

LEGAL RECOGNITION OF INVISIBLE DISABILITIES: CHALLENGES IN IMPLEMENTING RPWD ACT PROTECTIONS FOR AUTISM, LEARNING DISABILITIES, AND CHRONIC ILLNESSES

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Abstract

This research evaluates the impediments to providing legal assistance for people suffering from invisible disabilities, namely, autism spectrum disorder (ASD), specific learning disabilities (SLD), and chronic illnesses, under India's Rights of Persons with Disabilities Act, 2016 (RPWD Act). The Act heralds an advancement in rights away from prior welfare approaches, yet implementation is highly inconsistent. Inter-analyses of case laws, such as in *Vikash Kumar v. UPSC*, highlight systemic barriers such as difficulties in diagnosis, lack of awareness among certifying authorities, insufficient educational accommodations, and limited workplace adjustments. The research adopts methods, viz., a statutory analysis infused with discussion on case law and international comparisons to showcase advances made and yet shortcomings in implementation faced. The key results establish that although invisible disabilities are expressly incorporated into the RPWD Act, the intent of the Act is still thwarted by certification difficulties, stigma, needless non-utilization of employment reservations, and poor health infrastructures. Drawing comparisons with policy treatments generated for invisible disabilities abroad—the Americans with Disabilities Act (ADA) and the UK's Equality Act 2010—serves to elucidate some structural gaps in the enforcement and monitoring mechanisms in India. The article concludes that more effective enforcement of the RPWD Act would entail major policy reforms, heightened awareness by all concerned stakeholders, and an accountability system governed by some regulatory body. Strengthening diagnosis, funding inclusive education, ensuring compliance by employers, and access to healthcare would fill the gap between recognition and realization for individuals with invisible disabilities.

Keywords: Invisible Disabilities, RPWD Act 2016, Autism Spectrum Disorder, Specific Learning Disabilities, Chronic Illness, Inclusive Education, Disability Rights India

INTRODUCTION

Invisible disabilities are a different form of disabilities like generally medically proven conditions that avoid the day-to-day effect of their manifestations even on sight or make it difficult to classify them into visibly recognizable disabilities. For example, autism spectrum disorder (ASD) such as social-communication-

deficit disorder without protest and specific learning disabilities (SLD) in particular; dyslexia, affecting a person's academic performance; chronic diseases such as Multiple Sclerosis, producing long-lasting ailments. Unlike visible disabilities, these hidden disabilities lead to misunderstandings about and lack of adequate support for the victims. The SC declared in

*Vikash Kumar v. UPSC*¹³⁰⁴, disabilities must also be recognized and required to be made provisions and adjustments where it does not immediately manifest”, referring to the legal aspect. Further legal recognition of these conditions stands vital for equitable treatment of patients in their access to rights.

The RPWD Act has been enacted on December 27, 2016, to signify India’s determination to ensure disability rights as against the archaic Persons with Disabilities Act of 1995. The Act came into being because of India’s obligation as a signatory to the UN Convention on the Rights of Persons with Disabilities (UNCRPD) adopted in 2007. The purpose of making the national legislation conform to international standards is to ensure equality and non-discrimination. In *Seema Girija Lal v. Union of India*¹³⁰⁵, the Court agreed with the importance of the Act in realizing the obligations under UNCRPD and rebuked the states for poor implementation, registering ex-anno history, great importance in transforming disability rights.

The RPWD Act, 2016, is an act meant to empower the persons with disabilities, and to promote their rights, enabling full participation in society. The Act is aimed at removing barriers, ensuring equal opportunities, and providing protection against discrimination, especially in the case of persons with invisible disabilities, such as autism and chronic illnesses. The Act embodies an increasingly rights-based approach, thus departing from the welfare model laid down in the earlier Act it seeks to replace. The Supreme Court explained in the case of *Ravinder Kumar Dhariwal v. Union of India*¹³⁰⁶, that disabling conditions must have equal opportunity considerations imparted through the Act, which is an instrument that lends itself to an interpretation of substantive equality. Through an inclusive framework, the Act lays down an enabling environment for individuals with

invisible disabilities.¹³⁰⁷

The RPWD Act, 2016, brings adequate changes as it goes further by broadening the recognition from 7 disabilities to 21, which include autism, specific learning disabilities, and certain chronic illnesses such as Thalassemia and Parkinson’s. It mentions reserves in education and employment, assures accessibility, and puts in place enforcement mechanisms such as State Commissioners. Indeed, the Supreme Court in the case of *Nipun Malhotra v. Sony Pictures Films India Private Limited & Ors.*¹³⁰⁸ reiterated the fact that the representation of people with disabilities must hold an alignment with the constitutional values of dignity, equality, and non-discrimination with respect to the Rights of Persons with Disabilities Act of 2016. The Court emphasized that visual media should refrain from any stereotypical as well as demeaning portrayals and reflect the real lived experiences and different realities of persons with disabilities. This indeed moves towards important contributions in building a structured legal framework wherein disability rights in this country are represented and treated with reference to the more often neglected concerns of invisible disabilities.

