

# Empowering Equality: Navigating The Rights of Persons with Disabilities

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## ABSTRACT

People with disabilities (PWD's) remain neglected in many areas including employment. Their unemployment rate is significantly high when compared with those without disabilities. Severe unemployment and poor wages ended majority of them live in poverty. PWD's are suffering discrimination, social exclusion and prejudice. It is a major health problem especially in developing country like India. In India, a majority of the disabled resides in rural area where accessibility, availability and utilization of rehabilitation and its cost effectiveness are the major issues. Musculoskeletal conditions are frequently cited as among the most common and disabling of the chronic diseases. These conditions affect the quality of life through increased disability, limited activity, physical pain, and impairment. Because of the nature of the disabilities encountered in the community, the emphasis in therapy is on management of the disability rather than on 'treatment or cure'.<sup>1</sup> It will be not out of context to assert that the state must endeavour to bring them to the same level with others of the same society not as a matter of state-generosity or societal grace but as a matter of their rightful entitlement as follow human beings.

## INTRODUCTION

'Disability' is one such parameter which puts some of the members of the human society at a disadvantageous position not only in terms of partaking of their daily activities or carrying out social or familial responsibilities but also in terms of accessibilities like education, skill enhancement, employment etc. which are essential towards realization of their fullest potential as human beings. It is any restriction or lack (resulting from an impairment) of the ability to perform an activity in the normal range expected for a human being. It affects an individual's ability to function in daily life. Disabilities can include mobility limitations, cognitive challenges, or difficulty performing specific tasks. Disabilities may occur at any time during an individual's life span.

According to the World Report on Disability (2011), prepared by the World Health Organisation and World Bank, "Disability is part of the human condition". Almost everyone will be temporarily or permanently impaired at some point in life, and those who survive to old age will experience increasing difficulties in functioning". The report highlights that over a billion people, about 15% of the world's population, have some form of disability. Disability cuts across class, caste, gender, race, religion,

<sup>1</sup> Prashant Srivastava and Pratap Kumar, (2015), Disability: its issues and challenges, psychosocial and legal aspect in Indian scenario, *Delhi Psychiatry Journal*, 18 (1), 195-97.

ethnicity, and nationality, but mostly a differently abled person's first identity among their other identities is their disability.<sup>2</sup>

- Legal Definition (Under the Americans with Disabilities Act - ADA):- “a person with a disability is someone who has a physical or mental impairment that substantially limits one or more major life activities, has a record of such an impairment, even if they do not currently have a disability, is perceived by others as having such an impairment.”<sup>3</sup>
- General Definition (United Nations Convention on the Rights of Persons with Disabilities - CRPD): it defines persons with disabilities as those who have long-term physical, mental, intellectual, or sensory impairments. These impairments, when combined with various barriers, may hinder their full and effective participation in society on an equal basis with others.<sup>4</sup>

Different countries and legal frameworks may have variations in their definitions of ‘disability’, and specific laws may offer more detailed or nuanced descriptions but it is an integral part of being human and results from the interaction between various factors. Almost everyone will temporarily or permanently experience disability at some point in their life, emphasizing the importance of understanding and addressing disability rights and inclusion in society.<sup>5</sup> This could be defined in two ways:

- a) Health conditions- Disabilities can arise from long-term physical, mental, intellectual, or sensory impairments. These health conditions may include conditions like cerebral palsy, Down syndrome, depression, dementia, blindness, or spinal cord injury.
- b) Environmental and Personal Factors: The experience of disability is influenced by personal and environmental factors:
  - Negative Attitudes: Societal attitudes and perceptions play a significant role in shaping the disability experience.
  - Inaccessible Environments: Barriers such as inaccessible transportation, public buildings, and limited social support can hinder full participation in society.
  - Social Support: The availability of support networks and understanding from others affects the extent of disability.<sup>6</sup>

It is one of the major human rights issues in the present world. According to World Health Organisation (WHO), over a billion people live with some form of disability. According to the 3rd Universal Periodic Review of India, 2.21% of the Indian population is disabled. Developing and least developed countries have a higher prevalence of disability than developed countries. Persons with disabilities are one of the most vulnerable sections in society.<sup>7</sup>

Disability is a relative term in so far as different cultures define their norms of being and doing differently. In India, there are primarily two data sources (**Census and NSS**<sup>8</sup>) which follow their own definitions to define disability. The **NSS (2002)** considered disability as “any restriction or lack of abilities to perform an activity in the manner or within the range considered normal for human being”. It excludes illness /injury of recent origin (morbidity) resulting into temporary loss of ability to see, hear,

<sup>2</sup> Roy, B. (2021). Assessment and mapping of disability prevalence in India: A district-level analysis. *Demographic India*, 50(1), 55-72.

