

INVISIBLE CITIZENS: DISABILITY, DEMOCRATIC PARTICIPATION, AND THE CONSTITUTIONAL PROMISE OF EQUAL CITIZENSHIP IN INDIA

by

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ABSTRACT

India's constitutional framework pledges equality, dignity, and democratic participation to every citizen. Yet for the estimated 26.8 million persons with disabilities in India, these guarantees remain structurally incomplete. This article argues that persons with disabilities constitute a class of 'invisible citizens'—formally recognised by law but substantively excluded from the architecture of democratic life. Drawing on constitutional provisions, Supreme Court jurisprudence, the Rights of Persons with Disabilities Act 2016, and the United Nations Convention on the Rights of Persons with Disabilities, the article examines how physical, institutional, technological, and attitudinal barriers combine to deny persons with disabilities meaningful participation in electoral processes, public institutions, and democratic deliberation. The analysis demonstrates that existing judicial interventions, while salutary, have not resolved the systemic deficiencies that render disability a persistent marker of democratic marginalisation. The article concludes with legally grounded recommendations directed at achieving substantive rather than merely formal citizenship for persons with disabilities in India.

Keywords: Disability rights; substantive equality; democratic participation; constitutional morality; Rights of Persons with Disabilities Act 2016; UNCRPD; inclusive citizenship.

I. INTRODUCTION

Every constitutional democracy rests on a foundational compact: that those who are governed shall have a meaningful voice in the processes of governance. The Preamble to the Constitution of India secures to all citizens 'equality of status and of opportunity' and resolves to promote 'fraternity assuring the dignity of the individual.'¹ This language is not merely aspirational. It imposes a structural obligation on the State to ensure that the institutions through which citizens exercise political power are genuinely open to all, irrespective of physical or mental capacity.

For persons with disabilities, however, this compact has remained largely unfulfilled. Article 29 of the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD) guarantees the right to participate in political and public life on an equal basis with others.² India ratified the UNCRPD in 2007 and subsequently enacted the Rights of Persons with Disabilities Act 2016 (RPWD Act), signalling a legislative shift from a welfare model to a rights-based framework. Yet according to the 2011 Census, approximately 26.8 million persons—constituting 2.21 per cent of India's population—live with some form of disability.³ Of these, studies consistently reveal staggeringly low rates of electoral participation, near-absent representation in legislative bodies, and chronic exclusion from public deliberative processes.⁴

This oft-cited figure is itself an increasingly unreliable basis for policy planning. The Ministry of Social Justice and Empowerment continues to rely on the twelve-year-old 2011 Census count even though barely ninety-four lakh Unique Disability Identity Cards had been issued nationally by 2023, against a projected population more than double that number, and the repeated postponement of the decennial Census has left policymakers without updated figures. A State that cannot accurately count its disabled citizens is correspondingly ill-equipped to plan for their meaningful inclusion in democratic life.⁵

This article introduces the concept of the 'invisible citizen' to describe a legal subject who possesses formal citizenship but is rendered structurally invisible by barriers that prevent the exercise of political agency. The article's central argument is that the constitutional promise of equal citizenship cannot be realised through formal legal recognition alone. It demands what this article calls 'democratic accessibility'—the redesign of political institutions to eliminate the structural conditions that produce invisibility. The research question motivating this inquiry is: to what extent has India's constitutional and legislative framework succeeded in guaranteeing substantive democratic participation for persons with disabilities, and what

¹ 1. Constitution of India 1950, Preamble.

² 2. UNCRPD, art 29 (opened for signature 13 December 2006, 2515 UNTS 3, entered into force 3 May 2008).

³ 3. Census of India 2011, 'Disabled Population' (Office of the Registrar General & Census Commissioner, India 2013).

⁴ 4. Election Commission of India, 'Accessible Elections' Report (ECI, 2019) 7.

⁵ 5 The Wire Staff, 'Outdated Census Data Depriving Persons With Disabilities Access to Schemes, Grants' (The Wire, 28 July 2023).

structural reforms are necessary to close the gap between constitutional promise and practical reality?