UNDERSTANDING INVISIBLE DISABILITIES

Invisible disabilities, much more than those that are visible, tread heavily on the lives of people, thus requiring strong legal recognition. Autism, learning disabilities, and chronic illnesses deserve and warrant uniquely tailored protections under the RPWD Act, as each of these conditions presents a particular burden. To make any real impact through policy formulation, it is worthwhile to know the conditions and barriers they experience.¹³⁰⁹

Definition and Types

An invisible disability can be defined as a

¹³⁰⁴ IR 2021 SC 2447.

¹³⁰⁵ Writ Petition (Civil) Diary No(s). 29329/2021.

¹³⁰⁶ (2023) 2 SCC 209.

¹³⁰⁷ Understanding the Rights of People with Invisible Disabilities in India, available at: <https://www.robobionics.in/blog/understanding-the-rights-of-people-with-invisible-disabilities-in-india/> (last visited on March 12, 2025).

¹³⁰⁸ Civil Appeal No. 7230 of 2024.

¹³⁰⁹ SB Math, GS Gowda, et.al., "The Rights of Persons with Disability Act, 2016: Challenges and opportunities", 61 Indian Journal of Psychiatry S809 (2019).

condition that manifests itself in affecting the functioning of a person without any visible manifestation of the condition. The RPWD Act recognizes several such disabilities and thus includes them under the protection of law.

Autism Spectrum Disorder (ASD)

Communication and behavioral issues characterize a very complex condition termed autism spectrum disorder. It is recognized under the RPWD Act for being significantly affected.

All the symptoms and the impact of these symptoms in the various degrees brush over the challenges concerning social interactions, communication, and repeated behavior. Individuals may struggle with picking up on social cues or to make sense of sensory interference.

Specific Learning Disabilities (SLD)

Specific Learning Disabilities (SLD) refer to situations such as dyslexia that interfere with academic performance according to normal intelligence, thereby qualifying for protection under the Rights of Persons with Disabilities Act.

SLD such as dyslexia, dysgraphia, and dyscalculia inhibit one from developing certain skills—reading, writing, or related to mathematics—as they are caused by the interference of cognitive processing. SLD individuals are left out from the mainstream races of education if there are no accommodations made. The Supreme Court affirmed such rights in *Vikash Kumar v. UPSC*¹³¹⁰ when it held that a dyslexic candidate is entitled to be provided with a scribe. This case would add weight to protections for SLDs. Inclusion of SLD within the RPWD Act makes provision for assistive technologies and different pedagogies. Such recognition empowers students to take on and compete with others in their world, with regard to opportunities and arms against discrimination in educational and professional ones.

Chronic Illnesses

The chronic disabilities such as Multiple Sclerosis, Parkinson's disease, Thalassemia, Hemophilia, or Sickle Cell disease impose long-term physical or neurological impairment, are mostly not visible, incur continuous medical follow-up, and severely affect the activities of daily living. Laws that improve access to healthcare and assistance in gaining employment reduce the invisible burden burdened on people suffering from such conditions. They enable people to be included in the process of inequality, which allows one to confront one's condition while being social.

Challenges Faced by Individuals with Invisible Disabilities

Many individuals face illness to varying degrees. Those whom these conditions absolutely prevent from gaining access or who may closely injure others are also trapped into a combination of social misconceptions and institutional barriers, thus necessitating special provisions under the RPWD Act.¹³¹¹

Social Stigma

Misconceptions about this greatly stigmatized issue are seen as a huge barrier to the acceptance of real inclusion of those with invisible disabilities.

Actually, invisible disabilities may be misconstrued and thus lead to some discriminations as well as exclusions. Such people having autism or chronic illnesses are normally wittingly construed as being laziest, unmotivated, or incapable. Stigma thwarts opportunities access for continuance of isolation. The knowledge mandates of the RPWD Act try to counter such a situation, but implementation becomes a problem. The process of eliminating stigma will require public information and advocacy to create the acceptance that people with invisible disabilities are important and included in the

¹³¹⁰ (2021) 3 SCC 370.

¹³¹¹ Disability Rights: An Overview, available at: <https://nhrc.nic.in/sites/default/files/DisabilityRights.pdf> (last visited on March 4, 2025).

society as well.

