



## PREVALENCE OF DISABILITY IN INDIA – SOCIAL ISSUES

**NEWS:** On 3 December 2024, WHO joins partners around the world to commemorate the International Day of Persons with Disabilities.

### WHAT'S IN THE NEWS?

#### 2011 Census Data

- According to the 2011 Census of India, persons with disabilities constitute 2.21% of the total population, amounting to approximately 26.8 million people.
- This figure is widely considered an underestimation, primarily due to underreporting and inadequate survey methodologies.

#### WHO's 2019 Brief Disability Model Survey

- The World Health Organization (WHO) conducted the 2019 Brief Disability Model Survey across India, Tajikistan, and the Lao People's Democratic Republic.
- This survey revealed a much higher prevalence of severe disability in India, estimating that 16% of Indian adults experience severe forms of disability.

#### International and National Frameworks

##### 1. UN Convention on the Rights of Persons with Disabilities (UNCRPD)

- India ratified the UNCRPD on October 1, 2007, committing to upholding the rights and dignity of persons with disabilities.
- One of the key obligations under the Convention is for State Parties to align their domestic disability legislation with the principles of non-discrimination, accessibility, and full inclusion in society.

##### 2. Rights of Persons with Disabilities Act, 2016 (RPWD Act)

- To fulfill its international commitments, India replaced the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995, with the RPWD Act in 2016.
- The RPWD Act adopts a social and human rights-based model, emphasizing the dignity, autonomy, and full societal participation of persons with disabilities.
- The Act officially came into force on April 19, 2017.

#### Unique Features of the RPWD Act

##### 1. Office of the State Commissioner for Disabilities



- One of the hallmark provisions of the RPWD Act is the establishment of the State Commissioner for Disabilities in each State.
- The office is designed to have a combination of review, monitoring, and quasi-judicial powers to ensure the effective implementation of disability laws.

## 2. Quasi-Judicial Powers of the State Commissioner

- Section 82 of the RPWD Act grants State Commissioners powers equivalent to those of a civil court under the Civil Procedure Code, 1908.
- Proceedings before the State Commissioner are judicial in nature and fall within the scope of Sections 193 and 228 of the Indian Penal Code, ensuring legal authority and accountability in their functions.

## Challenges in Implementation

### 1. Delayed and Inadequate Appointments

- In many States, appointments to the office of the State Commissioner for Disabilities are delayed or neglected altogether, undermining the Act's implementation.
- This issue was prominently highlighted in the writ petition *Seema Girija Lal vs. Union of India (WPC 29329/2021)*, which drew attention to the failure of States to promptly appoint Commissioners.

### 2. Appointment of Civil Servants as Commissioners

- Although the RPWD Rules stipulate that individuals with experience in law, human rights, education, social work, or rehabilitation may be appointed as Commissioners, in practice, most appointees are civil servants from nodal ministries.
- According to the 2021-22 report by the Chief Commissioner for Persons with Disabilities, only eight States have appointed individuals from outside the mainstream civil service.
- Appointing civil servants undermines the independence of the office and creates a conflict of interest, as Commissioners are expected to oversee and hold the government accountable.

### 3. Limited Use of Suo Motu Powers

- Despite having the authority to intervene on their own initiative, many State Commissioners fail to take proactive steps to address systemic issues or discriminatory policies.
- This has led to a loss of faith among persons with disabilities and their representative organizations in the statutory offices created under the RPWD Act.





## Recommendations for Improvement

### 1. Appointment of Qualified Individuals

- It is essential to appoint individuals with substantial experience in disability rights, law, or social work to the position of State Commissioner.
- To address intersectional discrimination, State governments should consider appointing qualified women with disabilities, who can better understand and address the unique challenges faced by women and girls with disabilities.

### 2. Capacity Building Initiatives

- State governments and the Office of the Chief Commissioner for Disabilities should invest in building the capacity of State Commissioners to perform their quasi-judicial functions effectively.
- Collaboration with law schools, legal experts, and disability advocacy organizations can help enhance their legal and administrative capabilities.

### 3. Improving Transparency and Accountability

- The websites of State Commissioners' offices should include a dashboard displaying real-time data on complaints received, cases disposed of, and pending cases.
- Annual reports and special reports submitted to the government should also be made publicly accessible, along with specific recommendations for improving disability inclusion.

## Best Practices and Success Stories

### 1. Karnataka's Initiatives

- Karnataka has been a leader in disability inclusion, with its State Commissioner's office actively collaborating with law schools to strengthen legal capacities.
- The use of *mobile adalats* (mobile courts) has enabled the Commissioner's office to reach persons with disabilities in remote areas, resolving grievances on the spot.
- District Magistrates in Karnataka serve as Deputy Commissioners for persons with disabilities, ensuring that disability inclusion is embedded in local governance.

### 2. District Disability Management Review (DDMR)

- The DDMR process, implemented by Karnataka's State Commissioner, monitors the implementation of disability-related policies, programs, and quotas at the district level.



- It has become an effective tool for ensuring accountability and tracking the fulfillment of disability-related welfare measures.

## Research and Collaboration

### 1. Research Role of State Commissioners

- The RPWD Act mandates State Commissioners to undertake and promote research in the field of disability rights.
- This opens opportunities for collaboration with United Nations entities and other international organizations to conduct studies on disability-inclusive policies.

### 2. Key Research Areas

- Research areas could include disability-inclusive social protection schemes, the care economy, and the impact of climate change on persons with disabilities.
- Findings from such studies could pave the way for more inclusive policies and help advance the rights and well-being of persons with disabilities in India.

## Conclusion

The RPWD Act provides a robust legal framework for promoting and protecting the rights of persons with disabilities. However, its success largely depends on the effective functioning of State Commissioners and the commitment of State governments. Best practices, such as those in Karnataka, demonstrate the potential for inclusive governance, but widespread reform and greater accountability are essential to uphold the dignity and rights of India's disabled population.

**Source:** <https://www.thehindu.com/opinion/lead/citizens-with-disabilities-making-their-rights-real/article68939410.ece>