II. CONCEPTUAL FOUNDATIONS

A. Formal and Substantive Citizenship

TH Marshall's seminal tripartite account of citizenship distinguished civil, political, and social rights as sequentially achieved dimensions of full membership in a political community.⁶ For Marshall, citizenship was not merely a legal status but a mode of belonging that carried substantive entitlements. Contemporary scholars have deepened this framework. Kymlicka and Norman observe that citizenship theory must go beyond formal status to examine whether individuals possess the actual capacities to participate meaningfully in common political life.⁷ Shachar and her collaborators similarly distinguish between citizenship as 'status' and citizenship as 'practice'—a distinction of particular salience for persons with disabilities, for whom legal status frequently fails to translate into political practice.⁸

The distinction between formal and substantive citizenship is not merely academic. Formal citizenship grants the legal bundle of rights; substantive citizenship ensures the conditions under which those rights can actually be exercised. Marshall recognised that social citizenship—the right to share in the social heritage and live the life of a civilised being—was a precondition for the meaningful exercise of political rights.⁹ Iris Marion Young extended this insight by arguing that democratic inclusion requires not only the formal right to participate but also the institutional structures that make participation a realistic possibility for historically marginalised groups.¹⁰ For persons with disabilities, the inaccessibility of polling booths, the unavailability of assistive formats for public documents, and the physical design of parliamentary buildings are not peripheral concerns—they are the precise mechanisms through which formal citizenship is converted into substantive invisibility.

B. Medical versus Social Models of Disability

The theoretical framework through which disability is understood has profound implications for constitutional analysis. The medical model, which dominated twentieth-century policy, locates disability in the individual's impairment and regards accommodation as an act of charity extended by the able-bodied majority.¹¹ Under this framework, the appropriate institutional

⁶5. TH Marshall, *Citizenship and Social Class* (Cambridge University Press 1950) 10–11.

⁷6. Will Kymlicka and Wayne Norman, 'Return of the Citizen: A Survey of Recent Work on Citizenship Theory' (1994) 104 *Ethics* 352, 354.

⁸7. Ayelet Shachar and others (eds), *The Oxford Handbook of Citizenship* (Oxford University Press 2017) 5.

⁹8. Marshall (n 5) 28.

¹⁰9. Iris Marion Young, *Inclusion and Democracy* (Oxford University Press 2000) 17–19.

¹¹10. Anita Silvers, 'Formal Justice' in Anita Silvers, David Wasserman and Mary Briody Mahowald (eds), *Disability, Difference, Discrimination* (Rowman & Littlefield 1998) 13.

response is welfare provision rather than rights recognition—a logic that permeated India's pre-2016 legislative architecture, including the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act 1995.

The social model, developed principally by disability studies scholars including Oliver, reframes disability as the product not of individual impairment but of social arrangements that fail to accommodate human diversity.¹² Barnes articulated this insight with particular clarity: it is society, not the disabled individual, that disables.¹³ Oliver subsequently refined the social model to emphasise that disabling barriers are not natural features of the world but political choices—choices that can, and ought to, be reversed through legislative and constitutional intervention.¹⁴

The UNCRPD formally adopts the social model, recognising that disability 'results from the interaction between persons with impairments and attitudinal and environmental barriers that hinders their full and effective participation in society on an equal basis with others.'¹⁵ This shift has critical constitutional implications. If disability is a social phenomenon rather than a natural one, the Constitution's equality guarantee is engaged whenever the State maintains or permits the continuation of disabling barriers. Kayess and French argue that the UNCRPD's adoption of the human rights model 'represents a fundamental reconceptualisation of disability'—one that demands constitutional systems treat inaccessibility as a form of discrimination rather than a natural limitation.¹⁶

III. CONSTITUTIONAL FRAMEWORK

A. Articles 14, 15, 19 and 21

Article 14 of the Constitution guarantees to every person equality before the law and the equal protection of the laws.¹⁷ The Supreme Court's evolution of Article 14 doctrine from formal equality to substantive equality is critical to any disability analysis. In *EP Royappa v State of Tamil Nadu*, the Court held that equality is 'a dynamic concept with many aspects and dimensions' and cannot be 'cribbed, cabined and confined' within the narrow confines of like treatment.¹⁸ Justice Chandrachud, in his landmark concurrence in *Navtej Singh Johar v Union of India*, articulated the doctrine of substantive equality as requiring the Court to attend to the 'historical context of disadvantage' that shapes structural exclusion.¹⁹ Applied to disability, Article 14 mandates not merely that persons with disabilities be treated identically to others,

¹²11. Michael Oliver, *Understanding Disability: From Theory to Practice* (2nd edn, Palgrave Macmillan 2009) 44.

¹³12. Colin Barnes, 'Disabled People in Britain and Discrimination' (Hurst & Company 1991) 2.

¹⁴13. Mike Oliver, 'The Social Model of Disability: Thirty Years On' (2013) 28 *Disability & Society* 1024, 1025.

¹⁵14. UNCRPD, Preamble, recital (e).

