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## PERSONS WITH DISABILITIES

### SYLLABUS:

GS 2 > Social Justice

### REFERENCE NEWS:

In **Prabhu Kumar v. State of Himachal Pradesh (2026)**, the **Supreme Court** held that the State cannot impose an arbitrary upper limit on disability percentage for public employment when the **Rights of Persons with Disabilities (RPwD) Act, 2016** prescribes only a **minimum benchmark disability of 40%**.

- The case involved a candidate with **90% locomotor disability** who cleared the Assistant District Attorney exam but was denied appointment due to a **60% disability cap imposed by the State**, which had been upheld by the Himachal Pradesh High Court.
- The Court ruled that such a restriction is **manifestly arbitrary and violates Articles 14 and 16** of the Constitution.
- It emphasized that **reasonable accommodation** must be provided and that eligibility should be based on **functional competence rather than rigid disability percentages**.
- The judgment also noted that locomotor disability does not necessarily impair professional abilities such as legal reasoning or mental agility.
- The ruling builds on earlier disability rights jurisprudence, including **Vikash Kumar v. UPSC (2021)** and **Om Rathod v. DGHS (2024)**, which emphasized functional assessment over rigid eligibility limits.
- The **RPwD Act, 2016**, which replaced the **1995 Disabilities Act**, aligns Indian law with the **UN Convention on the Rights of Persons with Disabilities (UNCRPD)** and shifts the approach from a **medical model to a rights-based model** of disability.
- It recognizes **21 disabilities**, mandates **4% reservation in government jobs, 5% in higher education**, ensures accessibility, free education for children with benchmark disabilities, and establishes institutional mechanisms for protection and grievance redressal.

Overall, the judgment strengthens disability rights by prioritizing **capability, inclusion, and equal opportunity**, preventing systemic exclusion through arbitrary eligibility criteria.

### PERSONS WITH DISABILITIES IN INDIA:

- As per Census 2011, the number of Persons with Disabilities in the country is 2.68 crore, which is **2.21% of the total population** of the country.

- The **Rights of Persons with Disabilities (RPwD) Act, 2016**, replaced the PwD Act of 1995 to align with the UN Convention on the Rights of Persons with Disabilities (UNCRPD).
- It recognizes 21 disabilities, including physical, intellectual, mental, and neurological conditions (e.g., autism, dwarfism, acid attack survivors).
- **National Policy for Persons with Disabilities, 2006**, focuses on prevention of disabilities, rehabilitation, and the creation of accessible environments and promotes **community-based rehabilitation programs**.
- **Schemes:**
  - **Accessible India Campaign (Sugamya Bharat Abhiyan):** Aims to make public spaces and transport systems accessible.
  - **PM-DAKSH:** Divyang Skill Development and Rehabilitation Scheme
  - Deendayal Disabled Rehabilitation Scheme
  - National Fellowship for Students with Disabilities
  - **ADIP Scheme (Assistance to Disabled Persons):** Provides aids and appliances.
  - **Unique Disability ID (UDID):** Ensures targeted delivery of benefits.
  - **National Trust Act, 1999** provide for constitution of a body at the national level for the welfare of persons with autism, cerebral palsy, mental retardation and multiple disabilities.
  - **Rehabilitation Council of India, 1992** regulates training and registration of professionals working in the field of disability rehabilitation.
  - PwDs are eligible for subsidized loans under schemes like NHFDC (National Handicapped Finance and Development Corporation).

#### SC OBSERVATIONS ON DISABILITY RIGHTS:

- **Om Rathod vs Director General of Health Services Case, 2024:** The SC ruled that a **functional assessment** of a candidate's actual capabilities must override rigid eligibility percentages.
- **V. Surendra Mohan v. State of Tamil Nadu Case, 2019:** SC upheld a **50% disability limit** on hearing and visually impaired candidates for District Judge appointments. The Himachal Pradesh High Court had denied relief to the appellant, relying on this judgement.
- **Vikash Kumar v. UPSC Case, 2021:** The V. Surendra Mohan judgement was **overruled** by SC in the **Vikash Kumar v. UPSC Case, 2021**.
- **Govt. of India v. Ravi Prakash Gupta, 2010:** The SC held that non-identification of posts could not be a reason for the government to evade its obligation to reserve 3% of posts for persons with disabilities.