<sup>3</sup> <https://www.ada.gov/resources/disability-rights-guide/>

<sup>4</sup> [https://www.Un.org/disabilities/documents/Convention\\_accessible\\_pdf.pdf](https://www.Un.org/disabilities/documents/Convention_accessible_pdf.pdf)

<sup>5</sup> <https://www.who.in/health-topics/disability>.

<sup>6</sup> <https://www.who.int/news-room/fact-sheets/detail/disability-and-health>.

<sup>7</sup> *World Report on Disability*. World Health Organisation and World bank, [http://www.who.int/disabilities/world\\_report/2011/report.pdf](http://www.who.int/disabilities/world_report/2011/report.pdf), 2011.

<sup>8</sup> National Sample Survey.

speaking or moving. On the other hand, population Census does not define disability; it identifies the disabled which is self-explanatory. As per **2001 census**, 21.9 million or 21,906,769 people are disabled in India, who constitutes 2.13 per cent of the total population. Out of the 21,906,769 people with disabilities, 12,605,635 are males and 9,301,134 are females. This includes persons with visual, hearing, speech, loco-motor and mental disabilities. Seventy five per cent of persons with disabilities live in rural areas, 49 per cent of disabled population is literate and only 34 per cent are employed.<sup>9</sup>

In **India** the legislation for the persons with disabilities has been enacted since 1995. The **Act of 1995**<sup>10</sup> was defined 'Disability' broadly, covering various categories such as blindness, low vision, hearing impairment, loco-motor disability, mental retardation, and mental illness. Such common disability defines as:

- **Visual Impairment:** This includes conditions like blindness or low vision. People with visual impairments may use assistive devices like braille, screen readers, or white canes.
- **Hearing Impairment:** Individuals with hearing loss or deafness face challenges in communication. Sign language, hearing aids, and cochlear implants are common tools for them.
- **Mobility Impairment:** People with mobility issues may have difficulty walking, standing, or using their limbs. Wheelchairs, crutches, and ramps help improve accessibility.
- **Intellectual Disabilities:** These affect cognitive functioning, learning, and adaptive skills. Support services and personalized education are essential.
- **Neurodevelopmental Disorders:** Conditions like autism spectrum disorder (ASD) and attention deficit hyperactivity disorder (ADHD) fall under this category.
- **Psychiatric Disabilities:** Mental health conditions such as depression, anxiety, or schizophrenia impact emotional well-being and daily life.
- **Speech and Language Disorders:** These affect communication abilities. Speech therapy and augmentative communication devices assist individuals.
- **Chronic Illnesses:** Conditions like diabetes, epilepsy, or chronic pain can significantly impact daily living.<sup>11</sup>

The Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995, was landmark legislation in India aimed at promoting and safeguarding the rights of persons with disabilities (PWDs). The Act was enacted to address the challenges faced by persons with disabilities in various aspects of life, including education, employment, and social participation.

Key Features of the Persons with Disabilities Act, 1995: a) Reservation in Jobs and Education; b) Non-discrimination; c) Aids and Appliances; d) Accessible Environment.

However, over time, it became apparent that the 1995 Act needed updating to align with the evolving understanding of disability rights and to address emerging challenges.

As far as International respect concerned the United Nations Convention on the Rights of Persons with Disabilities (CRPD) was adopted on December 13, 2006. It emphasizes the need to ensure that persons with disabilities enjoy their rights without discrimination.<sup>12</sup>

<sup>9</sup> Bajkunth Roy, (2021) Assessment and mapping of disability prevalence in India: a district level analysis, *Demography India*, 50 (1), 55-70.

<sup>10</sup> The Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995.

<sup>11</sup> Jan, J. E., Freeman, R. D., & Scott, E. (1977). Visual Impairment in Children & Adolescents.