¹⁶15. Rosemary Kayess and Phillip French, 'Out of Darkness into Light? Introducing the Convention on the Rights of Persons with Disabilities' (2008) 8 *Human Rights Law Review* 1, 9.

¹⁷16. Constitution of India 1950, art 14.

¹⁸17. *EP Royappa v State of Tamil Nadu* AIR 1974 SC 555 (Supreme Court of India).

¹⁹18. *Navtej Singh Johar v Union of India* (2018) 10 SCC 1 (Supreme Court of India) [168] (Chandrachud J).

but that the State take affirmative steps to remove the conditions that render identical treatment meaningfully unequal.

Article 15 prohibits discrimination on grounds that include, by judicial construction and legislative extension, disability.²⁰ Article 15(2) prohibits denial of access to public places—a provision of immediate relevance to inaccessible polling stations, government offices, and legislative buildings.²¹ In *National Legal Services Authority v Union of India*, the Supreme Court interpreted Articles 14 and 15 to extend their non-discrimination guarantee beyond the enumerated grounds, confirming that constitutional equality is not a closed category but a living principle responsive to new forms of marginalisation.²²

Articles 19(1)(a), (b), and (c), which protect freedom of speech and expression, peaceful assembly, and association,²³ are rendered hollow for persons who cannot physically access the forums in which such freedoms are exercised, or who lack access to assistive formats for public communication. The right to vote, though not expressly enumerated in Part III, has been recognised as integral to the democratic fabric of the Constitution and must be read as encompassed within the general framework of political rights.

Article 21 is the Constitution's most capacious guarantee of individual liberty. The Supreme Court held in *Francis Coralie Mullin v Administrator, Union Territory of Delhi* that the right to life encompasses 'the right to live with basic human dignity.'²⁴ In *Maneka Gandhi v Union of India*, the Court established that the procedure depriving a person of life or personal liberty must satisfy the requirements of reasonableness and fairness.²⁵ The cumulative effect of these interpretations is that a State which maintains inaccessible democratic institutions does not merely inconvenience persons with disabilities—it denies them a dimension of the dignified life that Article 21 guarantees.

B. Directive Principles and Constitutional Morality

Articles 41 and 46 of the Directive Principles of State Policy require the State to make effective provision for securing the right to work and public assistance in cases of disablement and to promote the educational and economic interests of weaker sections.^{26,27} These provisions, though not individually enforceable, inform the interpretation of fundamental rights. The concept of 'constitutional morality,' developed by Justice Chandrachud, describes a commitment to substantive ideals of equality, dignity, and inclusion that transcends the

²⁰19. Constitution of India 1950, art 15(1).

²¹20. Constitution of India 1950, art 15(2).

²²21. *National Legal Services Authority v Union of India* (2014) 5 SCC 438 (Supreme Court of India) [19].

²³22. Constitution of India 1950, art 19(1)(a), (b), (c).

²⁴24. *Francis Coralie Mullin v Administrator, Union Territory of Delhi* AIR 1981 SC 746 (Supreme Court of India) [8].

²⁵25. *Maneka Gandhi v Union of India* AIR 1978 SC 597 (Supreme Court of India) [56] (Bhagwati J).

²⁶28. Constitution of India 1950, art 41.

²⁷29. Constitution of India 1950, art 46.

preferences of dominant social majorities.²⁸ Constitutional morality demands that the State actively dismantle structural hierarchies—including those that produce the invisible citizenship of persons with disabilities—rather than passively maintaining their surface-level legal equality.

IV. DISABILITY AND DEMOCRATIC PARTICIPATION IN INDIA

A. Electoral Participation

The right to vote is the most immediate expression of political citizenship. The RPWD Act, 2016 includes provisions intended to ensure accessible electoral participation.²⁹ The Election Commission of India (ECI) has issued accessibility guidelines requiring, inter alia, ramps at polling stations, Braille-enabled electoral rolls, and priority queuing for voters with disabilities.³⁰ In *People's Union for Civil Liberties v Union of India*, the Supreme Court recognised the right to vote as a constitutional right, enforceable against arbitrary restrictions.³¹

The 2024 general election marked a significant scale-up of these commitments. The Election Commission reported that 88.4 lakh voters with disabilities were registered for the Lok Sabha elections that year, compared to 62.63 lakh in 2019, and for the first time extended its 'vote from home' postal ballot facility on a pan-India basis to electors with a benchmark disability of forty per cent or more. Even so, commentators have cautioned that the growth in registered numbers may reflect improved enumeration rather than a genuine expansion of the underlying disabled population, since the 2011 Census figure on which such planning still rests is now widely considered a substantial underestimate.³²

