

Suggestive or Enforced? Statutory Design, Delegated Standards and the Accessibility Duty under India's Rights of Persons with Disabilities Act, 2016

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ABSTRACT

A common criticism of India's Rights of Persons with Disabilities Act, 2016 is that it advises rather than commands. This article treats that criticism as a testable proposition about legal form. The method is doctrinal: each provision is classified by four questions, on whether the duty is qualified on its face, whether the provision states its own operative content or delegates it, whether breach carries an ascertainable consequence, and who may set that consequence in motion. The criticism holds unevenly, and the unevenness is more instructive. Sections 16, 24 and 25 withhold rule-like form, through an endeavour clause and a qualifier tying performance to the state's economic capacity, and section 3(3) supplies a general defence. But the accessibility duties in sections 44 to 46 are drafted as prohibitions with deadlines, and sections 32 and 34 fix quotas that courts have enforced without difficulty. The accessibility failure therefore cannot be explained by soft drafting. It is explained by section 40, which places the entire operative content of the duty in rules made by the Central Government, and by Rule 15 of the 2017 Rules, which restated those standards as advice and was held ultra vires in *Rajive Raturi v Union of India*. The article names this pattern delegated dilution. The punitive limb fails differently, in a way the article calls sanction-gating: section 94 conditions cognizance of any Chapter XVI offence by a government employee on the previous sanction of the appropriate Government, a defect ultra vires review cannot reach. Section 92 creates an offence of atrocity carrying no compensation, rehabilitation or witness protection. Comparison with the United States and the European Union shows the same structure producing the same failure, and the same remedy available. The rules that would restore the Indian duty were still in draft in August 2026.

Keywords: disability law, RPwD Act 2016, accessibility, delegated legislation, enforcement

INTRODUCTION

Nearly ten years after the Rights of Persons with Disabilities Act, 2016 received assent, the most frequent complaint about it is not that its provisions are wrong. It is that saying is all it does. The complaint comes from litigants, from disability rights organisations, and increasingly from the bench (Narayan & John, 2017; Balakrishnan et al., 2019; Duffy & Kelly, 2020; on disability in India as a social and political phenomenon, and on the standpoint of scholarship written from the Global South, see Ghai, 2015), usually expressed as a gap between law and practice and explained by administrative inertia, scarce funds and low awareness.

That explanation is not wrong, but it stops early. It treats non-delivery as something that happens to a statute after enactment, rather than as something traceable in the statute's own drafting choices and in the instruments made under it. If a duty is not performed, the first question for a lawyer is whether it was drafted so that performance could be compelled at all, and by whom, at whose instance, with what consequence for refusal. Answering that provision by provision produces a different account of the Act's failure, and of what would fix it.

This article puts the familiar complaint in a form that can be tested. Stated precisely, the proposition is that the Act's obligations are directory rather than mandatory: that they express a legislative preference without conferring correlative rights capable of enforcement, and without attaching consequences to breach that a rational addressee would take seriously. Parts 3 and 4 test the text against that proposition, and find it fits some parts of the Act closely and others not at all. Part 5 locates the source of the accessibility failure in section 40 and Rule 15 of the 2017 Rules, and reads *Rajive Raturi v Union of India* (2024) as the correction of a recurring drafting pathology the article calls delegated dilution. Part 6 turns to the enforcement machinery in Chapters XII and XVI, and to the punitive provisions, where a second and distinct defect appears in the previous sanction requirement in section 94. Part 7 examines the protective provisions and the absence of any remedy for the person against whom an atrocity under section 92 has been committed. Part 8 follows the compliance proceedings to the draft amendment rules of July 2026, sets the Indian sequence beside the United States and the European Union, and answers three objections to the argument. Part 9 restates the proposition in a form the evidence supports and maps each defect to the remedy that can reach it.

The argument has a comparative point. Accessibility is a free-standing obligation under Article 9 of the Convention on the Rights of Persons with Disabilities, which the Committee treats as a precondition for equal participation rather than an aspiration (United Nations, 2006, art. 9; Committee on the Rights of Persons with Disabilities, 2014). Most states parties nonetheless place the standards themselves in subordinate instruments. Wherever they do, the failure described here is available, and so is the remedy.

The Claim And How It Can Be Tested

What softness would have to mean

Indian courts distinguish mandatory from directory provisions by asking whether the legislature intended non-compliance to invalidate the act done, and whether a consequence attaches to breach. The word "shall" does not settle it, appearing as it does throughout the Act, including in provisions no one would call enforceable. What settles it is what follows from failure.

On that approach, a statutory duty is soft in one of five ways. It may be qualified by effort, so that trying is performance. It may be qualified by resources, so that the duty-bearer's own assessment of capacity sets the standard. It may be subject to a defence broad enough to justify most departures. It may carry no consequence a duty-bearer would rather avoid. Or a consequence may exist with the power to set it in motion given to the duty-bearer, a form this article calls sanction-gating and takes up in Part 6.5. The Act contains examples of all five, and provisions that avoid all five, and the latter are what the criticism cannot accommodate.

Table 1: The five forms of statutory softness and the provisions that exemplify them

Form	How performance is discharged	Provision
Qualified by effort	Trying is performance	s 16 ("shall endeavour")
Qualified by resources	The duty-bearer's own assessment of capacity sets the standard	s 24(1) ("within the limit of its economic capacity")
Subject to a broad defence	Most departures can be justified	s 3(3) (proportionate means of achieving a legitimate aim)
No consequence for breach	Nothing follows that a duty-bearer would rather avoid	ss 25(1), 7(3)
Sanction-gated	A consequence exists, but the duty-bearer controls whether it is used	s 94

MATERIALS AND METHOD

It works from the text of the Act as enacted, including the protective provisions in Chapter II and the offences in Chapter XVI, from Rule 15 of the 2017 Rules, from the Supreme Court and Delhi High Court decisions referred to below, and from the record of the compliance proceedings in Raturi. Provisions are quoted rather

than summarised wherever the wording carries the argument, and every quotation has been checked against the Act as published in the Gazette of India. Where a proposition rests on press reporting and not on an order sheet or an instrument, that is stated at the point the proposition is made. Post-judgment developments are dated to the instrument or order that carries them, and the status of every subordinate instrument discussed, whether draft, notified or in force, is given. The article is confined to accessibility, employment and the enforcement machinery. It does not take up legal capacity and the limited guardianship regime in section 14, on which see Dhanda (2007).

The classification used throughout is applied provision by provision, by putting four questions to the text in order. First, is the obligation qualified on its face, by effort, by resources, or by a general defence? A provision so qualified is classified as soft in the parent statute, and the qualification is quoted. Second, does the provision state its own operative content, or does it make performance turn on an instrument to be made under another section? A provision of the second kind is classified as delegated, which is a neutral finding, and it is classified as diluted only where the instrument actually made states less than the parent provision requires, which is a finding about the instrument and not about the section. Third, does breach carry a consequence a duty-bearer would rather avoid, and is that consequence quantified or otherwise ascertainable? Where it is, the provision is classified as mandatory in form whatever else is true of it. Fourth, who may set that consequence in motion? Where the power is held by the duty-bearer, or by an officer answerable to it, the provision is classified as sanction-gated. The four questions are independent, and a provision may be mandatory in form and sanction-gated in operation at once, which is the finding about sections 44 and 89 below. Classification is of provisions and not of the Act, and nothing here asserts that the Act as a whole falls on one side.