<sup>12</sup> <https://www.internationaldisabilityalliance.org/crpd>

In compliance with the UNCRPD, India has accepted the terms and conditions of ratifying the convention and developed its national legislation i.e. Rights of Persons with Disability Act 2016. But the Act lacks logic and poor implementation. The Act adopted the same definition of “persons with disabilities” as mentioned in the UNCRPD but defeats its purpose i.e. disability is an evolving concept by restricting and categorizing the disabilities to 21 specified disabilities for which a person can apply for disablement certificate. Also the poor implementation of law focusing on the persons who are not able to take the benefit just because they do not fall under these categories, however suffering the same hardship as of disabled persons.<sup>13</sup>

## II. BACKGROUND OF THE STUDY

Throughout history, individuals with disabilities have endured oppression, marginalization, and stigma in societies worldwide, often constituting the most neglected and backward section of the population. Persons with disabilities (PWD) face significant social, educational, and economic disadvantages, denying them their right to self-assertion, identity, and development, particularly evident in the realms of education, employment, and physical access. Disability, a relative term, varies across cultures, reflecting contextual and subjective conceptions.

International initiatives and policy documents, including the World Program of Action Concerning Disabled Persons (1982, 1993), Standard Rules on the Equalization of Opportunities for Persons with Disabilities (1994), and the UN Convention on the Rights of Persons with Disabilities (2006), underscore the need for refined disability definitions and measurements. Accurate prevalence estimates and statistics are crucial for policy development, resource allocation, and monitoring, fostering awareness, advocacy, and dialogue among stakeholders.<sup>14</sup>

As of the 2001 Census, approximately 2.13% of India's population, or 21.9 million individuals, are disabled. Rural areas house 75% of PWDs, with only 49% being literate and 34% employed. The Persons with Disabilities Act, 1995, recognized seven categories of disabilities, focusing on social rehabilitation. The Rights of Persons with Disabilities Act, 2016, replaced the 1995 Act, aligning with the UNCRPD. The RPWD Act, 2016, acknowledges 21 disabilities, expanding rights in education, employment, healthcare, and accessibility. It emphasizes inclusion, legal recognition, protection, and provisions for social security, rehabilitation, women, and children, signalized a shift toward a more rights-based approach in India's commitment to fulfilling the rights of persons with disabilities.<sup>15</sup>

## III. LEGISLATIONS IN RESPECT TO DISABILITY

The legislative frameworks for protection of the rights of disabled people are covered by given acts:

1. The Persons with Disabilities (Equal Opportunities, protection of Rights and full Participation) Act 1995: This act provides 3% reservations for disabled people( blind or low vision, hearing impairment and loco-motor disability or cerebral palsy in poverty alleviation programs, government posts, and in state educational facilities, as well as other rights and entitlement).

<sup>13</sup> Pradeep Pahwa, Chanchal Gupta, Manjeet Saini, (2014) Evaluating the effectiveness of community physiotherapy in terms of functional independence for Loco-moter disabled through rehabilitation camps in Himachal Pradesh, *International Journal Physiotherapy Res.*

<sup>14</sup> Arne H. Eide & Mitchell Loeb, *Counting Disabled people, Historical perspectives and the challenges of disability statistics*, 2016.

<sup>15</sup> Simcock, P., & Castle, J. (2016). *Social Work & Disability*.

2. National Policy for Persons with Disabilities Act 2005: The National Policy, released in February 2006. Its aim is to ensure better coordination between various wings of the State and Central Governments. The focus of the policy is on the following: Prevention of Disabilities, Rehabilitation Measures, Physical Rehabilitation Strategies, Early Detection and Intervention, Counselling & Medical Rehabilitation.
3. Rights of Persons with Disabilities Act, 2016: In response to the changing landscape and to align with international standards, the Rights of Persons with Disabilities Act, 2016 (RPWD Act, 2016), was enacted, repealing the 1995 Act. The new legislation broadened the scope and enhanced the rights and entitlements of persons with disabilities.<sup>16</sup> The RPWD Act expanded the categories of disabilities from seven to twenty-one, recognizing a wider range of conditions; enhanced reservation, accessibility standards, guardianship, anti-discrimination measures, special courts, rights and entitlements, skill development and employment, social security, health, rehabilitation and recreation, special provisions for persons with benchmark disabilities, and high support needs, duties and responsibilities of appropriate government, registration of institutions for persons with disabilities and grants to such institutions, certification of specified disabilities, central and state advisory boards on disability State advisory board on disability and District level committee, chief commissioner and state commissioner for PWD, chief state commissioner PWD. Overall the legislation presents a broad range of rights- based provisions aimed at giving effect to the CRPD (Convention on Rights of Persons with Disabilities, 20016) and improving the rights of PWD in India.<sup>17</sup>