The practical reality, however, exposes a profound gap between normative commitment and institutional delivery. ECI data indicates that a significant proportion of polling stations across India remain inaccessible—lacking ramps, adequate lighting for visually impaired voters, or trained personnel to assist voters with disabilities.³³ Electoral materials are rarely available in accessible formats such as audio or easy-read versions, effectively excluding persons with visual impairments or intellectual disabilities from independent participation. Postal ballot provisions for persons with disabilities under electoral law,³⁴ though an improvement on the prior statutory framework,³⁵ remain under-utilised due to inadequate awareness among both

²⁸30. DY Chandrachud, 'Constitutional Morality and the Common Good' (2020) 32 *National Law School of India Review* 1, 8.

²⁹31. Rights of Persons with Disabilities Act 2016 (India), s 11.

³⁰32. Election Commission of India, 'Guidelines for Accessible Elections' (ECI 2020) 14.

³¹33. *People's Union for Civil Liberties v Union of India* (2003) 4 SCC 399 (Supreme Court of India) [6].

³² Sweekruthi K, 'Beyond the Elections: Disability and Political Representation' (Deccan Herald, 30 March 2024).

³³34. Election Commission of India (n 4) 22.

³⁴Representation of the People Act 1951 (India), s 60(c); Conduct of Election Rules 1961 (India), r 27A.

³⁵Conduct of Election Rules 1961 (India), r 27A, as inserted by the Conduct of Election (Amendment) Rules 2019 and expanded by the Conduct of Election (Amendment) Rules 2020; see also 'Elections 2024: How Can People With Disabilities Vote From Home in India' (The Better India, 12 April 2024).

electoral officials and voters with disabilities themselves.³⁶ Ground reporting from the 2024 elections corroborates this gap between guideline and practice. Journalists documented polling booths where temporary wooden ramps, sometimes no more than loose plywood planks, were assembled only once a wheelchair user arrived to vote, and electronic voting machines positioned above the recommended height for wheelchair access, so that at least one voter reported being unable to reach the button for her intended candidate and instead cast her vote for whichever candidate she could physically reach. Such accounts suggest that formal accessibility guidelines have not yet been translated into a uniformly enforced operational standard at the level of the individual polling booth.³⁷

B. Political Representation and Institutional Participation

Representative democracy requires not merely that voters participate but that those who govern reflect the diversity of those they govern. The Inter-Parliamentary Union has documented that persons with disabilities remain 'heavily under-represented in parliaments around the world.'³⁸ India presents no exception to this pattern. No dedicated constitutional reservation exists for persons with disabilities in legislative bodies, and the absence of comprehensive disaggregated data makes it impossible to accurately assess the extent of their representation. This epistemic gap is itself a governance failure—a State that cannot measure the exclusion of its citizens cannot effectively address it.

Beyond formal legislative representation, persons with disabilities face systemic exclusion from public consultations and participatory processes. Draft legislation, policy papers, and regulatory frameworks are routinely published without accessible alternatives, precluding the meaningful engagement of persons with visual, hearing, or cognitive impairments. The consequences of this narrow consultative practice were apparent in 2020, when the Ministry of Social Justice and Empowerment wrote to only seven disability organisations proposing to dilute the RPWD Act's penal provisions, without any wider public consultation; the proposal was withdrawn within a week after disability rights groups across the country organised under the hashtag 'SaveTheRPDA' to protest the lack of transparency. The episode illustrates both the narrowness of the government's default engagement with the disability sector and the corrective capacity of organised advocacy when belatedly given a voice.³⁹ The physical architecture of Parliament, state legislatures, and government buildings frequently fails to meet even the minimum accessibility standards prescribed by the RPWD Act.

C. Digital Governance and Technological Accessibility

The accelerating shift toward digital governance introduces a new dimension of democratic exclusion. Government websites, public services, and official communications increasingly occur exclusively through digital channels. The RPWD Act requires public websites to

³⁶37. National Electoral Roll Purification and Authentication Programme, Report of the Standing Committee on Personnel, Public Grievances, Law and Justice (Lok Sabha, 2014) 34.

³⁷ 'Democracy Denied: Disabled Voters Face Barriers in India's Polling Process' (Disability Justice Project, 28 July 2024).

³⁸38. Inter-Parliamentary Union, 'Persons with Disabilities in Parliament' (IPU 2016) 5.