Educational Barriers

According to provisions of the RPWD Act, educational barriers for students with invisible disabilities would amount to discrimination. However, these barriers severely curtail opportunities for such students.

The students suffering from Autism and SLD do not get support in enough measures like unqualified teachers and inaccessible curricula that affect their academic progress. In *Pranay Kumar Podder v. State of Uttar Pradesh*¹³¹², the Indian eminent court ordered that accommodations be made on an educational basis for a student with a learning disability based on the provisions under Section 16 of the RPWD Act. Even though provisions under the law exist, there are gaps in the implementation, with the school sector not having the human resources or knowledge towards this end. The barriers, in turn, create further exclusion for them, restricting their future options. There needs to be an augmentation of teacher training and infrastructure so that inclusive education is operational and accessible to allow students with invisible disabilities to attain maximum benefit.¹³¹³

Employment Barriers

Invisible disabilities are often accompanied by barriers to employment- such as lack of accommodations in the workplace, or even workplace bias within the organization- hindering the visibility of their employees.

People have invisible disabilities which become obstacles in getting workplace accommodations like flexible schedules for chronic illnesses or sensory adjustments for autism. Most often, bias at work is due to lack of knowledge about their needs. In *Ravinder Kumar Dhariwal v. Union of India*¹³¹⁴, the

Supreme Court ruled that reasonable accommodations would, under the RPWD Act, be borne out in favor of employment rights. Section 34's NULL reserved jobs are frequent foes because certification remains an issue. These barriers further limit economic independence. Training of employers on invisible disabilities would bring such compliance within the law and benefit of meaningful workplaces capable of rendering diverse needs' accommodated.

Healthcare Access

Invisible disabilities indeed pose a significant challenge because individuals are led into intense poverty due to the stigmatizing mental, neurological and psycho-social complications.

In rural areas, there are insufficient or nonexistent special services like autism therapies and treatment for chronic illnesses.

LEGAL FRAMEWORK IN INDIA: RPWD ACT, 2016

The Rights of Persons with Disabilities Act, 2016 (RPWD Act) is the central legislation regarding disability rights in India. It should include the rights of people with invisible disabilities like autism, learning disability, and chronic illness. Legislation goes in synchronization with international standards and provides a strong provision for equality and inclusion.

Overview of the Act

The shift in paradigms of 2016 concerning disability rights among Indian communities is in the arrangements that give importance to the empowerment of persons with disabilities so that they can be integrated into society.

Objectives of the RPWD Act

The Act of RPWD 2016 is actually to be fruitful in terms of equal opportunities, rights, and full social inclusion of all people with disabilities- invisible ones too. It is modifying ways to prove discrimination against the right to education, access to employment, and health care. The provision was reiterated by the Supreme Court speaking for the Act, which sought to work the substantive equality in terms of making

¹³¹² (2017) 13 SCC 351.

¹³¹³ The Legal Challenges Faced by People with Disabilities in India and How to Overcome Them, available at: <https://www.robotronics.in/blog/the-legal-challenges-faced-by-people-with-disabilities-in-india-and-how-to-overcome-them/> (last visited on March 16, 2025).

¹³¹⁴ (2023) 2 SCC 209.

provisions concerning disability in *Ravinder Kumar Dhariwal v. Union of India*¹³¹⁵. The act stands on inclusion, empowering individuals with autism, learning disabilities, and chronic diseases thus making it effective because it fights against systematic barriers and promotes an inclusive environment.¹³¹⁶

The definitions of the RPWD Act elucidate the understanding coverage of disabilities to include invisible disabilities so the definition is comprehensive.

A “person with disability” is defined in Section 2(s) of the RPWD Act as any person having long-term impediments of a physical, mental, intellectual, or sensory nature that hinder his or her full and effective participation in society. According to Section 2(r), “benchmark disability” means a particular disability where the degree of impairment is no less than forty percent, entitling the individual to special benefits. The Supreme Court applied these definitions in *Vikash Kumar v. UPSC*¹³¹⁷ granting an accommodation to a dyslexic candidate and thereby upholding inclusivity. These definitions guarantee inclusivity for the invisible disabilities, such as autism and chronic illness, under the protective and accommodating umbrella of the Act.

Specific Provisions for Invisible Disabilities

The Act on the Rights of Persons with Disabilities, 2016 (RPWD Act) has also included targeted provisions dealing with the needs of persons with invisible disabilities such as autism, certain learning disabilities, and chronic diseases. Such provisions accord a legal backing to recognize their rights and access necessary mechanisms to foster inclusion.¹³¹⁸

Recognized Disabilities

According to the PWDVA Schedule, the legal

system shall have to notice the invisible disabilities; this would indeed make certain bounds for the benefits and protections given to those with invisible disabilities.