#### IV. JUDICIARY IN RESPECT TO PERSONS WITH DISABILITIES

There are several landmark judgments by the Supreme Court of India concerning the rights of disabled persons under the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 and the Rights of Persons with Disabilities Act, 2016.<sup>18</sup> Here are a few notable ones:

- A. National Federation of the Blind v. Union Public Service Commission (2013): Supreme Court held that visually impaired candidates are entitled to 20 minutes per hour of extra time in the Civil Services Examination conducted by the Union Public Service Commission (UPSC), as per the provisions of the Persons with Disabilities Act, 1995.<sup>19</sup>
- B. Rajive Raturi v. Union of India (2016): The Supreme Court directed the Centre and state governments to ensure that all government buildings, hospitals, educational institutions, and public spaces are made accessible to persons with disabilities, as mandated by the Persons with Disabilities Act, 1995.<sup>20</sup>
- C. Justice Sunanda Bhandare Foundation v. Union of India (2014): The Court ruled that institutions must make all reasonable efforts to accommodate the needs of disabled students, including providing extra time in examinations and ensuring barrier-free access to facilities.<sup>21</sup>

<sup>16</sup> Gajendragadkar, A. (1983). *Disabled in India*.

<sup>17</sup> Rebecca Markowits & Erika Miyajima and Members, “Needs \_requirements\_of\_persons\_with\_disabilities\_Kamand\_2019 (Himachal Pradesh).pdf”.

<sup>18</sup> Rama Mani. (1988). *Physically Handicapped in India*.

<sup>19</sup> *National Federation of the Blind v. Union Public Service Commission* (2013): AIR 2013 SC 4662.

<sup>20</sup> *Rajive Raturi v. Union of India* (2016): AIR 2016 SC 3307.

<sup>21</sup> *Justice Sunanda Bhandare Foundation v. Union of India* (2014): AIR 2014 SC 1863.

- D. Disabled Rights Group v. Union of India (2017): In this case, the Supreme Court directed the government to ensure that all government websites are accessible to persons with disabilities, in compliance with the Rights of Persons with Disabilities Act, 2016.<sup>22</sup>
- E. Vinod Kumar v. Union of India (2019): The Supreme Court reiterated the importance of implementing reservation policies for persons with disabilities in government jobs and educational institutions, as mandated by the Rights of Persons with Disabilities Act, 2016.<sup>23</sup>

## V. STATEMENT OF RESEARCH PROBLEM

In India, individuals with disabilities have historically faced oppression, marginalization, and stigma, experiencing social, educational, and economic disadvantages. The World Health Organization's classification distinguishes impairment as the loss or abnormality of psychological, physical, or anatomical structure, disability as an individual limitation or restriction of activity resulting from impairment, and handicap as the disadvantage stemming from impairment or disability hindering role fulfillment or goal achievement.

The World Report on Disability (2011) notes that approximately 15% of the global population, over a billion people, have disabilities, cutting across various demographics. In India, data sources such as **Census** and **NSS**<sup>24</sup> employ different definitions of disability, contributing to varied prevalence estimates. Official figures suggest a low disability prevalence of 2.1-2.2%, while alternative measures propose a higher range of 4-8%.