³⁹ 'India's Disability Sector Wins, as Government Drops Proposal to Amend Disability Act' (Disability Insider, 9 July 2020).

conform to accessibility standards,⁴⁰ and Section 40 of the Act mandates the framing of accessibility rules by the Central Government.⁴¹ Yet a 2022 audit by the Ministry of Electronics and Information Technology found that the majority of government websites did not comply with the Web Content Accessibility Guidelines (WCAG) standards, rendering them effectively unusable for persons with visual or cognitive disabilities.⁴² Independent assessments conducted around the same period reached similarly critical conclusions, finding that government websites frequently failed even basic screen reader compatibility and that many continued to host non-searchable PDF documents lacking optical character recognition, rendering them unreadable by assistive technology despite formal claims of compliance with the Guidelines for Indian Government Websites. The persistence of this gap between declared compliance and actual usability suggests that the accessibility problem is one of inadequate testing and enforcement, not merely unclear standards.⁴³ When democratic participation migrates to inaccessible digital platforms, technological exclusion becomes a form of constitutional exclusion.

V. RIGHTS OF PERSONS WITH DISABILITIES ACT, 2016

A. Transformation from Welfare to Rights

The RPWD Act 2016 represents the most significant legislative development in Indian disability law in two decades. Its predecessor, the 1995 Act, was premised on a medical-welfare model that conceptualised disability as personal deficit to be ameliorated through State charity. The RPWD Act displaces this framework, adopting a rights-based approach consistent with the UNCRPD. Section 3(1) of the Act declares that the government shall ensure that persons with disabilities enjoy the right to equality, life with dignity, and respect for integrity.⁴⁴

The Act introduces the concept of 'reasonable accommodation'—defined in Section 2(y) as 'necessary and appropriate modification and adjustments, without imposing a disproportionate or undue burden, to ensure that persons with disabilities enjoy rights on an equal basis with others.'⁴⁵ The reasonable accommodation standard marks a decisive departure from the formal equality model, recognising that equal treatment of unequals produces substantive inequality, and that genuine equality may require differentiated treatment. The constitutional significance of this provision is considerable: it operationalises the substantive equality doctrine within the disability context, providing a justiciable standard against which State conduct can be measured.

⁴⁰41. Rights of Persons with Disabilities Act 2016, s 42.

⁴¹42. Rights of Persons with Disabilities Act 2016, s 40.

⁴²54. Ministry of Electronics and Information Technology, 'Digital India Accessibility Report' (MEITY 2022) 11.

⁴³ Shashank Pandey, 'Few Indian Websites Are Technically Accessible to Disabled People, Despite the Law Requiring This' (Scroll.in, 4 November 2022).

⁴⁴39. Rights of Persons with Disabilities Act 2016, s 3(1).

⁴⁵43. Rights of Persons with Disabilities Act 2016, s 2(y).

B. Critical Assessment of Implementation

Despite its legislative sophistication, the RPWD Act's implementation record has been deeply disappointing. The Ministry of Social Justice and Empowerment's Annual Report for 2022–23 acknowledges persistent delays in the framing of subordinate rules, incomplete establishment of district-level disability rights offices, and chronic under-funding of the National Trust and associated institutions.⁴⁶ The Standing Committee on Social Justice and Empowerment found in 2021 that the majority of States had not completed disability assessment surveys, that accessible infrastructure targets remained substantially unmet, and that complaint mechanisms under the Act were largely non-functional.⁴⁷ There are, however, indications of more assertive enforcement in the years since. In August 2024 the Court of the Chief Commissioner for Persons with Disabilities issued notices to over 140 government and private entities for non-compliance with accessibility standards, and by October 2024 had imposed monetary penalties on 155 establishments, including several central government ministries, for failing to make their digital platforms accessible. While welcome, the modest scale of these penalties relative to the non-compliance documented in the Ministry's own reporting suggests that enforcement remains at an early and largely symbolic stage.⁴⁸

This implementation deficit is not merely an administrative failing—it is a constitutional failure. A rights framework that exists primarily on paper fulfils neither the legislative intent of the RPWD Act nor the constitutional mandate of substantive equality. The gap between statutory entitlement and lived experience is precisely the kind of structural injustice that constitutional morality demands the State actively remedy.