Softness Written Into The Statute

Effort as performance: section 16

The clearest instance of a duty discharged by trying is the inclusive education provision. Section 16 requires that "[t]he appropriate Government and the local authorities shall endeavour that all educational institutions funded or recognised by them provide inclusive education to the children with disabilities". The endeavour formula governs the chapeau only: the section continues "and towards that end shall" and sets out eight clauses, from admission without discrimination to reasonable accommodation, each governed by "shall". The softness therefore sits in the opening obligation, not in the whole provision. Even so, a parent whose child has been refused admission must plead breach of a specific clause, since the general duty is discharged by trying.

The contrast within the Act is sharp. Section 31(1) confers on every child with benchmark disability between six and eighteen the right to free education in a neighbourhood school or special school of choice, a right held by an identified class and not qualified by endeavour. A drafter content to leave inclusive education at the level of aspiration while making free education a right was choosing which of the two would be litigable.

Resources as the standard: sections 24 and 25

The second device appears in Chapter IV. Section 24(1) provides that "[t]he appropriate Government shall within the limit of its economic capacity and development formulate necessary schemes and programmes to safeguard and promote the right of persons with disabilities for adequate standard of living to enable them to live independently or in the community". The qualifier is doing considerable work. It comes from the vocabulary of progressive realisation in the International Covenant on Economic, Social and Cultural Rights, where it governs the pace at which a state must move towards a goal. Transplanted into a statute that purports to confer rights, it lets the government set the standard by which its own performance is judged. A state that has formulated a modest scheme has formulated a scheme, and whether a better one was within its economic capacity is not a question a court will readily take on. The sub-section does carry a proviso requiring assistance to be "at least twenty-five per cent. higher" than under comparable schemes for others. The floor is hard and arithmetical but relative: it marks up whatever the state has chosen to provide and never speaks to adequacy, so it binds only once a scheme exists. A government that has formulated nothing has nothing to exceed by a quarter.

Section 25(1) obliges the appropriate Government and local authorities to take necessary measures to provide the health services it lists. The obligation is stronger, but remains a duty to provide services in general rather than one owed to a claimant in particular, and the Act attaches no consequence to a shortfall.

A general defence: section 3(3)

Section 3(1) is expressed in strong terms: the appropriate Government "shall ensure that the persons with disabilities enjoy the right to equality, life with dignity and respect for his or her integrity equally with others". Section 3(5) requires it to "take necessary steps to ensure reasonable accommodation". Between them sits section 3(3): "No person with disability shall be discriminated on the ground of disability, unless it is shown that the impugned act or omission is a proportionate means of achieving a legitimate aim."

Proportionality analysis is orthodox in comparative equality law and its presence is not itself a defect. What matters is the setting. Given a specialist tribunal, a shifting evidential burden and decided cases on what counts as a legitimate aim, a proportionality defence disciplines the respondent. In a statute whose adjudicatory machinery is thin, and where the claimant is an individual without institutional backing litigating against a state instrumentality, the same clause is an invitation to justify. The provision is not soft in its words. It is soft in combination with Chapters XII and XVI, which is a point about the Act as a system rather than about the clause.

Who the duties bind: sections 20 to 23

The employment chapter divides its addressees. Section 20(1) provides that "[n]o Government establishment shall discriminate against any person with disability in any matter relating to employment". The prohibition is addressed to government establishments. Section 21(1) is wider: "Every establishment shall notify equal opportunity policy detailing measures proposed to be taken by it in pursuance of the provisions of this Chapter in the manner as may be prescribed by the Central Government." Every establishment, public or private, must therefore publish a policy. Section 23(1) then narrows again, requiring "[e]very Government establishment" to appoint a Grievance Redressal Officer and to inform the Chief Commissioner or State Commissioner of the appointment.

Read together, a private employer must announce what it proposes to do and need not maintain the machinery through which a complaint about not doing it could be brought. Section 34's reservation, considered below, applies to government establishments. In the private sector, which is where most employment is, the Act's principal demand is therefore documentary. Nowhere outside Chapter IV does the criticism find stronger textual support, and it is stronger than the criticism's usual form, because the weakness is not vagueness but addressee.

Table 2: Whom the employment duties bind

Provision	Duty	Government establishments	Private establishments
s 20(1)	Not to discriminate in employment	Bound	Not bound
s 21(1)	Notify an equal opportunity policy	Bound	Bound
s 21(2)	Register that policy with the Commissioner	Bound	Bound
s 23(1)	Appoint a Grievance Redressal Officer	Bound	Not bound
s 34(1)	Reserve four per cent of vacancies	Bound	Not bound

The Provisions The Criticism Cannot Explain

Numbers: sections 32 and 34

Against the material above stands a set of provisions drafted as rules. Section 32(1) requires that "[a]ll Government institutions of higher education and other higher education institutions receiving aid from the

Government shall reserve not less than five per cent. seats for persons with benchmark disabilities". Section 34(1) requires every appropriate Government to appoint, in every Government establishment, "not less than four per cent. of the total number of vacancies in the cadre strength in each group of posts meant to be filled with persons with benchmark disabilities".

These are quantified, addressed to identified institutions, and checkable by counting. They have been enforced. The Supreme Court required compliance with the higher education quota in *Disabled Rights Group v Union of India* (2018), and extended reservation to promotion in *State of Kerala v Leesamma Joseph* (2021). Nobody calls section 34 advisory, because its breach can be shown arithmetically.

A prohibition with a gate: section 44

The accessibility duties are drafted in the same register. Section 44 is headed mandatory observance of accessibility norms and provides that no establishment shall be granted permission to build if the building plan does not adhere to the rules formulated under section 40, and that none shall be issued a completion certificate or allowed to take occupation unless it has adhered to them. Section 45(1) requires existing public buildings to be made accessible within five years of notification of the rules, and section 46 requires service providers, Government or private, to comply within two years.

Both sections end with a proviso permitting the Central Government to extend the period, for States "on a case to case basis for adherence to this provision depending on their state of preparedness and other related parameters" under section 45(1) and for "certain category of services" under section 46, so the outer dates are extendable at the Centre's discretion. That concedes something to the criticism. It does not dissolve the point, because an extendable deadline still fixes a default against which extension must be justified. Aspirational drafting does not look like this. Section 44 attaches a prohibition to an existing administrative gate, the completion certificate, which municipal authorities already issue and already withhold, and sections 45 and 46 fix outer dates. Those dates are ascertainable. The Rights of Persons with Disabilities Rules, 2017 were notified on 15 June 2017, so the two-year period in section 46 ran to 15 June 2019 and the five-year period in section 45(1) to 15 June 2022. Both had expired before the Supreme Court found that the standards against which compliance was to be measured had never been made mandatory at all. A statute that wanted accessibility to remain optional would not have been drafted this way.