#### CHALLENGES FACED BY PwDs IN INDIA:

##### Accessibility Barriers

- **Inaccessible Public Spaces:** Only **5-7%** of India's public buses are wheelchair-accessible, leaving many PwDs unable to use public transport independently and only 3% buildings are fully accessible causing an architectural apartheid.
  - A survey by the **Centre for Law and Policy Research (CLPR)** found that **75% of public buildings** in Bengaluru were not accessible to PwDs despite the Accessible India Campaign

- **Delays in the Accessible India Campaign:** Launched in 2015 to make public spaces and government websites accessible, the campaign has missed several deadlines. As of 2022, only **35% of targeted public buildings** had become accessible.

### Educational Barriers

- **Low Enrolment and Dropouts:** PwDs have limited access to quality education due to **lack of inclusive infrastructure, assistive technologies, and trained teachers**. Schools often lack **ramps, braille materials, or sign language interpreters**, making it difficult for students with physical and sensory impairments to participate.
  - According to the **2019-20 UDISE+ report**, only **61% of children with disabilities** were enrolled in school.
  - Approximately **45% of disabled people are illiterate**, and only 62.9% of disabled people aged 3 to 35 have ever attended regular schools.

### Employment Challenges

- **Unemployment and Underemployment:** India has almost **3 crore people with disability (PwD)** of which around 1.3 crore is employable but only **34 lakh of them have been employed**.
  - The **ILO** reported that the employment rate for PwDs in India is **36%** compared to **60%** for people without disabilities.
  - In 2019, the **Comptroller and Auditor General (CAG)** found that only **54% of reserved government job vacancies** for PwDs had been filled.
- **Private Sector Participation:** Many private companies are reluctant to hire PwDs, citing **low productivity and high accommodation costs**.
  - A 2022 survey by the **Equal Opportunity Foundation** found that **70% of companies** still do not have inclusive hiring policies.

### Healthcare and Rehabilitation Gaps

- **Inadequate Healthcare Access:** PwDs struggle to access basic healthcare due to **poor infrastructure, lack of trained personnel, and high costs** of specialized treatments.
  - A study by the **WHO** found that **nearly 50% of PwDs** in India cannot afford healthcare services or assistive devices like wheelchairs or hearing aids.
- **Limited Access to Mental Healthcare:** People with **mental illnesses and intellectual disabilities** often face **stigma**, making it difficult to access timely care. Mental health services account for only **0.16% of the national health budget**.

### Social Stigma and Discrimination

- **Social Isolation:** PwDs face **stigma and negative attitudes** within families and communities. This leads to social exclusion, particularly for women with disabilities.
  - In many parts of India, children with disabilities are kept out of sight, and families hesitate to send them to school for fear of social ostracization.
- **Gender-Based Challenges:** **Women with disabilities** experience **dual discrimination** due to both gender bias and disability stigma.

- A 2020 study by the **National Centre for Promotion of Employment for Disabled People (NCPEDP)** found that women with disabilities have **lower access to education and employment opportunities** than men with disabilities.

### Political and Civic Participation Challenges

- **Voting Access Issues:** Although the **Election Commission of India (ECI)** has taken steps like braille-enabled ballot papers and ramps, many polling stations remain inaccessible.
  - In the 2019 Lok Sabha elections, several PwDs reported difficulties accessing polling booths and a lack of **transportation support** to reach them.
- **Limited Political Representation:** PwDs are underrepresented in **decision-making bodies**. There are few PwDs in **parliament or local governments**, which limits their ability to influence policies that affect them.

### Delayed Implementation of Policies

- **Slow Progress on RPwD Act Provisions:** Although the **RPwD Act, 2016** expanded the scope of disabilities and ensured reservations, **implementation remains slow**.
  - State-level Disability Commissioners are often underfunded or lack adequate staff, hampering the monitoring of policy implementation.
  - According to the **Ministry of Social Justice and Empowerment**, **only 11 out of 36 states and union territories** have fully implemented the RPwD Act provisions.

### Financial Hardships and Social Security Gaps

- **Inadequate Social Security:** PwDs often face financial hardships due to **limited employment opportunities and insufficient social security programs**.
  - Disability pensions provided by state governments are **inconsistent** and often inadequate. In some states, the pension amount is as low as **INR 1,000 per month**, which is insufficient to meet basic needs.
- **Lack of Insurance Coverage:** Many PwDs are excluded from mainstream **health and life insurance policies**, either due to discriminatory clauses or high premiums.

### Technological barriers

- The new frontier of exclusion occurs as India rapidly digitalizes. Report by the 2020 Web Accessibility Annual Report found that **98% of websites fail to comply with accessibility requirements** for People with Disability.