But according to World Bank 5-6% India's population have disabilities and the NSSO (National Sample Survey Org.) estimates that 2.2% of the population is disabled also at the same the NFHS (National Family Health Survey -5) 2019-21 found that 4.52% of the population has disabilities. Hence there is disparities between India's data source over disabilities and the world reports of disabilities in respect to India, although India is following the same definition of the 'disabilities' as followed by United Nation Convention on Rights of Persons with Disabilities, 2006.<sup>25</sup>

The Department of Empowerment of Persons with Disabilities in India, under the Ministry of Social Justice & Empowerment, plays a vital role. The Rights of Persons with Disabilities Act, 2016 recognizes 21 types of disabilities. However, data inconsistencies persist, with the 2011 Census reporting 2.21% of the population having disabilities, amounting to approximately 2.68 crore individuals.<sup>26</sup> Census data collection evolved, expanding from five disability categories in 2001 to eight in 2011. New categories, including multiple disabilities and any other disability, were introduced in 2011 to address enumeration challenges. The any-other category, constituting one-fifth of total PWDs, highlights issues in the enumeration process and poses challenges to accurate policy framing. A precise comparison between the two periods is challenging due to differences in methodology and definitions.<sup>27</sup>

### • Causes of Disability

Analysis of the causes of disability from a medical or bio-centric standpoint tends to emphasise disease, hereditary and birth defects over systemic and environmental factors. Genetic factors and lack of access

<sup>22</sup> *Disabled Rights Group v. Union of India* (2017): AIR 2017 SC 4161.

<sup>23</sup> *Vinod Kumar v. Union of India* (2019): AIR 2019 SC 2717.

<sup>24</sup> National Sample Survey.

<sup>25</sup> Swain, J., & French, S. (2008). *Disability on Equal Terms*.

<sup>26</sup> Sharma, M. (2021) Best practices of inclusive education in Himachal Pradesh, *Academia letters Article* 23-48, <https://doi.org/1020935/AL2349>.

<sup>27</sup> *World Health Organization*. International Classification of Impairments, Disabilities, and Handicaps: A manual of classification relating to the consequences of disease. Geneva: World Health Organization 1980.

to basic services can also lead to a person becoming disabled, for example, Before birth (poor nutrition, improper medication, taking drugs, smoking cigarettes, mother exposed to disease, mental or physical trauma), During birth (premature delivery, complicated delivery), After birth (Malnutrition, Lack of vaccination, Infections like meningitis polio, accident, trauma, toxic substance).<sup>28</sup>

- **Factors of Disability**

There are some factors which responsible for disability, such as:

- a. Poverty and Disability

- b. Malnutrition and Disability- Common micronutrient deficiencies that affect disability include:

1. Vitamin A deficiency – blindness,
2. Vitamin B complex deficiency – beriberi (inflammation or degeneration of the nerves, digestive system and heart), pellagra (central nervous system and gastro-intestinal disorders, skin inflammation) and anaemia,
3. Vitamin D deficiency – rickets (soft and deformed bones),
4. Iodine deficiency – slow growth, learning difficulties, intellectual disabilities and goitre,
5. Iron deficiency – anaemia, which impedes learning and activity, and is a significant cause of maternal mortality,
6. Calcium deficiency – osteoporosis (fragile bones).

At the present rate, by the year 2010 there could still be some 680 million chronically undernourished people whose disabilities are likely to have roots in micronutrient deficiencies. Occupational Hazards Around 90% of the workforce in India is in the unorganised sector, which is characterised by low levels of technology, low standards of safety and hazardous working conditions.

## **A. IN RESPECT TO HIMACHAL PRADESH**

Himachal Pradesh is situated between 30° 22' 40" to 33° 12' 20" north Latitudes and 75° 45' 55" to 79° 04' 20" east longitudes. The altitude in the Pradesh, a wholly mountainous region in the lap of Himalayas, ranges from 350 Metres to 6975 metres above mean sea level. It is surrounded by Jammu and Kashmir in the north, Tibet on north east, Uttaranchal in the east/ south east; Haryana in south and Punjab in south west/west with a total geographical area of 55673 square meters. Besides the seasonal variations, the climate of Himachal Pradesh varies at different altitudes. The average rainfall is 152 cms, (60 inches).<sup>29</sup> In parts of northern India, the hardships may be heightened because of limited resources, lack of qualified personnel, and challenges in access assistance or mobility due to the geography of the area. While stigma and discrimination against PwD cannot be fixed over-night, there has been increased global sensitivity to the needs of marginalized people.<sup>30</sup>

- a. **DATA ON PERSONS WITH DISABILITIES IN HIMACHAL PRADESH**

In the context of Himachal Pradesh, the Department of Social Justice & Empowerment is responsible for the welfare of persons with disabilities. The state has an estimated population of 1, 55, 950 are of persons with disabilities out of a total population of 6,856,509 people.<sup>31</sup> Additionally, the Directorate of Women and Child Development in Himachal Pradesh also contribute to social justice and empowerment efforts.<sup>32</sup> Specifically in Himachal Pradesh, the estimated population of persons with

<sup>28</sup> Singh, A., & Kachhap, S. (2008). Disability Citizenship & Social Exclusion.

