

Empowering Disability: Bridging The Digital Divide Through Constitutional Recognition in India

[Hindu College Gazette Web Team](#)

Mar 14



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Introduction

India, being one of the developing countries, suffers from unequal access to opportunities, which further marginalises vulnerable groups. [As of 2023, about 16% of the global population](#) is experiencing disability. According to the [United Nations Disability and Development Report 2024](#), in developing countries, access to the internet amongst persons with disabilities is 11 per cent lower than that of those without any disability.

The Supreme Court of India, in the recent judgement in [Pragya Prasun v. Union of India](#) (2025) on April 30, 2025, reaffirmed the inextricable connection between human and health rights and technology. This case emerged from the lived realities of the visually impaired persons and acid attack survivors, who were excluded from the integral everyday life financial transactions due to their inability to participate in the digital [Know Your Customer \(KYC\)](#) process, which violated their fundamental right to life and personal liberty under [Article 21 of the Indian Constitution](#).

Court's Reflection

The Supreme Court emphatically held that exclusion from digital access is violative of the fundamental right granted under [Article 21 of the Indian Constitution](#), which hinders participation in essential everyday transactions. [Article 9 of the United Nations Convention on Rights of Persons with Disabilities \(UNCRPD\) 2006](#) grants full participation and accessibility to these vulnerable individuals, which is again violated by these digital barriers, restricting their ability to work, learn, and engage on par with the rest of society.

In India, the [Right of Persons with Disabilities \(RPwD\) Act, 2016](#), also aims to preserve the rights of persons with disabilities in all aspects of life. But the denial of fair access to opportunities deprives these persons socio-economically, which violates the accessibility mandates under the RPwD Act. To handle this, all government and private entities must strictly implement guidelines to enable access for all, regardless of any disability, by adhering to [Web Content Accessibility Guidelines \(WCAG\)](#).

The denial of digital access to persons with disabilities can be normatively understood through established theories of justice. [John Rawls' principle of fair equality of opportunity](#) requires institutions to be structured so that social disadvantages arising from morally arbitrary factors, such as disability, do not determine access to opportunities. Inaccessible digital systems embedded in banking, education, and governance structures violate this principle by structurally excluding persons with disabilities from equal participation.

Further, [Amartya Sen's Capability Approach](#) reframes digital access as a prerequisite for enabling core human capabilities rather than a mere technological convenience. Digital exclusion restricts individuals' substantive freedoms to function in society, including communicating, transacting, and accessing public services. Viewed through this lens, accessibility becomes a justice obligation aimed at expanding real freedoms, aligning constitutional equality with lived experience.

India, a country known for its "[Unity in Diversity](#)", shelters all persons regardless of their varied socio-economic and religious backgrounds. According to the [2021 economic survey conducted by the Ministry of Finance, Government of India](#),

nearly 65% of the population lives in rural areas, which are further excluded by this digital divide.

At this contemporary stage, the Supreme Court notably held that [Article 21 of the Indian Constitution](#) must be interpreted in the light of progressing digital realities, and the right to digital access for all people, regardless of any disability, is a crucial component to be included in the fundamental rights.

Nexus of Health and Accessibility

In [Rajive Raturi v. Union of India](#) (2024), the Indian Supreme Court recognised ‘accessibility’ as a fundamental right under [Article 21 of the Indian Constitution](#). The [2023 fact sheet of the World Health Organization \(WHO\)](#) also includes accessibility and availability as an inherent component of the right to health.

Furthermore, global reports by the [World Health Organization in 2011](#) and the [United Nations Educational, Scientific and Cultural Organization \(UNESCO\) in 2019](#) also emphasised that the inability of persons with disability to seek educational, healthcare, and financial opportunities restricts them from engaging on par with society.

The India Supreme Court also highlighted the need to remove these barriers, which restrict the enjoyment of educational and healthcare opportunities by persons with disabilities in the case of [Disabled Rights Group v. Union of India](#) (2017). Furthermore, [Section 25 of the RPwD Act, 2016](#), also orders the government to take necessary actions to guarantee barrier-free access to these vulnerable persons in health care institutions.