### WAY FORWARD FOR AN ACCESSIBLE INDIA:

#### Strengthening Infrastructure and Universal Design Principles

- **Japan's Barrier-Free Law** mandates that public transport, buildings, and infrastructure follow **universal design principles**, benefiting all users, including the elderly and PwDs.
- **Sweden** ensures accessibility by integrating **design-for-all** principles into urban planning, making housing, parks, and transportation systems equally usable for everyone.

#### Inclusive Education and Skill Development

- **Finland** integrates children with disabilities into mainstream schools, providing **personalized learning plans** and well-trained teachers.
- **USA's Individuals with Disabilities Education Act (IDEA)** mandates that students with disabilities receive **free and appropriate public education (FAPE)** along with necessary support services.

### **Expanding Employment Opportunities and Corporate Responsibility**

- **Germany** mandates companies with more than 20 employees to hire **at least 5% of PwDs**, with fines for non-compliance.
- **Australia** promotes employment of PwDs through the **Disability Employment Services (DES)**, providing wage subsidies and job coaches.

### **Improving Healthcare and Rehabilitation Services**

- **Cuba** provides free, community-based rehabilitation services to all citizens, including PwDs.
- **Norway** offers **comprehensive health insurance**, covering specialized treatment and assistive devices for PwDs.

### **Enhancing Accessibility in Elections and Civic Participation**

- **Canada** ensures that polling stations are accessible and offers **postal voting** options for PwDs.
- **South Africa** mandates that electoral information is provided in **braille, sign language, and easy-to-read formats**.

### **Addressing Social Stigma through Awareness Campaigns**

- **UK's "Disability Confident" campaign** works with employers to reduce biases against PwDs and foster inclusion.
- **Kenya** engages in **community-level disability awareness programs**, empowering families and communities to support PwDs.

### **Strengthening Monitoring and Accountability**

- **New Zealand** monitors its disability-related commitments by including **PwDs in advisory councils** and government planning bodies.

### **Expanding Social Protection and Financial Inclusion**

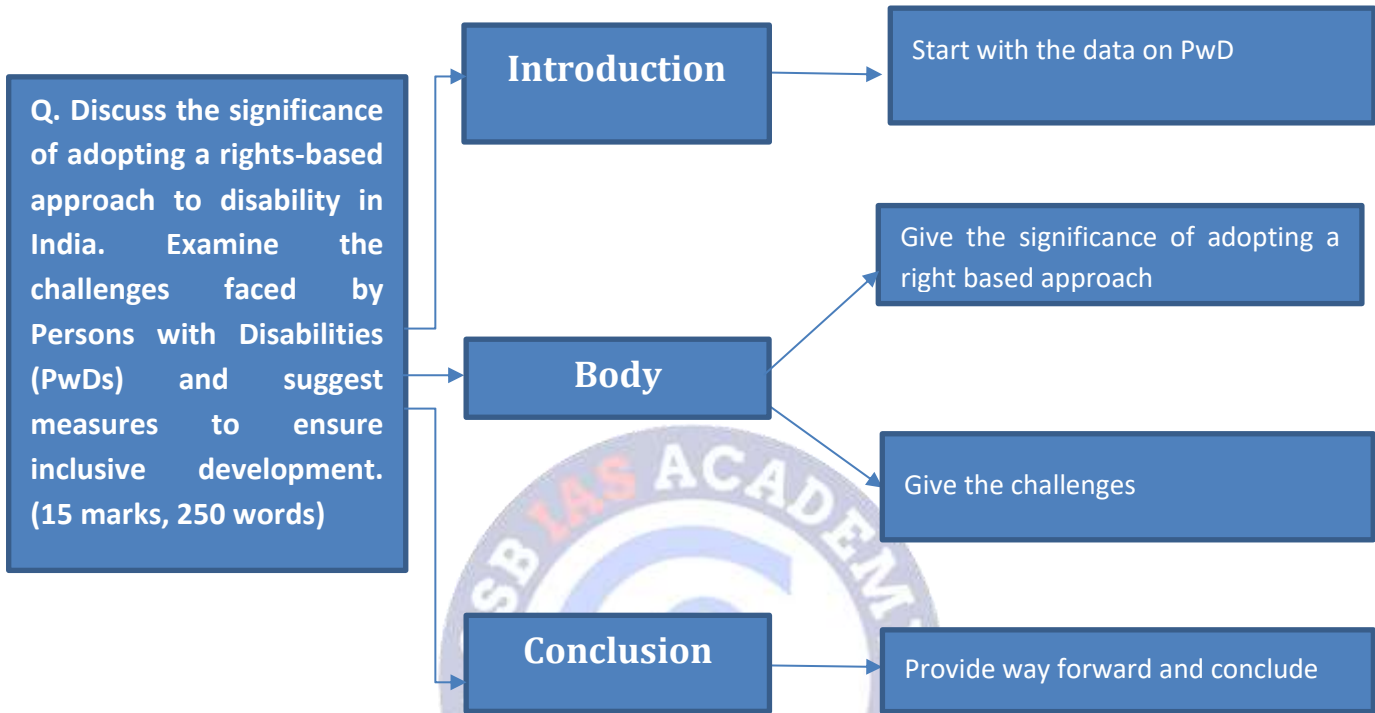
- **Brazil** offers a **disability allowance** under its social protection program, ensuring that no PwD lives below the poverty line.
- **South Korea** has a **specialized insurance scheme** that covers the cost of assistive devices, treatments, and personal care services for PwDs.