Judicial hardening

The courts have also strengthened the softer parts of the Act. In *Vikash Kumar v Union Public Service Commission* (2021) the Supreme Court treated reasonable accommodation as a facet of the equality guarantee rather than a concession extended by administrative grace, which aligns the Indian position with the "transformative" conception of equality the Convention is said to introduce (Degener, 2016; for the view that the social and human rights models are complementary rather than successive, see Lawson & Beckett, 2021). In *Ravinder Kumar Dhariwal v Union of India* (2021) the Court engaged with the disparate effect of a facially neutral disciplinary process on an employee with a mental disability. Because duties under the Act are read alongside Articles 14, 15 and 21, they can be enforced through writ jurisdiction whether or not the Act's machinery works, and that route has produced most of the significant enforcement to date. Its limitation is distributive, not doctrinal, since a right vindicated only in constitutional courts is rationed by the ability to reach them. The interim conclusion is that the criticism, as usually stated, is refuted by sections 32, 34 and 44 to 46, and confirmed by sections 16, 20 to 23 and 24. Since the accessibility provisions are among the hardest-drafted in the Act and among the least performed, something other than statutory softness is producing the failure.

WHERE THE SOFTNESS ACTUALLY LIVES

Section 40 and the emptiness of section 44

Section 40 provides that "[t]he Central Government shall, in consultation with the Chief Commissioner, formulate rules for persons with disabilities laying down the standards of accessibility for the physical

environment, transportation, information and communications, including appropriate technologies and systems, and other facilities and services provided to the public in urban and rural areas".

The consequence of that drafting has gone largely unremarked. Section 44 contains no accessibility standard of its own. It prohibits the issue of a completion certificate to a building that does not adhere to "the rules formulated by the Central Government under section 40", and sections 45 and 46 run their clocks from the notification of those rules and measure compliance by them. The entire operative content of the regime is therefore held in subordinate legislation, and the prohibition in section 44 has force only so far as the rules state something capable of being adhered to.

Rule 15 of the Rights of Persons with Disabilities Rules, 2017, notified on 15 June 2017, supplied that content for the physical environment, transport, and information and communication technology, by adopting sectoral guidelines in terms that read as recommendation. A municipal officer applying section 44 to a building plan, and turning to the rules for the standard, found guidance. There was nothing on which the prohibition could operate. The gate was in place and there was no lock on it.

Rajive Raturi

In *Rajive Raturi v Union of India*, decided on 8 November 2024 in W.P.(C) No. 243 of 2005 and W.P.(C) No. 228 of 2006, a bench of Chandrachud CJ, Pardiwala and Misra JJ held Rule 15 to be framed in discretionary and self-regulatory terms and ultra vires the mandatory scheme of sections 40, 44, 45, 46 and 89. The Court found that the rule set out "recommendatory guidelines, under the garb of mandatory rules", and held at paragraph 75 that "Rule 15(1) is thus ultra vires the scheme and legislative intent of the RPWD Act which creates a mechanism for mandatory compliance". At paragraph 76 it directed the Union to segregate the non-negotiable rules from the guidelines already in Rule 15 within three months, in consultation with stakeholders and with the Centre for Disability Studies at NALSAR, and to report compliance.

The defect lay neither in Parliament's drafting nor in municipal administration. It was that the executive, exercising a power to give content to a mandatory duty, used that power to describe the duty as voluntary. Nothing in section 40 authorised that. The rule-making power is to lay down standards, and a standard the addressee may decline to meet is not a standard in the sense section 44 presupposes.

Delegated dilution

The pattern is neither of the two failures usually discussed. Writing on symbolic legislation examines statutes whose latent political functions displace their manifest normative content, and locates the problem in the legislature (van Klink, 2014; van Klink et al., 2016; Neves, 2022). Symbolic law depends on organisational mediation for any enforcement effect (Grattet & Jenness, 2008). Writing on delegated legislation examines rules that exceed the power conferred, and treats the vice as excess. What happened to the accessibility duty is the inverse of excess. The rules did less than the parent Act required, and the vice was subtraction.

Three features distinguish delegated dilution from softness in the parent statute. It is invisible on the face of the Act, so a reader confined to the statute will call the regime mandatory and be unable to explain its non-performance. It is administratively convenient, because the officials who would enforce the standard are consulted on the instrument that sets it. And it is reversible without amendment, by ordinary review of the subordinate instrument. Raturi required no new law and created no new right. It required the rules to say what the Act had already said.

The Enforcement Machinery

If the accessibility failure is explained by the rules, the wider pattern of non-performance is explained by Chapters XII and XVI. The Convention's own monitoring architecture shows the same separation of inquiry from decision (Stein & Lord, 2010).

Investigation without decision

Section 75 gives the Chief Commissioner for Persons with Disabilities the functions of identifying provisions inconsistent with the Act, inquiring into deprivations of rights, reviewing safeguards, monitoring implementation and tracking the use of funds. Section 77 confers the powers of a civil court over the attendance of witnesses, the discovery and production of documents, the requisitioning of public records and the receipt of evidence on affidavit, and makes proceedings before the Chief Commissioner judicial proceedings for specified purposes.

The combination is revealing. The office has the apparatus for finding facts and not the power to determine rights. In *National Power Training Institute v Office of Chief Commissioner for Persons with Disabilities*, W.P.(C) 11104/2024, decided on 2 September 2024, Sanjeev Narula J held that the Chief Commissioner's role under the Act is investigatory and recommendatory, that the office cannot adjudicate a dispute between employer and employee or issue binding directions in service matters, and that it "does not possess the authority to pass interim orders that effectively halts administrative actions such as transfers, pending further inquiry". The stay of an employee's transfer was set aside on that basis. An investigative body with civil court powers of inquiry and no power of decision produces findings for somebody else to act on.

The three-month duty

Section 76 does not leave those findings without effect. Where the Chief Commissioner makes a recommendation in pursuance of clause (b) of section 75(1), that is following an inquiry into a deprivation of rights rather than in exercise of the monitoring, review or research functions, the authority concerned "shall take necessary action on it, and inform the Chief Commissioner of the action taken within three months from the date of receipt of the recommendation". The proviso goes further, and is easy to miss: an authority that does not accept a recommendation "shall convey reasons for non-acceptance to the Chief Commissioner within a period of three months, and shall also inform the aggrieved person". The proviso does more than advise. It creates a duty to act and report within a fixed period, and a duty to give reasons for refusal, and failure to do either is itself a breach capable of being taken to a writ court. A Division Bench of the Delhi High Court read the proviso for what it says in *Mukesh Kumar v National Power Training Institute*, 2025 SCC OnLine Del 2056, decided on 2 April 2025, holding that a recommendation under sections 75 and 76, including an interim one, binds the authority unless it conveys valid reasons for non-acceptance both to the Chief Commissioner and to the person aggrieved.

