrate measurable growth in PwD employment, with Godrej achieving 7.5% PwD representation. These examples, alongside initiatives like Tata Steel's focus on leveraging talent, show that inclusion drives enhanced innovation, improved company culture, and a stronger brand reputation. Specific roles, such as shopfloor quality inspection, have been successfully tailored for employees with specific needs (e.g., speech and hearing disability, requiring high concentration)^[9].

Skill Development and Livelihood Enhancement

A crucial component of improving PwD employment is ensuring they have market-relevant skills, addressing the foundational gap in access to education and livelihood.

1. **Targeted Vocational Training:** There is an urgent need to scale up specialized vocational skill training programs through government initiatives and Corporate Social Responsibility (CSR) funding. Successful models, such as the skilling and livelihood projects supported by organizations like HDFC and executed by partners like Youth 4 Jobs Foundation (Y4J), prove effective by integrating soft skills, English, computer training (WISE course), and sector-specific courses to facilitate placement in Data Entry, BPO, and Hospitality sectors.
2. **Financial Empowerment:** The National Handicapped Finance and Development Corporation (NHFDC) must be strengthened to expand the extension of loans for self-employment and entrepreneurial ventures for PwDs, along with vital market linkage assistance to ensure economic independence.

Conclusion

The Rights of Persons with Disabilities Act, 2016, represents a progressive and modern legislative commitment to achieving substantive equality for PwDs in the Indian workplace. However, the comprehensive legal framework has been consistently undercut by profound implementation deficits. The analysis confirms that the challenges are rooted in three major areas: chronic administrative failure, primarily exemplified by the reported cessation of funding for the private sector incentive scheme under Section 35, which crippled voluntary inclusion; pervasive infrastructural barriers, both physical (57.7% difficulty accessing public buildings) and digital; and, most crucially, deeply embedded attitudinal biases that contribute to exclusion, denial of growth opportunities, and a staggering job loss rate exceeding 60% for those who acquire a disability.

The judiciary has acted as a necessary bulwark, elevating the right to reasonable accommodation to a constitutional fundamental right and establishing precedents against discriminatory actions, even in sensitive areas like conduct and mental illness (*Ravinder Kumar Dhariwal*). However, continuous judicial intervention is a symptom of executive and administrative negligence. Moving forward, the achievement of genuine inclusion necessitates decisive action. This includes legislative reform to mandate quotas in the private sector, rectifying the administrative lapse by fully funding and streamlining incentive schemes, and implementing mandatory sensitization and training programs to dismantle cultural biases, which are the hidden saboteurs of retention. Only through a sustained, resource-backed, and culturally sensitive approach can India fulfill the constitutional promise of substantive equality and foster an inclusive ecosystem where the economic potential of PwDs is fully realized, ensuring no individual is left behind.

References

1. The Rights of Persons with Disabilities Act 2016: Mental Health Implications visited on [pmc.ncbi.nlm.nih.gov](https://pubmed.ncbi.nlm.nih.gov)
2. Disability & Work Place Inclusion in the Private Sector: A Critical Legal Analysis of RPWD Act, 2016 visited on [ijlmh.com](https://www.ijlmh.com)
3. Factors Influencing Employment and Employability for Persons with Disability: Insights from a City in South India visit at [pmc.ncbi.nlm.nih.gov](https://pubmed.ncbi.nlm.nih.gov)
4. Disability inclusion in workplace: Best practices, success stories from leading companies visit at hr.economictimes.indiatimes.com
5. India's Digital Accessibility Laws and Overview visit at digitala11y.com
6. People with disabilities in India: from commitments to outcomes visit at documents.worldbank.org
7. Visually Impaired Candidates Cannot Be Excluded from Judicial Services visit at [scobserver.in](https://www.scobserver.in)
8. Legal Protections Against Workplace Discrimination for Disabled Employees in India visited at [robobionics.in](https://www.robobionics.in)
9. Periodic Labour Force Survey (PLFS), Key Employment Unemployment Indicators for (January 2024-December 2024) show at microdata.gov.in visited on Dec 2024