VI. JUDICIAL CONTRIBUTION

A. Jeeja Ghosh v Union of India (2016)

Jeeja Ghosh v Union of India is the Supreme Court's most comprehensive statement on the constitutional dimensions of disability discrimination. The petitioner, a disability rights activist with cerebral palsy, was offloaded from an aircraft by SpiceJet on the ground that she could not travel without a companion. The Court, per Justice Lokur, held that her removal violated her fundamental rights under Articles 14 and 21.⁴⁹

The practical afterlife of the judgment illustrates both its significance and its limits. Years after the ruling, reports indicated that airport security personnel continued to ask passengers with prosthetic limbs or calipers to remove them during screening, prompting the petitioner to seek further judicial intervention to secure compliance with the dignity-based standard the Court had articulated. This pattern, in which a landmark ruling requires sustained follow-up litigation to achieve operational effect, recurs across the disability jurisprudence discussed in this Part

⁴⁶44. Ministry of Social Justice and Empowerment, Annual Report 2022–23 (Government of India 2023) 62.

⁴⁷45. Standing Committee on Social Justice and Empowerment, 'Review of Implementation of Rights of Persons with Disabilities Act 2016' (Lok Sabha Secretariat 2021) 19.

⁴⁸48. 'How the Rights of Persons with Disabilities Act (RPWD) Impacts Digital Accessibility in India' (Deque Systems, 2024).

⁴⁹46. Jeeja Ghosh (n 26) [22]–[23].

and underscores the limits of relying on individual litigation as the primary mechanism of structural reform.⁵⁰

The judgment's constitutional significance lies in its explicit adoption of the social model of disability. The Court held that discrimination against persons with disabilities 'is not merely a welfare concern but is a matter of human rights and constitutional guarantees.'⁵¹ It further held that the right to live with dignity, guaranteed under Article 21, encompasses the right to be free from the humiliation and stigma attached to arbitrary exclusion on grounds of disability.⁵² The Court's direction that civil aviation regulations be reformulated to incorporate accessibility standards demonstrates the judicial recognition that systemic accessibility reform, not mere individual remediation, is the appropriate constitutional response to disability discrimination.

B. Vikash Kumar v Union Public Service Commission (2021)

Vikash Kumar v UPSC addressed whether a candidate with writer's cramp, a recognised disability under the RPWD Act, was entitled to a scribe in UPSC examinations. The UPSC's refusal to grant this accommodation was challenged as violating the reasonable accommodation guarantee and the principle of substantive equality.⁵³

Justice Chandrachud's judgment is analytically significant for its sustained engagement with the constitutional foundations of reasonable accommodation. The Court held that reasonable accommodation is 'not a special privilege' but 'an aspect of substantive equality'—an obligation that flows directly from Article 14 and the RPWD Act.⁵⁴ The judgment draws explicitly on the UNCRPD's framework and situates the denial of reasonable accommodation within the broader discourse of structural inequality. Critically, the Court rejected the argument that uniform rules applied to all candidates satisfied the equality guarantee, recognising that facially neutral rules can be substantively discriminatory when applied to persons whose circumstances make compliance disproportionately burdensome.

C. Rajive Raturi v Union of India (2018)

Rajive Raturi v Union of India addressed the systemic inaccessibility of public spaces to persons with visual impairments. The petitioner, a blind advocate, challenged the failure of government authorities to implement accessibility features—including tactile paths, audio signals at traffic crossings, and accessible signage—mandated by law.⁵⁵

The Court's judgment is significant for its structural remedial approach. Refusing to confine itself to the individual grievance before it, the Supreme Court issued comprehensive directions

⁵⁰ Rohitha Naraharisetty, 'People With Disabilities Shouldn't Be Asked to Remove Prosthetic Limbs at Airport Security: SC' (The Swaddle, 3 December 2021).

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⁵²47. Jeeja Ghosh (n 26) [30].

⁵³48. Vikash Kumar (n 27) [60].

⁵⁴49. Vikash Kumar (n 27) [48].

⁵⁵50. Rajive Raturi v Union of India (2018) 2 SCC 413 (Supreme Court of India) [14].

to the Central and State Governments to ensure that public infrastructure, transport, and government buildings comply with accessibility standards within a defined timeframe.⁵⁶ The Delhi High Court's subsequent order in *Disabled Rights Group v Union of India* extended this approach to the digital domain, directing that government websites be rendered WCAG-compliant.⁵⁷ Together, these decisions establish a judicial architecture for accessibility enforcement that is structural rather than atomistic—recognising that disability exclusion is a systemic problem requiring systemic remediation.