The Schedule of the RPWD Act, 2016 lists 21 disabilities, including autism spectrum disorder (ASD), specific learning disabilities (SLD), and chronic illnesses like Multiple Sclerosis, Thalassemia, Hemophilia, Sickle Cell disease, and Parkinson’s disease, which were practically not included in the previous laws. This recognition gives a person the right to protection under the law and access to benefits provided by law. In *Seema Girija Lal v. Union of India*¹³¹⁹, the Supreme Court recognized the wide reach of the Act and directed all the states to adopt protections for persons with all the disabilities mentioned in the schedule. The Act adopts these invisible conditions in their specific challenges and opens up opportunities for accommodations and against discrimination in innumerable spheres of life.

Education Rights

Under Section 16 of the RPWD act, an inclusive system of education is guaranteed for persons with disabilities wherein school education is provided inclusive to persons with all kinds of disability, even the hidden ones.

All children with benchmark disabilities (not less than 40% impairment) aged 6-18 years shall be entitled to free education in inclusive settings according to Section 16 of the RPWD Act, 2016; thus, eligible ones include children with autism and SLD. The importance of accessibility and efficient trained elementary school teachers is necessary.

Employment Rights

Inclusion and Security Unit is a Directorate of the Government whose policy is to promote resource mobilization strategies for economically empowering persons with disabilities. Government reserves employment vacancies for persons with disabilities at both

¹³¹⁵ (2023) 2 SCC 209.

¹³¹⁶ Suresh Bada Math, Guru S Gowda, et.al., “The Rights of Persons with Disability Act, 2016: Challenges and opportunities”, 61 *Indian Journal of Psychiatry* 809 (2019).

¹³¹⁷ (2021) 3 SCC 370.

¹³¹⁸ The Right to Health of Persons with Disabilities in India, available at: https://slc.org.in/uploads/2018/10/Disability-report_august-2014.pdf (last visited on March 11, 2025).

¹³¹⁹ Writ Petition (Civil) Diary No(s). 29329/2021.

state and central levels.

Section 34 of the RPWD Act, 2016, clarifies that a 4% reservation in government services is available for persons with benchmark disabilities including autism, SLD, and chronic illness, as provided for persons with disabilities, with a view to increasing their economic independence.

Healthcare and Rehabilitation

The RPWD Act, 2016, under Section 25, guarantees healthcare access to persons with benchmark disabilities by ensuring free treatment. Section 27 talks about rehabilitation, education, and health initiatives. Provisions for these would assist persons with autism, specific learning disabilities, and chronic conditions in accessing therapy and medical care.¹³²⁰

Comparison with Persons with Disabilities Act, 1995

The RPWD Act thus represents a huge forward step from the PWD Act as the first one was enacted in 1995—in the sense that the act went long into addressing the issues of invisible disabilities like that of autism, specific learning disabilities, and chronic illnesses.

Disability Expansion

The expansion of recognized disabilities in RPWD Act really is a major step and much advanced against the PWD Act by offering protection to invisible disabilities.

The RPWD Act of 2016 expands the recognition of disabilities from seven in the PWD Act of 1995 to 21; this includes certain invisible disabilities such as autism spectrum disorder (ASD), specific learning disabilities (SLD), or even chronic illnesses like Multiple Sclerosis and Thalassemia. Such broadening of definitions works in favor of protecting a larger population in law. The Supreme Court in *Seema Girija Lal v. Union of India*¹³²¹ was in agreement with the inclusive nature of the RPWD Act in stark

contrast to the limited coverage of the PWD Act. These new recognitions serve the various needs created by the RPWD Act for access to education, employment, and health-care accommodation, thereby a substantial step toward inclusion for persons with invisible disabilities.

Approach Shift

Compared, the rights-based nature of RPWD Act stands out clearly, as the welfare-based PWD Act placed empowerment on a higher pedestal.

The true legal entrenchments of the RPWD Act, 2016 are totally different from that of the PWD Act, 1995, which was generally a welfare and charity oriented legislation. Such a change reflects the UNCRPD. While considering the case of *Ravinder Kumar Dhariwal v. Union of India*¹³²², the Supreme Court was of the view that the RPWD Act had laid down the substantive equality which means right to accommodation in case of disabilities. Individuals having invisible disabilities are now protected under the models of rights. Rights-based model will provide legal entitlements to promote independence while addressing with systemic barriers, as much an upgrade from the paternalistic model of the PWD Act.¹³²³

CHALLENGES IN IMPLEMENTING RPWD ACT FOR INVISIBLE DISABILITIES

'Beneath the nice talk of the Rights of Persons with Disabilities Act, India's RPWD Act, more serious issues stem from the implementation of provisions as they apply to certain invisible disabilities like autism, SLD, and chronic ailments such as identification itself, education, work, health care, or social integration. Thus, those very challenges have rendered futile the purpose of the Act.