<sup>29</sup> Shah, S. & Priestley, M. (2010). Home and Away: The Changing Impact of Educational Policies on Disabled Children's Experiences of Family and Friendship. *Research Papers in Education*, 25 (2), 155–175. doi:10.1080/02671520802699224.

<sup>30</sup> Sharma M. (2020). *Evaluation of Implementation of IEDSS scheme in Himachal Pradesh*.

<sup>31</sup> <https://cis.india.org/accessibility/blog/himachal-pradesh-chapter.pdf>

<sup>32</sup> <https://himachal.nic.in/writeraddata/1892s/176-1892s/1528092191.pdf>

disabilities is 66,932. As per Census of 2001, there are 1, 55,950 persons with disabilities (PWDs) in Himachal Pradesh, which constitute approximately 2% of the total population. The data includes all categories of persons with impairment irrespective of Degree of impairment. Out of these, 1, 44,756 live in rural areas while 11,194 are residents of towns/cities. The data also reveals that 81, 240 PWDs are Literate while the rest of 74,710 are illiterate.<sup>33</sup> This includes 10,611 visually impaired individuals, 11,924 hearing impaired individuals, 36,249 orthopedically impaired individuals, and 8,148 intellectually challenged persons. The state government has made efforts to address disability-related issues, but there are still challenges in fully implementing the RPwD Act.<sup>34</sup>

## B. RESEARCH PROBLEMS

The limitation could be the challenges and idea of accepting disabled into their own communities in respect to their disability. The individuals facing such scenario from a young age can grow up to have low self-esteem. This can lead to feelings of inferiority, social withdrawal, and social rejection, which in turn can contribute to health problems, as well as psychosocial disorders and a diminished wellbeing. Despite being the world's largest minority, People with disabilities (PWD) are largely ignored by society. Stigma and prejudice can also restrict PwD from building skills. Social ignorance can discourage PwD from something that is considered normal for a non-disabled person, such as seeking work, marriage, or travel. PWD remain neglected in many areas including employment. Their unemployment rate is significantly high when compared with those without disabilities.<sup>35</sup> Severe unemployment and poor wages ended majority of them live in poverty. PWD are suffering discrimination, social exclusion and prejudice.<sup>36</sup> Hence there's need to adopt a positive social change initiatives with regard to disabilities actively across India. Followings are the research problem in respect to the subject matter of the study:

- Assessing the adequacy and effectiveness of infrastructure and facilities provided to persons with disabilities in Himachal Pradesh under the RPWD Act, 2016?
- Analysing the level of societal inclusion and attitude towards persons with disabilities in the region and examining how it impacts the realization of their rights under the RPWD Act, 2016?
- Investigating the coordination and collaboration between governmental and non-governmental organizations in the state to implement programs and initiatives aimed at improving the lives of persons with disabilities?
- Understanding the legal literacy and awareness among persons with disabilities and their families regarding the rights granted by the RPWD Act, 2016?

### a. OBJECTIVES OF THE STUDY

1. Assessing Current Implementation: Evaluate the current status of RPWD Act implementation in India specifically within Himachal Pradesh.
2. Comparative Analysis: Compare the implementation of the RPwDs Act, 2016 in India under the UNCRPD, 2006 and various other countries implementation under persons with disabilities bilateral treaties like USA, UK etc.

<sup>33</sup> *Ibid.*

<sup>34</sup> <https://punarbhava.in/index.php/legal-instruments/national-and-state-policies/state/policies-for-pwds/himachal-pradesh>.

<sup>35</sup> Banurakha Velayutham, M.B.B.S., Boopathi Kangusamy, (2016), The prevalence of disability in elderly in India- analysis of 2011 census data, *Disability and Health Journal*.

<sup>36</sup> Dube, K. C., & Sachdev, S. (1983). Mental Health Problems of the Socially Disadvantaged.