Operationalising Digital Accessibility

The recognition of digital access as a constitutional right must be supported by concrete implementation mechanisms to ensure meaningful inclusion of persons with disabilities. A critical starting point is mandatory compliance with the [Web Content Accessibility Guidelines \(WCAG\) 2.1](#) developed by the World Wide Web Consortium. WCAG establishes globally accepted standards requiring digital platforms to be perceivable, operable, understandable, and robust for users with diverse disabilities. In India, these standards must be uniformly applied across government websites, public sector undertakings, banking and fintech platforms, educational institutions, and healthcare service providers. This obligation is further reinforced by the [Guidelines for Indian Government Websites \(GIGW\) 3.0](#) issued by the Ministry of Electronics and Information Technology.

Beyond formal compliance, accessibility must be subject to periodic independent audits to ensure continued adherence as technologies evolve. Such audits should be conducted annually, involve persons with disabilities as evaluators, and be made publicly accessible to promote transparency and accountability.

Equally important is the integration of assistive technologies and inclusive design alternatives, including screen readers, speech-to-text tools, captioning services, simplified user interfaces, and accessible alternatives to biometric authentication such as OTP-based or assisted verification mechanisms. As emphasized in the [World Health Organization's World Report on Disability](#), the absence of such accommodations entrenches exclusion and undermines equal participation. Finally, enforceable accountability mechanisms—such as designated accessibility officers, grievance redressal systems, and penalties for non-compliance—are essential to transform digital accessibility from a policy aspiration into a constitutional reality.

International Human Rights Framework

The [United Nations Convention on the Rights of Persons with Disabilities \(UNCRPD\)](#), ratified by India in 2007, also aims to empower the rights of persons with disabilities across the globe. [Article 9 of the UNCRPD](#) orders states to provide full accessibility to these individuals in all possible spaces. Also, [Article 25 of the UNCRPD](#) ensures that such people should achieve the highest possible

level of health, including affordable healthcare services in public and reproductive health programmes, without exclusion.

The [Icheon Strategy to “Make the Right Real” for persons with disabilities was also adopted by India in 2012](#), which calls for Information and Communication Technology (ICT) as a fundamental medium to truly implement their rights. Internationally, the European Court of Human Rights in the case of [Cenzi v. Turkey](#) (2016) emphasised the importance of imparting and receiving information through the internet and held that restricting internet access must be justified under [Article 10 of the European Convention on Human Rights \(ECHR\)](#).

“Persons with disabilities, governments and the UN system have the power to change the lives of our communities.” As [Michelle Bachelet, former United Nations High Commissioner for Human Rights](#), rightly emphasised, revisiting institutions guarantees inclusion for everyone, regardless of any disability.

Conclusion

The constitutional affirmation of the Right to Digital Access under Article 21 represents a defining moment in India’s pursuit of inclusive justice. The Supreme Court’s landmark judgment in *Pragya Prasun v. Union of India (2025)* recognized that denying digital access, especially to persons with disabilities, amounts to exclusion from essential aspects of modern life. Such exclusion is not a mere technical inconvenience, but it is a violation of dignity, autonomy, and equal opportunity, core values protected by the Indian Constitution.

Digital participation today is integral to accessing healthcare, education, financial services, employment, and civic life. When individuals are barred from digital processes such as KYC verification, they are effectively barred from citizenship itself. India’s obligations under the UNCRPD and the mandate of the RPwD Act, 2016, underscore that accessibility is not benevolence but a binding legal duty.

To make this right meaningful, accessibility must be enforced through WCAG compliance, periodic audits, assistive technologies, and accountability across public and private sectors. A rights-based digital ecosystem is essential if India is to uphold its constitutional promise of justice, dignity, and substantive equality.

Technology should not create new barriers; it must dismantle old ones.

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