Identification and Certification

The first important thing is to actually identify

¹³²⁰ Avinash Vitthalrao Aneraye, Sunil Kumar Shirpurkar, "Review of Indian Legislation for Persons with Disabilities", 9 *International Education & Research Journal* 58 (2023).

¹³²¹ Writ Petition (Civil) Diary No(s). 29329/2021.

¹³²² (2023) 2 SCC 209.

¹³²³ Alecia M Santuzzi, Pamela Waltz, et.al., "Invisible Disabilities: Unique Challenges for Employees and Organizations", 7 *Industrial and Organizational Psychology* 58 (2014).

and certify invisible disability in order to obtain benefits enshrined in the RPWD Act. However, related systemic issues are still there.

Diagnostic Challenges

Diagnosing hidden disabilities is complicated by their multifaceted and intangible nature.

Invisible disabilities like autism and chronic illnesses do not have diagnostic standards. This makes their certification cumbersome under the RPD Act. Different symptoms and subjective evaluations can delay or deny. In *Vikash Kumar v. UPSC*¹³²⁴, the Supreme Court addressed the diagnostic uncertainty surrounding dyslexia, awarding accommodations irrespective of the certification controversies. Thus, there is an urgent need for a good set of guidelines for accurate diagnosis. Without clear-cut procedures, it is extremely difficult for physically invisible disabled persons to obtain legal sanction and therefore the gaps in ensuring education, employment, and healthcare for them expand further.

Awareness Gaps

The lack of exposure, by medical personnel and other authorities, obstructed the successful accreditation of hidden disabilities.

There is usually no training on invisible disabilities for medical professionals and certifying authorities. This eventually results in misdiagnosis and under-recognition of conditions like SLD and Multiple Sclerosis. Such awareness gaps puncture the implementation of the RPWD Act. The Supreme Court castigated the state-level mechanism of issuance of disability certificates that involve untrained personnel, as seen by this statement in *Seema Girija Lal v. Union of India*¹³²⁵. There is a dire need for enhancing training programs to make up for gaps in keeping assessments accurate. This means that individuals will have difficulties in obtaining anti-ridiculousness certificates, further limiting the range of entitlements under the RPWD Act and institutionalizing inequality in

rights realization.

Access to Education

Over 200,000 children with invisible disabilities have faced a constant struggle to gain access to education, even with the RPWD Act on their side.

Inclusive Policies

Inclusive education under Section 16 of the RPWD Act is still a struggle due to implementation challenges.

Section 16 mandates inclusive education for children with benchmark disabilities, including autism and specific learning disabilities (SLDs). However, schools hardly ever comply with the mandate due to resource constraints and the absence of appropriate policies. The vision of the Act does not translate into equal education through very poor enforcement and inadequate infrastructure. These problems can only be solved by vigorous monitoring and funding geared toward ensuring that schools are able to provide accessible environments for invisible disabilities so that such learners can thrive at school both academically and socially.

Support Gaps

Without adequate supporting systems such as teacher training combined with proper, essential resources, students with invisible disabilities will have their learning potential significantly limited.

Students with autism and SLD need that particularly trained teachers to help in learning along with appropriate assistive technologies; however, such provisions are not in schools. The vacuum, hence, nullifies the directives under Section 16. A pointer towards the huge shortfall in the support was the Supreme Court case of *Pranay Kumar Podder v. State of Uttar Pradesh*¹³²⁶, wherein provision of assistance to a certain student with learning disability was involved. Low levels of teacher training and funding create barriers to inclusion, thereby undermining such adaptations as individualized

¹³²⁴ (2021) 3 SCC 370.

¹³²⁵ Writ Petition (Civil) Diary No(s). 29329/2021.

¹³²⁶ (2017) 13 SCC 351.

education plans. Hence, resourcing and professional development are critical in narrowing the gaps so that students with hidden disabilities can be supported for their academic success and full inclusion in education.

Employment Opportunities

Policies are lack-of-returns-legs that in turn hinder a rare chance for people with invisible disabilities by way of sheer ignorance, precluding them from owning complete rights guaranteed by competitive legislation.