The office therefore sits between advice and adjudication, and the vocabulary of the debate has not caught up. Calling the Chief Commissioner recommendatory understates section 76 and its proviso; calling the recommendations binding overstates what *National Power Training Institute* permits. The two decisions are consistent, and the line they draw is between the content of a recommendation, which the authority may reject with reasons, and compliance with the procedure section 76 lays down, which it may not.

The scale of the penalties

Chapter XVI is where the criticism is strongest and where the Act's internal priorities are most visible. Section 89 punishes contravention of the Act or rules with a fine up to ten thousand rupees for a first contravention, and for a subsequent one a fine of not less than fifty thousand rupees extending to five lakh. Section 93 punishes failure to produce a book, account or document, or to furnish a statement, with a fine up to twenty-five thousand rupees for each offence and a further fine of up to one thousand rupees for each day of continued default.

First, a first-time failure to make a building accessible is punished less heavily than a failure to hand over a document, since the maximum under section 89 is ten thousand rupees against twenty-five thousand with a daily addition under section 93. A developer weighing the cost of an accessible entrance against a ten thousand rupee exposure is not being deterred. Second, section 93 is the only monetary penalty in the Act that accumulates, running by the day where section 89 runs by the contravention. The Act escalates against the body that withholds information and not against one that withholds access, however long the inaccessibility lasts. Neither figure has been revised since 2016, and the Act provides no mechanism for revising them. The contrast with general

legislative practice is checkable. Section 3 of the Jan Vishwas (Amendment of Provisions) Act, 2023 provides that fines and penalties under the enactments in its Schedule "shall be increased by ten per cent. of the minimum amount of fine or penalty, as the case may be, prescribed therefor, after the expiry of every three years from the date of commencement of this Act". The Rights of Persons with Disabilities Act is not among the enactments in that Schedule, and it does not appear in the Jan Vishwas (Amendment of Provisions) Act, 2026 either. Parliament has twice recently reviewed the money value of penalties across the statute book and twice left this Act out.

Table 3: Chapter XVI penalties and their procedural classification

Section	Conduct penalised	Maximum penalty	Classification	Triable by
89	Contravention of the Act or rules	Rs 10,000 first; Rs 50,000 to Rs 5,00,000 subsequent	Non-cognizable, bailable	Any Magistrate
91	Fraudulently availing a benefit	2 years, or Rs 1,00,000, or both	Non-cognizable, bailable	Any Magistrate
92	Atrocity, limbs (a) to (f)	6 months to 5 years, and fine	Cognizable, non-bailable	Court of Session as Special Court (s 84)
93	Failure to furnish information	Rs 25,000 per offence, plus Rs 1,000 per day, accumulating	Non-cognizable, bailable	Any Magistrate

The figures have also been eroded by inflation. The calculation here uses the World Bank's consumer price index for India, series FP.CPI.TOTL on a 2010 base, which stood at 154.05 in 2016 and 233.06 in 2025, a ratio of 1.513. On that measure the ten thousand rupee maximum under section 89 is worth about six thousand six hundred rupees in the money of the year the Act was passed, and would have to stand near fifteen thousand rupees to carry the weight Parliament gave it. The limits of the exercise should be stated. The index is a general consumer index and not an index of construction or compliance cost, so it measures the erosion of the fine as a sum of money and not any movement in the cost of the conduct the fine is meant to deter. And nothing here shows that the 2016 figures were adequate when they were set; the question of adequacy is separate and is argued above on other grounds. What the figures show is narrower and sufficient. A penalty fixed once, with no means of revision in the Act and no place in the general revision Parliament enacted in 2023, has lost about a third of its value while the duty it stands behind has not changed. The penalties have not been softened by amendment. They have been softened by doing nothing. Table 4 sets out the figures.

Table 4: Real value of the Act's principal fines, 2016 to 2025

Provision	Nominal figure fixed in 2016	Worth in 2016 rupees by 2025	Nominal figure needed in 2025 to match 2016
s 89, first contravention	Rs 10,000	Rs 6,610	Rs 15,129
s 89, subsequent, maximum	Rs 5,00,000	Rs 3,30,498	Rs 7,56,433
s 91, maximum fine	Rs 1,00,000	Rs 66,100	Rs 1,51,287
s 93, per offence	Rs 25,000	Rs 16,525	Rs 37,822
s 93, per day of default	Rs 1,000	Rs 661	Rs 1,513

Section 91 makes the point more sharply still. A person who fraudulently avails or attempts to avail any benefit meant for persons with benchmark disabilities is punishable with imprisonment up to two years, or a fine up to one lakh rupees, or both. The Act therefore holds imprisonment over a false claim to a disability entitlement and a ten thousand rupee fine over a first failure to provide the access it guarantees. It is the only offence directed at someone who owes no duty under the Act, and it is punished more heavily than any breach by a body bound by the Act short of an atrocity. Whatever view is taken of benefit fraud, the ordering indicates which risk Parliament had more distinctly in mind.

Section 90 fixes companies with liability, along with the person in charge of the business and with directors and managers where consent, connivance or neglect is shown, subject to a due diligence defence. It had little to do while the accessibility standards were advisory, and acquires work under the draft 2026 rules discussed in Part 8, which reach every establishment making covered items available to persons in India.

Atrocities: section 92

Section 92 is the Act's only substantial custodial provision, and it punishes six categories of conduct: intentionally insulting or intimidating a person with disability with intent to humiliate, "in any place within public view"; assaulting or using force with intent to dishonour or "outrage the modesty" of a woman with disability; denying food or fluids to a person with disability who is in one's "charge or control"; using a position of dominance over the will of a woman or child with disability to exploit her or him sexually; injuring, damaging or interfering with the use of "any limb or sense" or a supporting device; and performing or directing a medical procedure on a woman with disability which leads or is likely to lead to termination of her pregnancy without her express consent, subject to an exception in cases of severe disability. The punishment is imprisonment of not less than six months and up to five years, and fine.

The first point repeats what was said about the Act's priorities. Imprisonment is reserved for interpersonal cruelty and structural exclusion left to fine, so the Act's criminal law addresses what individuals do to persons with disabilities and not what institutions withhold from them.

Less apparent is that the boundary of the offence is drawn by relationship and proximity rather than by gravity of harm. Charge or control, dominance over the will, the application of force, presence in a place within public view. Every limb reaches somebody near the person harmed. None reaches an authority that issues a completion certificate to an inaccessible building, or a service provider whose website cannot be used, however many people are excluded and for however long. The Act's criminal law and its accessibility duty do not meet at any point, which is a feature of the design, not a gap in it, and it explains why the accessibility regime had to be rebuilt through licensing and procurement rather than through Chapter XVI.