VII. WHY PERSONS WITH DISABILITIES CONTINUE TO REMAIN INVISIBLE CITIZENS

A. Physical and Institutional Barriers

Despite the RPWD Act's accessibility mandates and the judicial directions in *Rajive Raturi*, the built environment of Indian democratic life remains substantially inaccessible. Polling stations occupy premises—school buildings, village halls, temples—that were designed without accessibility considerations. Government offices lack functional ramps, accessible toilets, and height-appropriate service counters. Legislative buildings present architectural barriers that effectively prevent persons with mobility impairments from attending as visitors, let alone serving as members. Official monitoring confirms that this is not merely an impression but a measurable shortfall. Retrofitting of public buildings and transport infrastructure for accessibility, originally required to be completed by June 2022 under the RPWD Act's implementing rules, had its deadline extended to March 2024; yet a September 2023 audit by the Parliamentary Standing Committee on Social Justice and Empowerment found that less than twenty per cent of this retrofitting work had actually been completed in the States and Union Territories that had received central funding for the purpose.⁵⁸

UNCRPD Article 9 requires States to identify and eliminate obstacles and barriers to accessibility in all aspects of public life.⁵⁹ India's failure to implement this obligation in the democratic sphere is not a technical matter of building standards but a constitutional matter of equal citizenship. When the physical design of democratic institutions communicates—through omission—that persons with disabilities are not expected participants, it reproduces the social model's insight: it is society, not the individual, that disables.

B. Technological and Attitudinal Barriers

Technological inaccessibility compounds physical barriers. A 2022 government audit found that fewer than 10 per cent of government websites fully complied with accessibility standards.⁶⁰ As public services, electoral registration, grievance redressal, and policy

⁵⁶51. *Rajive Raturi* (n 50) [18]–[19].

⁵⁷52. *Disabled Rights Group v Union of India* WP(C) 7698/2017 (Delhi High Court, order dated 8 March 2019).

⁵⁸58. 'Democracy Denied: Disabled Voters Face Barriers in India's Polling Process' (Disability Justice Project, 28 July 2024).

⁵⁹53. UNCRPD, art 9.

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consultations move online, technological inaccessibility converts into civic exclusion. The World Bank has noted that digital exclusion disproportionately affects persons with disabilities and reinforces existing patterns of marginalisation.⁶¹ These attitudinal barriers carry measurable economic consequences that reinforce the exclusion under discussion. A 2025 assessment found that the labour force participation rate for persons with disabilities in India stood at approximately thirty-six per cent, compared to roughly sixty per cent for persons without disabilities, with the gap markedly more pronounced for women: only twenty-three per cent of women with disabilities were in employment, compared to forty-seven per cent of men with disabilities. Such disparities are rarely attributable to individual incapacity alone; they reflect the same combination of inaccessible infrastructure and unexamined stereotype that this article identifies as principal drivers of democratic exclusion.⁶²

Perhaps the most intractable barrier is attitudinal. The UNCRPD Committee has observed that stereotypes and stigma regarding the capacity of persons with disabilities to participate in public life constitute a pervasive source of discrimination that law alone cannot address.⁶³ Electoral officials who do not know how to assist voters with disabilities, legislators who do not consult disability organisations, and civil servants who regard accessibility as an unnecessary cost rather than a constitutional obligation—these attitudinal deficiencies translate directly into practical exclusion. Silvers has argued that accommodating difference requires not merely structural reform but a reconceptualisation of who counts as a normal participant in social life.⁶⁴

C. Representation and Epistemic Exclusion

The absence of persons with disabilities from legislative bodies and executive decision-making produces what might be called 'epistemic exclusion'—a condition in which the experiences, needs, and perspectives of a significant minority are systematically absent from the deliberative processes that shape law and policy. This epistemic gap is self-reinforcing: persons who are excluded from lawmaking cannot easily advocate for the legal reforms that would end their exclusion.

The Standing Committee's 2021 report noted that disability organisations are rarely consulted during the drafting of subordinate legislation under the RPWD Act, creating a situation in which disability policy is formulated without the meaningful participation of disabled persons themselves.⁶⁵ This violates not only the UNCRPD's requirement of 'nothing about us without

⁶¹55. World Bank, 'Disability Inclusion and Accountability Framework' (World Bank 2018) 9.

⁶² UNDP India, 'Advancing Workplace Inclusion for Persons with Disabilities: Multi-City Workshops to Strengthen Organizational Readiness' (UNDP 2025) 1.

⁶³56. UNCRPD Committee, 'General Comment No 6 on Equality and Non-Discrimination' UN Doc CRPD/C/GC/6 (2018) [25].

⁶⁴57. Anita Silvers, 'Reconciling Equality to Difference: Caring (f)or Justice for People Whose Difference Puts Them at Risk' (1995) 10 *Hypatia* 30, 42.

⁶⁵58. Standing Committee (n 45) 31.

us' but also the constitutional principle that democratic governance requires the genuine participation of all citizens, including those most affected by the decisions taken.