Policies are shortages undercurrents-unconsumed pillars-toward opportunity for individuals with invisible disability given the sheer void of awareness also to pre-empt full-rights ownership under existing legislation.

Reservation Policies

Limited economic inclusion is another noticeable representation that the implementation of Article 34 is restricted, as very many people with invisible disabilities are not identified.

This section includes a 4% reservation in government jobs for persons with benchmark disabilities, among them autism and chronic sickness. Reservation under this section is rarely invoked on account of the challenge of certification and lack of awareness of employers. The underutilization constrains economic empowerment. Adequate awareness initiatives and streamlined certifications should be put in place to benefit reservations for invisible disabilities and enhance workplace inclusion and economic independence.

Accommodations

The providers of the test reported an issue that, despite many requests, employers remain in the dark about accommodating individuals with invisible disabilities as per RPWD.

Here are some points that reveal the failure of most employers in allowing various accommodations such as flexible work timings due to chronic illnesses, sensory adjustments

for autism, etc. It all stems from ignorance towards invisible disabilities. This leads to a contravention of the extension on reasonable accommodation as stated in the RPWD Act. The Supreme Court in *Ravinder Kumar Dhariwal v. Union of India*¹³²⁷ re-emphasized the need for workplace adjustments for equal entitlements. The bias is much shriller due to a lack of training and policy enforcement, resulting in lesser career opportunities. Therefore, the employers need to be educated and compliance mechanisms instituted to create workplaces that resonate with the Act's visions for inclusion so that they can effectively contribute to the entire workforce, including persons who suffer from invisible disabilities.

Healthcare and Support Services

Any assemblance of healthcare and support services for invisible disabilities is largely found missing, thus limiting the value of the RPWD Act.

Service Availability

Therapists for autism and rehabilitation centers for chronic illnesses are few and far between, especially in rural areas, in violation of Section 25's healthcare requirements; this gap is a further impediment in the management of disabilities.

Financial Support

Invisibly disabled individuals are burdened by the inadequate financial coverage, including insurance.

Treatments for invisible disabilities, such as therapy for SLD or medication for Thalassemia, are expensive and comparatively poorly covered by available insurance, even in light of the provisions made for free healthcare under Section 25. In the case of *Jeeja Ghosh v. Union of India*¹³²⁸, the Supreme Court also indirectly pointed to financial barriers by emphasizing holistic support for disabilities. Family strain because of inadequate subsidies and reimbursement policies makes accessing

¹³²⁷ (2023) 2 SCC 209.

¹³²⁸ 2016 INSC 412.

essential care difficult. It is important to strengthen the financial aid through extended insurance schemes and government funding so that people with invisible disabilities can manage their invisible disabilities without economic hardship in accordance with RPWD Act objectives.

Social Inclusion and Awareness

Invisible disabilities to a person would also be hampering his inclusion into the society through social stigma and lack of awareness, over and above RPWD Act mandates for advocacy.

Public Perception

The non-observable nature of conditions like autism, SLD, and chronic disability fosters public misconceptions that the affected individuals are less able, thus perpetuating stigma. The Supreme Court in *Jeeja Ghosh v. Union of India*¹³²⁹ condemned this kind of discriminatory attitude and highlighted the dignity of persons with disabilities. Stigma limits the ability to socialize and enjoy opportunities. Awareness programs under the RPWD Act continue to remain largely unused and to that extent fail to make any impact on mindsets. Public awareness campaigns would be key to debunking myths, creating greater acceptance, and ensuring invisible disabilities are recognized and valued in line with the inclusion objectives of the Act.

Advocacy

Support from media and NGO publications is crucial to raise awareness about invisible disabilities and promote support for monitoring the RPWD Act.

The media and NGOs play a crucial role in advocating for invisible disabilities and raising awareness about RPWD Act protections. Platforms like Newz Hook highlight the challenges of persons with autism and chronic illnesses and are enforcing policies. In *Seema Girija Lal v. Union of India*¹³³⁰, the Supreme Court

recognized the force of advocacy in identifying the implementation gaps. These advocacy actions are limited in application and resource mobilization. Collaborations in advocacy among the governments, media, and NGOs are the essence of realizing the full potential of advocacy, networking, and societal change to ensure that the spirit and ethos of inclusion as viewed in RPWD Act are accomplished.

CASE LAWS AND JUDICIAL INTERPRETATIONS

Judiciary is a pillar that helps interpret and implement the Rights of Persons with Disabilities Act, 2016 (RPWD Act), particularly in cases of invisible disabilities like autism, specific learning disabilities (SLDs), and chronic illnesses. With increasing frequency, courts have started dealing with these conditions, making sense of legal obligations while also highlighting implementation challenges. This section studies select cases that have shaped the recognition and protection of rights for individuals with invisible disabilities—dimensions of both judicial activism and the struggle to match policy with practice.