There is also section 95, under which an act that is an offence both here and under another Central or State law is punishable only under whichever provides the greater punishment. The general criminal law punishes assault, sexual offences and grievous hurt more heavily than five years in most aggravated forms. A prosecutor with a serious case therefore has no reason to charge section 92, and the provision carrying the Act's expressive weight is the one most likely to be displaced at the moment of charging. Whether that happens at scale is a question about prosecutorial data rather than about text, and it is not answered here.

The displacement appears to begin earlier than charging. In *Basavanand Swamigalu v State of Karnataka* (2023), decided by the Karnataka High Court on 16 February 2023, the police had rejected the complaint of a visually impaired complainant and directed him to a common law remedy instead. Krishna Kumar J set that communication aside, holding that a person with disability who complains under the Act cannot be told to seek relief under the general law. What matters here is not the holding, which is unsurprising, but the conduct it had to correct. Where the general law offers an alternative, the Act's own offence is liable to be treated as the avoidable option by the officer who first receives the complaint, and section 95 gives that instinct a textual foothold. A provision drafted to ensure that an offender is not under-punished operates, at the police station, as a reason not to use the Act at all.

The sanction gate: section 94

What most determines whether Chapter XVI operates against the state is not a penalty at all. Section 94 provides that "[n]o Court shall take cognizance of an offence alleged to have been committed by an employee of the appropriate Government under this Chapter, except with the previous sanction of the appropriate Government or a complaint is filed by an officer authorised by it in this behalf".

Both routes to cognizance are held by the same hand. Sanction is given by the appropriate Government, and the alternative complaint is filed by an officer whom that Government authorises. There is no route through the Chief Commissioner, whose recommendations under section 76 must be answered within three months, and none through a person with a disability who has been refused access and wishes to complain. The section does not distinguish the atrocities in section 92 from the contraventions in section 89, so it covers the whole chapter.

The consequence for the accessibility duty is direct. Section 89 is the provision under which a public authority that admits occupation of an inaccessible building, contrary to section 44, would be punished, and section 94 means that punishing it requires the appropriate Government's prior permission to punish its own employee. The prohibition in section 44, having survived the softness of the parent statute and been restored in Raturi against the dilution of Rule 15, arrives at a consent requirement.

The defect is the punitive counterpart of delegated dilution. Delegated dilution empties a mandatory duty through the instrument that gives it content; sanction-gating empties a mandatory penalty through the consent that permits its enforcement. Both are invisible on the face of the operative section, so a reader who works through sections 44 and 89 will call the regime mandatory and be unable to account for its non-performance. They differ in one respect that matters for remedy. Rule 15 was subordinate and could be set aside on ordinary review, which is what happened. Section 94 is in the parent Act, so no court can read it out and the compliance jurisdiction that produced the 2026 rules cannot reach it.

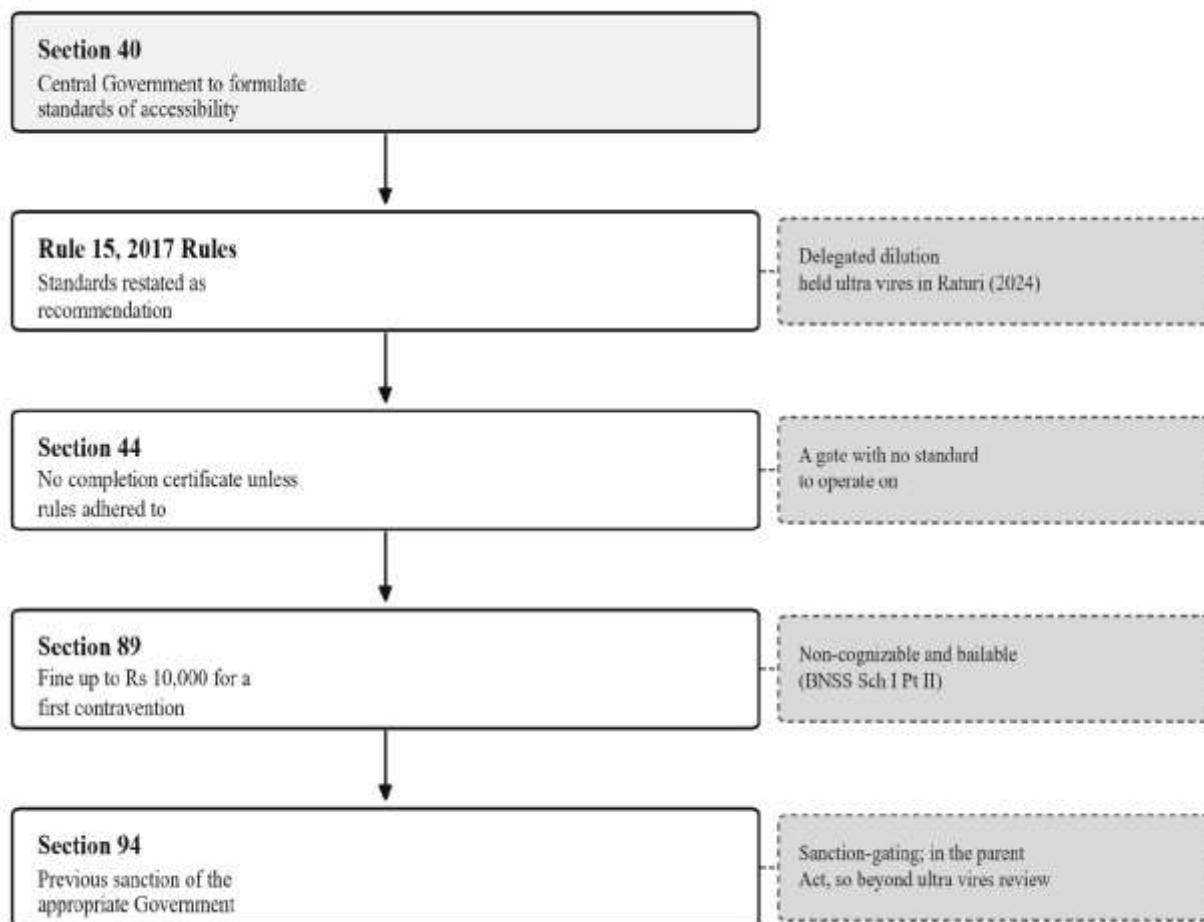


Figure 1: The accessibility duty from section 40 to section 94, and the point at which each link fails

An inert chapter

Whatever Chapter XVI provides, the prosecutions it contemplates depend on courts most states have not designated. Section 84, in Chapter XIII, requires the State Government, with the concurrence of the Chief Justice

of the High Court, to specify a Court of Session in each district as a Special Court, and section 85 provides for Special Public Prosecutors.