**Incheon Strategy** to 'Make the Right Real' for PwDs in Asia and Pacific is a better inclusive and global move to accessible infrastructure and opportunities for all promoting SDGs. Also there is a need of change in perception as India moved from **Viklang to Divyang** by creating a universal design innovation hub, neuro adaptive learning platforms and use of AI to make an inclusive accessible India.

### **PRACTICE QUESTION:**

**Q. Discuss the significance of adopting a rights-based approach to disability in India. Examine the challenges faced by Persons with Disabilities (PwDs) and suggest measures to ensure inclusive development. (15 marks, 250 words)**

**APPROACH:**



**MODEL ANSWER:**

Persons with Disabilities (PwDs) constitute a significant section of India’s population, with **2.68 crore people (2.21% of the population)** as per Census 2011. Over time, India’s disability policy framework has shifted from a **welfare-oriented medical model to a rights-based approach**, particularly with the enactment of the **Rights of Persons with Disabilities (RPwD) Act, 2016**, which emphasizes equality, dignity, and participation in society.

**Significance of a Rights-Based Approach to Disability**

1. **Equality and Non-Discrimination:** A rights-based framework ensures that PwDs are treated as equal citizens with constitutional protections against discrimination.
2. **Inclusive Participation:** It promotes the full participation of PwDs in education, employment, governance, and social life.
3. **Legal Safeguards and Institutional Support:** Laws such as the RPwD Act provide reservations in education and employment, accessibility standards, and institutional mechanisms for grievance redressal.
4. **Alignment with Global Norms:** The framework aligns India’s policies with international commitments such as the **UN Convention on the Rights of Persons with Disabilities (UNCPRD)**.
5. **Focus on Capability and Dignity:** It shifts the emphasis from charity or welfare to **empowerment and recognition of individual capabilities**.

**Challenges Faced by Persons with Disabilities in India**

1. **Accessibility Barriers:** Many public buildings, transport systems, and digital platforms remain inaccessible despite policy initiatives.
2. **Educational Exclusion:** Limited assistive technologies, lack of trained teachers, and inadequate infrastructure lead to low enrollment and higher dropout rates among students with disabilities.
3. **Employment Constraints:** A significant proportion of employable PwDs remain unemployed, and reserved vacancies in government jobs often remain unfilled.
4. **Healthcare and Rehabilitation Gaps:** Limited availability and affordability of assistive devices, rehabilitation services, and mental healthcare facilities.
5. **Social Stigma and Discrimination:** Negative societal attitudes often lead to marginalization, particularly affecting women with disabilities.
6. **Limited Political Participation:** Accessibility issues at polling stations and underrepresentation in decision-making institutions hinder civic participation.
7. **Implementation Deficits:** Weak enforcement of policies and inadequate resources for monitoring bodies slow the realization of rights guaranteed under the law.

**Way Forward**

1. **Strengthen Accessible Infrastructure** through universal design in public buildings, transport, and digital services.
2. **Promote Inclusive Education** with assistive technologies, teacher training, and individualized learning support.
3. **Enhance Employment Opportunities** by incentivizing private sector hiring and ensuring effective implementation of reservation policies.
4. **Improve Healthcare and Rehabilitation Services** including affordable assistive devices and community-based rehabilitation programs.
5. **Leverage Technology for Accessibility** by enforcing digital accessibility standards.
6. **Promote Awareness and Social Inclusion** through nationwide campaigns to combat stigma.
7. **Strengthen Monitoring and Accountability** by empowering institutional bodies responsible for implementing disability rights.

Ensuring the dignity and empowerment of PwDs is essential for achieving **inclusive and equitable development**. Strengthening legal frameworks, improving accessibility, and transforming societal attitudes will help realize the constitutional vision of **equal opportunity and social justice for all citizens**.