Recent Case Laws

With the recent judicial pronouncements, some modicum of solution is afforded to address the unique challenges that individuals with invisible disabilities face under the RPWD Act. These cases present some of the judicial endeavors to bridge the gap in implementation providing equal access to rights and accommodations.

*Seema Girija Lal v. Union of India*¹³³¹, they have indeed gone into many areas of deficiencies and discrimination in the operation of RPWD Act across the country and focused upon the fact that there were no Commissioners or special courts. These deficiencies are especially detrimental to people with invisible disabilities, who tend to require special legal assistance. The Court has set the deadline for compliance with the Court's orders before mid-2024, which indicates the onset of structural changes. Thus, this judgment fortifies the overall framework for

¹³²⁹ 2016 INSC 412.

¹³³⁰ Writ Petition (Civil) Diary No(s). 29329/2021.

¹³³¹ Writ Petition (Civil) Diary No(s). 29329/2021.

the protection of rights under the Act, thereby ensuring that the states will look upon accessibility and justice for all disabled persons.

In *Vikash Kumar v. UPSC*¹³³², the Supreme Court of India allowed a dyslexic person to take the scribe to the Civil Services Examination under the RPWD Act. In such a ruling, the Court condemned restrictive definitions of disability through the avenue of accommodations and insisted that accommodations level the playing field. This landmark decision carries with it a widening of the scope of protections regarding SLDs so that educational and professional institutions are obliged to make reasonable adjustments for improving access and participation for persons with invisible disabilities in competitive settings.

INTERNATIONAL PERSPECTIVES

Every country has its own approach to disability rights issues. This is an analysis of the India Rights of Persons with Disabilities Act, 2016 (RPWD Act) and how things could be better. A comparative study with leading disability laws in the United States, the United Kingdom, and Australia looks at protections afforded by those countries to invisible disabilities like autism, learning disabilities, and chronic ill health. Such a comparative study may present opportunities to procure global standards and progressive driving forces which may ultimately result in strengthening the Indian legal framework.

Comparison with Other Countries

This segment is about disability laws in the United States and the United Kingdom, now also including Australia, but with a specific focus on the effect that these invisible disabilities would have on the application of the law. These inquiries will thus be instrumental to strengthening the RPWD Act for inclusive benefit among marginalized populations in India.

United States: Americans with Disabilities Act (ADA) Provides Robust Protections

Americans with Disability Act (ADA) of 1990 is an

important milestone in disability rights. This act prohibits direct discrimination, promotes equal opportunity in access to goods, and guarantees physical enforcement of rules in this regard.

ADA forbids, among others, employment discrimination against individuals with invisible disabilities, provides individuals with access to public accommodation in services, and protects the rights of people suffering from mental health issues and chronic ailments affecting major life activities. In *Sutton v. United Air Lines, Inc.*¹³³³ the U.S. Supreme Court, while dealing with the ambit of disability, held that the availability of mitigating measures (e.g. one is taking medication) should not act as a disqualification for protection. Therefore, it is an ADA requirement for employers to reasonably accommodate (for example, allow telework for those suffering from chronic illness). Enforcement of the ADA is ensured by federal agencies, while in India the state takes the lead, suggesting a pressing need to bring some degree of centralization under the RPWD Act.

United Kingdom: Equality Act 2010 Mandates Reasonable Adjustments

Legislation pertaining to Equality in the UK has been successful in consolidating its anti-discrimination statutes; the same has also mandated making arrangements to support the disabled, including those with invisible conditions.

The Equality Act of 2010 gives protection against all forms of discrimination, including direct and indirect discrimination, to persons with disabilities. It defines disabilities in terms of long-term entrapped impairments affecting daily activities. Such law requires that reasonable adjustments must be made, like extra training for dyslexic employees. In *Paulley v. FirstGroup Plc*¹³³⁴, the Supreme Court declared that service providers must give priority to accessibility even at the inconvenience of others. In this proactive stance, it stands in contrast to the less specific adjustment

¹³³² (2021) 3 SCC 370.

¹³³³ 527 U.S. 471 (1999).

¹³³⁴ [2017] UKSC 4.

mandates under the RPWD Act, indicating that this is one area in which India can improve employer responsibilities with regard to assisting invisible disabilities.

Australia: Disability Discrimination Act 1992 Addresses Disability Rights

The full scheme within which the Australian Disability Discrimination Act 1992 operates provides a strong basis for the elimination of various forms of disability discrimination and could assist in improving the RPWD Act.