Before that stage is reached, the Act leaves a question it does not answer. It nowhere states whether its offences are cognizable or bailable, so classification falls to Part II of the First Schedule of the Bharatiya Nagarik Suraksha Sanhita 2023, which performs that function for offences under laws outside the penal code and does it by punishment alone. An offence punishable with imprisonment for three years and upwards but not more than seven is cognizable and non-bailable, and triable by a Magistrate of the first class. One punishable with imprisonment for less than three years or with fine only is non-cognizable and bailable, and triable by any Magistrate. On the punishment section 92 carries, therefore, the offence is treated as cognizable and non-bailable, so an arrest may be made without warrant and bail is not available as of right. Nothing in the Act is more punitive, and nothing in the Act says so. The forum is less tidy, since Part II sends the offence to a Magistrate of the first class, section 92 permits five years, and section 23(2) of the Sanhita caps a Magistrate of the first class at three. Section 84 resolves the mismatch by making the Court of Session the Special Court, with a magistrate taking cognizance and committing the case. The route is coherent. It has three stages, none of them stated in the Act, and it ends in a court most states have not designated.

Where designation has not occurred, Chapter XVI is inert whatever its provisions say. The same holds for the offices the machinery presupposes, and here the drafting invites the failure. Section 74(1) provides that the Central Government "may, by notification, appoint a Chief Commissioner", section 74(2) that it "may" appoint the two Commissioners who assist him, and section 79(1) that a State Government "may" appoint a State Commissioner. The offices on which Chapters XII and XVI depend are created by a permissive verb. The consequence is on the record. Hearing the Raturi proceedings on 29 July 2026, Pardiwala and Viswanathan JJ found that eleven States and Union Territories, among them Delhi, Haryana, Rajasthan, Himachal Pradesh, Karnataka, Tamil Nadu and the Andaman and Nicobar Islands, had still not appointed a State Commissioner, and directed that they do so within four weeks. The same order required the Union to appoint a regular Chief Commissioner and the two Commissioners contemplated by section 74 within the same period, and warned that delay would be viewed strictly. Nine years after commencement, the office section 76 makes answerable and the offices section 79 creates were being ordered into existence by a court, and given section 94 their absence leaves no institutional actor with both the standing and the interest to prosecute.

Prevention, And The Missing Reparative Limb

The Act's punitive provisions are matched by protective ones, which the literature has largely passed over. Chapter II contains three: section 6 on cruelty and inhuman treatment, section 7 on abuse, violence and exploitation, and section 8 on situations of risk. These address atrocity before it occurs rather than after, and their weakness is of the same kind as the machinery's.

Information to a magistrate: section 7 of the Act

Section 7(1) obliges the appropriate Government to take measures to protect persons with disabilities from all forms of abuse, violence and exploitation and to prevent the same, by taking cognizance of incidents, prescribing a reporting procedure, rescuing, protecting and rehabilitating victims, and creating awareness. That is a measures duty, soft in the fourth of the ways set out above.

What follows it is drafted differently. Section 7(2) provides that any person or registered organisation which has reason to believe that an act of abuse, violence or exploitation "has been, or is being, or is likely to be committed" against any person with disability may give information about it to the Executive Magistrate within whose local limits the incident occurs. Section 7(3) requires the Magistrate, on receipt, to take immediate steps to stop or prevent its occurrence, or to pass such order as he deems fit for the protection of that person, including rescue, protective custody if desired, or maintenance. A further sub-section requires a police officer receiving a complaint to inform the aggrieved person of the right to apply for protection, of the rehabilitation services and legal aid available, and of the complaint procedure.

This is the best-constructed protective provision in the Act. It is anticipatory, since "is likely to be committed" permits intervention before harm occurs, which no other provision allows. It does not depend on the person at risk, since any person or registered organisation may set it in motion, and that matters most in the situation section 92 contemplates, where the person at risk is in the charge or control of the person creating the risk. It also routes to a magistrate rather than a police station, removing the discretion to decline registration that defeats complaints under protective statutes generally.

Why it is nevertheless soft

The softness is of the fourth kind, and it can be stated precisely. "Immediate steps" carries no period, so there is no date on which the duty is breached and nothing for a mandamus to fix upon. No consequence attaches to a Magistrate who receives information and does nothing, since inaction is not an offence under Chapter XVI, and if it were, section 94 would require the appropriate Government's sanction to prosecute. The order is discretionary, since section 7(3) permits "such order as he deems fit". The provision confers a route and not a right, and its operation depends on a magistracy the Act does not train, resource or monitor, and whose performance nobody must report.

Sections 6 and 8 are softer, in ways already identified. Section 6 obliges the appropriate Government to take measures against "torture, cruel, inhuman or degrading treatment", and separately bars research on a person with disability without "free and informed consent obtained through accessible modes, means and formats of communication" and the prior permission of a Committee for Research on Disability. The first limb is a measures duty; the second is a prohibition with a named gatekeeper, and the more enforceable for that reason alone, which is the lesson section 44 teaches. Section 8 declares that persons with disabilities "shall have equal protection and safety in situations of risk, armed conflict, humanitarian emergencies and natural disasters", and puts duties on disaster management authorities to include them in planning.

An offence without a remedy

The more consequential feature of this part of the Act is what it does not contain. Section 92 creates the offence of atrocity and attaches to it no entitlement for the person against whom the atrocity was committed. There is no compensation, no interim relief, no rehabilitation triggered by the offence, and no witness protection. Section 7(1) speaks of steps to rescue, protect and rehabilitate victims, but as a general duty on government rather than an entitlement crystallising when an offence is made out, and Chapter XVI creates no fund or power through which a convicting court could direct anything to the person harmed.

The comparison that shows this to be a choice rather than an oversight is domestic. The Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act 1989 had been on the statute book for twenty-seven years when the RPwD Act was passed, and it pairs its atrocities offence with a reparative apparatus. Chapter IVA, inserted by the amending Act of 2015 and brought into force on 26 January 2016, eleven months before the RPwD Act received assent, confers rights on victims and witnesses in section 15A, including protection, a free copy of the first information report, and relief. The rules made under the Act carry a scale of relief in rule 12 and its annexure, provide for designated officers, and constitute standing vigilance and monitoring committees at state and district level. The argument is not that disability should be assimilated to caste, which would misdescribe both. It is narrower and harder to answer. Parliament had a working domestic template for pairing an atrocities offence with a reparative apparatus, had strengthened that template in the same year, and legislated the offence without the apparatus.

The omission compounds the problem identified in Part 6.4. A criminal provision that yields the person harmed nothing gives little reason to pursue it, and the costs of pursuit fall on the party least able to bear them. Where the same conduct can be taken to a constitutional court under Articles 14 and 21, with compensation available there, a complainant advised on the options has reason to leave section 92 alone. The Act's expressive provision is displaced twice over: by section 95 at the point of charging, and by the absence of a remedy at the point of deciding whether to complain.

Putting The Obligation Back, 2024 To 2026

Raturi did not end with a declaration, and the sequence that followed shows both what judicial supervision can retrofit and what it cannot.