VIII. RECOMMENDATIONS AND WAY FORWARD

The structural analysis in preceding sections points toward a set of reforms that are both legally grounded and practically achievable. They are presented not as aspirational goals but as constitutional obligations.

First, the Election Commission of India should introduce binding accessibility standards for all polling stations, with mandatory compliance timelines and enforceable penalties for returning officers who permit inaccessible infrastructure to persist. The right to vote, recognised by the Supreme Court as constitutionally fundamental, demands nothing less. The postal ballot mechanism should be proactively extended and simplified for all persons with disabilities, not merely those with benchmark disabilities as currently defined by the RPWD Act.

Second, Parliament should consider the introduction of reserved constituencies or legislative seats for persons with disabilities, analogous to existing reservations for Scheduled Castes and Scheduled Tribes. The Law Commission has previously examined the constitutionality of electoral reservations for marginalised groups.⁶⁶ The democratic case for disability representation is strong: an inclusive legislature is better equipped to legislate inclusively. Emerging State-level practice offers a template that could inform such reform. In 2025 the Tamil Nadu legislature enacted amendments to its urban local bodies and panchayats legislation providing for the nomination, rather than election, of persons with disabilities to over twenty thousand local government bodies across the State, building on an earlier and more limited initiative in Chhattisgarh that had mandated at least one disabled member in every panchayat. While nomination without voting rights falls short of the electoral reservation recommended above, these initiatives demonstrate that legislative mechanisms for guaranteeing disability representation in Indian government are administratively feasible and politically achievable.⁶⁷

Third, the Ministry of Electronics and Information Technology should establish a mandatory and time-bound digital accessibility programme, requiring all Central and State government websites, mobile applications, and online public services to achieve WCAG 2.1 AA compliance within two years. Non-compliance should attract administrative and financial consequences rather than mere compliance advisories.

Fourth, the RPWD Act's reasonable accommodation framework should be extended explicitly to political participation. While the Act's general non-discrimination provisions are arguably broad enough to encompass electoral contexts, a specific provision addressing reasonable accommodation in democratic processes—covering electoral rolls, ballot papers, voting

⁶⁶59. Law Commission of India, 'Electoral Disqualifications' (Report No 244, 2014) [3.4].

⁶⁷ ETB Sivapriyan, 'Persons with Disabilities to Be Nominated to Local Bodies in Tamil Nadu; Governor Clears Bill' (Deccan Herald, 3 June 2025); 'Quota for Disabled in Panchayats' (Drishti IAS, 25 November 2019).

procedures, and parliamentary procedure—would provide greater legal certainty and a clearer basis for judicial enforcement.

Fifth, and most foundationally, the Central Government should establish a standing consultative mechanism under the RPWD Act that mandates the participation of disabled persons' organisations in the drafting of all subordinate legislation, policy documents, and constitutional amendments that affect persons with disabilities. UNCRPD Article 12's guarantee of legal capacity on an equal basis⁶⁸ requires that persons with disabilities be treated as authors of policy, not merely as its objects.

IX. CONCLUSION

India's Constitution is not merely a document that distributes rights. It is, in the words elaborated through decades of Supreme Court jurisprudence, a transformative instrument committed to dismantling the structural hierarchies that prevent the full realisation of human dignity and political equality. The constitutional promise of equal citizenship is genuine—but for the millions of persons with disabilities in India, it remains unredeemed.

The concept of the 'invisible citizen' captures a paradox that law creates but must also resolve: the person who is formally counted as a citizen but substantively excluded from citizenship's practice. The RPWD Act 2016 and the Supreme Court's disability jurisprudence—from Jeeja Ghosh to Vikash Kumar to Rajive Raturi—represent significant advances in the legal recognition of this paradox. They have not, however, resolved it. Implementation failures, attitudinal barriers, technological exclusion, and the absence of disabled voices from democratic institutions continue to reproduce the very hierarchy that the Constitution condemns.

The measure of a constitutional democracy is not the elegance of its statutory text but the lived reality of its least visible citizens. Until polling booths are genuinely accessible, government websites can be navigated by persons with visual impairments, legislative chambers include members who live with disability, and public policy is made with rather than for persons with disabilities, the constitutional promise remains only partially fulfilled.

The path from invisible to visible citizenship is neither technically complex nor constitutionally ambiguous. It requires the political will to treat disability not as a welfare problem to be managed at the margins of governance but as a constitutional question to be answered at its centre. The Constitution demands no less.

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⁶⁸60. UNCRPD, art 12.

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