Chronic fatigue may merit adaptations such as a modified workstation under the provisions of the DDA against discrimination in employment, education, and services. In *Waters v. Public Transport Corporation*¹³³⁵, the High Court concluded that equal treatment may actually require the imposition of differentiation in order to attain substantive equality. Whereas the Australian Human Rights Commission sits in judgment over its own complaint-handling processes, the enforcement mechanisms in the RPWD Act are rather weak. This effectual treatment of complaints suggests that an independent body in India could act similarly in matters of grievances for invisible disabilities, thereby increasing avenues for legal redress and awareness.¹³³⁶

CONCLUSION

An all-encompassing study in the application and nature of the Rights of Persons with Disabilities Act, in 2016 distinguishably the RPWD Act is said to be intended with a major perspective-changing paradigm in bringing a lot of ground critical shortcomings with effect to the applicability of the law, especially concerning invisible disabilities such as autism condition, specific learning disabilities, and chronic illness. The transformation from the welfare model into a new model of rights-based framework was actually a great shift enacted by the RPWD Act, where it also incorporated

international standards and considerably expanded the list of recognized disabilities. Independent from the visible, barriers issue amongst invisible disabilities exists diagnosis, certification, access to education and work accommodations, and healthcare services. Though legal interventions such as that of *Vikash Kumar v. UPSC*¹³³⁷ and *Seema Girija Lal v. Union of India*¹³³⁸ help in giving legal recognition to rights, they indicate systemic loopholes more than their end-to-end solution. The active role undertaken by the judiciary speaks strongly towards the necessity for institutional reforms and stringent enforcement mechanisms for making meaningful institutional provision in implementation of act provisions for the benefit of affected individuals.

Disjointed implementation of the act in addition to lack of awareness and lack of infrastructure hamper the realization of the aim of the act- to empower persons with invisible disabilities. Achievable only if education, health, employment sector, and public administration work together, it requires many hands in implementation. In addition to the legal framework, vertical accountability, stakeholder training, and sustained advocacy would address subtle barriers facing persons with less-visible conditions. In India, the disability rights discourse needs to venture even further in equivalence to theoretical inclusion, viable through dignified, equal, and participatory ways of living for persons with invisible disabilities.

SUGGESTIONS

Analyzing the challenges in applying safeguards under the RPWD Act about invisible disabilities, the recommendations given below are intended to bridge the gaps and pave the way for fruitful outcomes:

1. Standardization of diagnostic protocols for invisible disabilities to ensure uniformity and therefore timely certification. Such measures require national medical boards to provide unified guidelines and carry out regular training

¹³³⁵ [1991] HCA 49.

¹³³⁶ S.K. Kunnath, V.M. George, et.al., "Disability Empowerment in Kerala: A Status Analysis and Vision for the Future", 39 *Journal of Developing Societies* 104 (2023).

¹³³⁷ (2021) 3 SCC 370.

¹³³⁸ Writ Petition (Civil) Diary No(s). 29329/2021.

for healthcare personnel.

2. Digital disability certification systems should be centralized so that access to those suffering from invisible conditions is made easier. The platform should allow tracking, verification, and redress of complaints for delays or denials related to certification.

3. All teachers, administrators are compelled to undergo mandatory training in autism, specific learning disabilities, and chronic illnesses. Such programmes would be instituted in teacher education curricula and conducted at regular intervals.

4. The funding of resource centers in mainstream schools for the preparation of children with invisible disabilities will ensure inclusive education. The centers will have specialized personnel, assistive technology, and customized learning material.

5. Strengthening the enforcement of job reservation policies under Section 34 to include yearly compliance audits for public sector recruitment. In cases of non-compliance, there should be administrative penalties imposed along with the requirement of action plans for remedial measures.

6. Establish employer incentive schemes for private companies that accommodate for invisible disabilities. These could include tax benefits or awards for exemplary practices in disability inclusion.

7. Mobile clinics and telemedicine support systems to address chronic and developmental conditions should be established to widen the gamut and access of health services in these areas, especially in rural and underdeveloped areas.

8. The inclusion in public and private coverage of various types of therapies and diagnostic evaluations as well as assistive technologies relevant to invisible disability must be widened. These services must be defined in public insurances as reimbursable.

9. Mobilize for mass media campaigns to counteract stigma and raise the awareness of the public on invisible disabilities. Messaging should focus on abilities, success stories, and

legal rights in order to encourage acceptance.

10. Establish a national independent oversight agency to oversee the enforcement of the RPWD Act, which must include a division for invisible disabilities. This body shall be empowered to investigate complaints and recommend systemic reforms.

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