The Union did not meet the three-month deadline, which expired on 8 February 2025. Draft rules on compliance with accessibility standards for information and communication technology products and services were released for public consultation by the Department of Empowerment of Persons with Disabilities with the Centre for Disability Studies at NALSAR on 25 June 2025, with thirty days for comment, roughly four and a half months late. Draft rules for the built environment followed by gazette notification published on 5 January 2026. At a compliance hearing on 11 February 2026 before Pardiwala and Viswanathan JJ, petitioners raised three objections. The framework had no purchase where there is no government pre-clearance, websites in particular, since a completion certificate is irrelevant there and a fine under section 89 is trivial. Responsibility had been left with the Department of Empowerment of Persons with Disabilities while other ministries declined ownership. Commissioner posts remained vacant. The Court granted four further months. The account of that hearing rests on press reporting rather than on the order sheet, and it is used here only for the objections raised and not for any finding. Each of the three is separately supported: the first by the terms of the draft rules that followed, which are built around a gate that does not depend on pre-clearance; the third by the Court's order of 29 July 2026, which had to direct the appointments.

The draft Rights of Persons with Disabilities (Amendment) Rules, 2026 followed, notified as S.O. 3962(E) on 16 July 2026 and published in the Gazette of India (Extraordinary) on 20 July 2026 with a thirty-day objection period. Their architecture answers the first objection. Conformance with IS 17802, tested to that standard's own method, becomes mandatory for covered information and communication technology items, and the duty attaches to every establishment, in India or abroad, that makes such items available to persons in India. Establishments must publish an Accessibility Conformance Report identifying the evaluator. Government entities may not procure non-conforming items. Compliance periods are tied to turnover. Enforcement runs from a fine under section 89, through a remediation window, to suspension or cancellation of registration, certification or licence, and licensing authorities are to require conformance as a condition of grant, renewal or continuation.

Draft, notified, in force

Three things about that instrument have to be kept apart, because the difference between them is the difference between a duty and a proposal, and the literature on the Indian regime has not always kept it. The 2026 rules are draft. They were published for objections with thirty days to make them, they have not been notified in final form, and until they are, the operative accessibility standard remains what Rule 15 and the sectoral guidelines make it. The 2017 Rules by contrast were notified, and it was their notification on 15 June 2017, and not the commencement of the Act on 19 April 2017, that started the clocks in sections 45 and 46 running. And a notified rule is not yet a rule in force against a given establishment, because the draft ties compliance to turnover and allows a year to establishments above five hundred crore rupees and eighteen months to the rest, with the outer two-year period in section 46 running from notification. On 29 July 2026 the Court directed the Additional Solicitor General to examine the suggestions of experts and litigants before the rules are notified in the Gazette, and listed the matter in January 2027. The position in August 2026 can therefore be stated exactly. The accessibility standards that section 44 presupposes have been mandatory in form since 2016, recommendatory in substance since 2017, held ultra vires in 2024, and are still in draft.

The remedy for delegated dilution is ordinary and cheap. No amendment was needed. The correction consisted of requiring the subordinate instrument to carry the mandatory content the parent provision assumed it would carry. Where a jurisdiction's accessibility standards sit in rules, regulations or codes rather than in the statute, the same review is available on the same reasoning.

Obligation travels by attaching to a gate. Section 44 worked, in design, because a completion certificate is something a builder must obtain from somebody. Where the establishment needs nothing from the state, as with a website, there is no gate, and the draft rules respond by constructing one out of conformance reporting linked

to licence continuation and procurement eligibility. That substitution is the transferable lesson of the Indian sequence, and it did not wait for the rules. By a circular of 31 July 2025 titled "Rights of Persons with Disabilities Act, 2016 and Rules made thereunder: Mandatory Compliance by All Regulated Entities", the Securities and Exchange Board of India required its regulated entities, from stock exchanges and depositories to mutual funds and registered intermediaries, to bring websites, applications and investor-facing content into conformity with recognised accessibility standards including IS 17802, to appoint certified auditors, and to report. Later circulars in 2025 revised the timetable and added a route for investor complaints. A market regulator could do this, before any rule under section 40 had been notified, because it holds something its regulated entities need. The gate was available all along. What was missing was not legislative competence but the decision to use it.

What remains is what drafting cannot supply. Fragmented ministerial ownership and unfilled statutory offices are failures of executive will and appointment, not of legislative technique. A continuing mandamus can name them, and the February 2026 hearing did, a shortfall the treaty body had already identified (Committee on the Rights of Persons with Disabilities, 2019), but standard-setting does not fill a vacant Commissioner's post or make a transport ministry accept a duty it has treated as belonging elsewhere. Sanctions and standards do their work through organisations, and where the organisation is absent the norm has nowhere to land.

The pattern outside India

Two jurisdictions show that the pathology is structural, not Indian. In the United States, title II of the Americans with Disabilities Act of 1990 has required public entities to make their programmes accessible since enactment, but the standard by which a website is judged accessible was left to the Department of Justice. The Department issued an advance notice of proposed rulemaking in 2010, withdrew that notice and three others in December 2017 while stating that it was still evaluating whether specific web accessibility standards were necessary and appropriate, and adopted a standard only on 24 April 2024, when it made the Web Content Accessibility Guidelines 2.1 Level AA the technical standard for title II, with compliance to begin on 24 April 2026 for public entities of fifty thousand people or more. On 20 April 2026, four days before that date took effect, the Department issued an interim final rule postponing it to 26 April 2027, and the date for smaller entities and special district governments to 26 April 2028. The statutory duty was never softened. Its operative content was withheld for the fourteen years between the first notice and the rule, supplied, and then deferred, each time by the executive and each time through the subordinate instrument. The sequence is the American form of what Rule 15 did in India, and it is available for the same reason.

The European Union has built the safeguard that India and the United States lack. Directive (EU) 2016/2102 requires the websites and mobile applications of public sector bodies to be perceivable, operable, understandable and robust, and that requirement binds by its own terms. Conformity with the harmonised standard EN 301 549, cited in the Official Journal by Commission Implementing Decision (EU) 2018/2048 as amended in 2021, confers a presumption of conformity and nothing more. A body that departs from the standard is not thereby in breach and a body that follows it is presumed compliant until the presumption is displaced, but in neither case does the standard carry the obligation. The European Accessibility Act, Directive (EU) 2019/882, which has bound economic operators since 28 June 2025, goes further and places the accessibility requirements themselves in Annex I to the directive. No harmonised standard has yet been cited in the Official Journal under that directive, and the requirements bind regardless, which is the test case. In India the equivalent silence emptied the duty. In the Union it leaves the duty intact and only the presumption unavailable.

The comparison locates the defect precisely. It is not delegation, which every accessibility regime uses because technical standards must be revisable without an amending Act, and which the Union uses as freely as India. It is delegation of the whole of the operative content, with nothing left in the parent instrument to bind if the subordinate one says less, arrives late, or is put off. Section 44 prohibits occupation of a building that does not adhere to the rules and says nothing about what an accessible building is. Article 4 of Directive (EU) 2016/2102 says what an accessible website is and lets the standard supply the detail. That is the whole of the difference, and it is a drafting choice available to any legislature at no cost. Delegated dilution is therefore not a description of Indian administrative culture. It is what happens wherever a mandatory duty is drafted with its content held

entirely elsewhere, and the remedy in every case is the same: keep a binding floor in the parent instrument and let the subordinate one do the technical work above it.