3. Identification of Gaps: Identify gaps, barriers, and areas of improvement. Identify gaps and challenges in the practical application of disability rights provisions and to identify the disparities of collection of data tools within India and the world's data collection tools over the subject.
4. Impact on PWDs: Examine the impact of the Act on the lives of persons with disabilities in India specifically within the state H.P.
5. Recommendations: Propose recommendations for improving the effectiveness of disability rights policies.

### C. GAPS TO BE FILLED

- Lack of Surveillance Systems: The preliminary step to conduct research in any field demands a baseline data about the prevalence, incidence and distribution of a disease. Due to the lack of a universal definition of disability and its types and categories, there are no reliable figures available for the prevalence of disability in India. The differences seen in the estimates of Census, 2001 and NSSO, 2002 are the best indications of the discrepancies in understanding and the conceptualization of the term 'disability'.
- There is a major issue of under reported cases of disability in the country because of the lack of national level registration and identification system of the persons with disability. There are numerous examples of excluded disability categories, including autism, thalassemia, haemophilia, and many learning disabilities.
- The social stigma attached to the disability is also likely to contribute to underestimation.
- Management and Treatment: There is a need of systematic and organized community based rehabilitation facilities to identify and take care of persons with disability wherein they can be managed and treated.
- There is no mention of disability either in the constitution or the millennium development goals (MDG), thus the treatment and prevention of disability does not demand much attention.

There is a need to identify coordinate such organizations and actively involve them in policy formulation, planning, implementation, monitoring in disability in India.

## VI. HYPOTHESIS

1. That there is underreporting of official data delivered by Census and NSSO (National Statics Survey org.):
  - The actual number of disabled individuals in India might be significantly higher than reported due to underreporting.
  - Factors such as stigma, lack of awareness, and limited access to healthcare facilities could lead to underreporting of disabilities.
  - The Census of 2011 officially states that the population of persons with disabilities is 2.13% of the total population, but non-official estimates suggest a much higher figure.
2. That there is Variation in Definitions of PwDs:
  - Despite India following the same definition of disabilities as outlined in the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD), there may be variations in how disabilities are interpreted and categorized.
  - Different interpretations or classifications of disabilities could lead to discrepancies in data collection and reporting.

- The UNCRPD provides a broad framework, but individual countries may adapt it differently based on their context and legal systems.
3. That the RPwD Act of 2016 not effectively implemented to addresses the needs and rights of persons with disabilities adequately, also the infrastructure, education, employment, societal inclusion, organizational collaboration, and legal awareness in H.P.

These hypotheses will test whether the Act's implementation addresses the needs and rights of Persons with Disabilities (PwDs) adequately, considering infrastructure, education, employment, societal inclusion, organizational collaboration, and legal awareness in Himachal Pradesh.

## CONCLUSION

The discussion highlights the nuanced challenges in defining and addressing disabilities in India, as seen through the differing approaches of NSSO and Census data, and the legislative evolution from the 1995 to the 2016 Acts. Despite efforts to align with international standards such as the UNCRPD, the 2016 Act's restrictive definition of disabilities has been criticized for potentially excluding many individuals in need of support. Moreover, ineffective implementation of these laws has further compounded issues, leaving many without the intended benefits and protections. There is a pressing need for more inclusive policies that acknowledge the diverse nature of disabilities and ensure equitable opportunities and rights for all persons with disabilities in India.

In addition to the complexities in defining disabilities and the shortcomings in legislative implementation, the judiciary in India has played a crucial role in safeguarding the rights of persons with disabilities. Through various landmark judgments, the judiciary has consistently upheld principles of equality, non-discrimination, and inclusivity for people with disabilities. These judgments have been instrumental in interpreting and enforcing laws like the Persons with Disabilities Act, ensuring that individuals receive adequate support, accessibility, and protection against discrimination in various spheres of life, including education, employment, and public services.

However, despite judicial interventions, challenges persist due to gaps in implementation and the need for more proactive measures to address the diverse needs of persons with disabilities. Moving forward, there is a critical need for enhanced collaboration between the judiciary, government agencies, civil society, and disability rights advocates to ensure effective enforcement of laws, promote awareness, and empower individuals with disabilities to fully participate in society on equal terms.