Three objections

Three objections should be met, because each is serious and none is fatal. The first is administrative feasibility. A municipal officer cannot apply a standard that does not exist, a country building at India's rate cannot retrofit every public building at once, and on this view the caution in Rule 15 was a recognition of capacity rather than a subversion of the Act. The answer is that feasibility is an argument about the content of a standard and about the time allowed to meet it, and the Act had already provided for both. Section 45(1) gives five years and lets the Central Government extend for States on the basis of their preparedness. Section 46 gives two years with a further extension for categories of service. Parliament built the concession into the timetable, and built it in a form that requires the extension to be sought and given. What Rule 15 did was different in kind. It did not extend a deadline or moderate a standard. It removed the obligation to meet any, which leaves an establishment entirely able to comply under no duty to do so. Feasibility justifies phasing. It does not justify making performance optional for those who could perform, and it does not explain why the concession was made through an instrument that no one had to ask for.

The second is progressive realisation. Accessibility costs money, the International Covenant on Economic, Social and Cultural Rights accepts that economic and social rights are achieved over time, and a court that treats an accessibility standard as immediately binding is said to be ignoring that. The answer is that the Convention does not treat accessibility this way. Article 9 states the obligation without a resource qualifier, and the Committee treats it as a precondition of the other rights rather than as one of them, on the ground that a right exercisable only in a place one cannot enter is not being progressively realised but withheld (Committee on the Rights of Persons with Disabilities, 2014). The Act makes the same distinction, and makes it in its own drafting. Section 24(1) carries the economic capacity qualifier and section 25 is a measures duty. Sections 44 to 46 carry neither. Reading progressive realisation into the accessibility provisions requires reading in a limitation that Parliament wrote elsewhere in the same statute and omitted here, which is the opposite of what the omission ordinarily signifies.

The third is separation of powers, and it is the strongest. Setting aside a rule for saying less than the parent Act requires comes close to directing the executive how to exercise a discretionary power, and a supervisory jurisdiction that oversees the drafting of rules across two years, sets deadlines and orders posts filled is a court doing administration. The answer is narrower than it may appear. Raturi did not tell the Union what the standards should contain, and left the technical judgment where section 40 puts it. It held that whatever they contain must be capable of being adhered to, because section 44 prohibits occupation of a building that has not adhered to them, and a provision cannot be read so that its own precondition is incapable of being satisfied. That is ordinary *ultra vires* review, and the discretion it leaves is wide. The continuing jurisdiction that followed is a different matter and the objection has more force against it, so its limits should be set out rather than disputed. In two years it has produced draft rules and it has not produced a Chief Commissioner, and section 94 lies wholly outside it. A court can require a delegate to exercise a delegated power lawfully. It cannot make an appointment that a statute leaves to the executive's discretion, and it cannot amend the parent Act. The objection is therefore an argument for legislative attention, not against the holding.

CONCLUSION

The evidence supports a narrower and more useful claim than the criticism makes. Four propositions can be defended.

The socio-economic entitlements are soft by design, and the softness sits in identifiable clauses: the endeavour formula in section 16 and the economic capacity qualifier in section 24(1). That is the ordinary treatment of progressive obligations in domestic legislation, though its cost falls on a population with few alternatives.

The duties on private employers are weak not because they are vaguely expressed but because of whom they address. Sections 20, 23 and 34 bind government establishments, while section 21 asks every establishment for a policy. The remedy is legislative and specific.

The accessibility duties are mandatory in form and were rendered voluntary in delivery by the instrument made under section 40. That is delegated dilution, corrected in Raturi by ultra vires review, and now being replaced by a conformance regime whose effectiveness will turn on whether licensing authorities treat conformance as a condition of continuation.

The punitive limb is mandatory in text and gated in operation. Section 92 carries a minimum sentence and section 89 a rising scale of fines, but section 94 places cognizance of every Chapter XVI offence by a government employee in the hands of the appropriate Government, and the offences reaching institutional exclusion are the fine-only ones whose figures have not moved since 2016. To the person against whom an atrocity is committed the Act offers no remedy. None of this is curable by review of a subordinate instrument.

None of the four supports the claim that the Act is suggestive. Together they support something more damaging: Parliament wrote a mandatory accessibility duty, the executive drained it through rule-making, it took seven years from the notification of Rule 15 for a Supreme Court bench to say so, and the penalty standing behind the duty still requires the state's permission before it can be used against the state.

The parts of the familiar complaint that survive this test therefore point somewhere specific, and in three directions: to the rules made under section 40, to the offices that Chapters XII and XVI assume exist, and back into the Act itself, to the previous sanction requirement in section 94. The first has been addressed, provisionally, by litigation and by a draft instrument whose final form is unsettled. The second has not been addressed at all, and no amount of standard-setting will reach it. The third cannot be addressed by a court, since it is a considered provision of the parent statute rather than an excess of delegated power, and Parliament has not been asked to revisit it.

The four findings point to four different remedies, and the distinction matters because a defect addressed at the wrong level cannot be reached at all. Ultra vires review reaches a rule and nothing else. A continuing mandamus reaches an appointment and not a section. Licensing and procurement reach a duty-bearer who needs something from the state, and only Parliament reaches the rest. Table 5 sets them out.

Table 5: Each defect identified in this article and the remedy that can reach it

Defect	Where it sits	Level	Remedy that can reach it	Status in August 2026
Effort discharges the duty	s 16 chapeau	Parent Act	Legislative amendment; litigation on the eight specific clauses meanwhile	Not attempted
The duty-bearer's resources set the standard	s 24(1)	Parent Act	Legislative amendment; the twenty-five per cent proviso binds only once a scheme exists	Not attempted
Private employers owe only a published policy	ss 20, 23 and 34, addressed to Government establishments	Parent Act	Legislative amendment extending the addressee	Not attempted
Mandatory standards restated as advice	r 15, RPwD Rules 2017	Delegated instrument	Ultra vires review of the rule	Done in Raturi, 8 November 2024



No standard for duty-bearers who need no government clearance	Absence in the rules made under s 40	Delegated instrument	Revision of the rules; a licensing or procurement gate	Draft rules of July 2026; SEBI circulars from July 2025
Fines fixed in 2016 and never revised	ss 89 and 93	Parent Act	Legislative amendment; the Act has no uprating mechanism and is outside the Jan Vishwas schedules	Not attempted
An offence with no entitlement for the person harmed	s 92 with Chapter XVI	Parent Act	Legislative amendment on the model of Chapter IVA of the 1989 Act	Not attempted
Cognizance conditional on the appropriate Government's sanction	s 94	Parent Act	Legislative amendment only; beyond ultra vires review and beyond the compliance jurisdiction	Not attempted
Special Courts not designated	s 84	Administrative	Continuing mandamus; state notification with the Chief Justice's concurrence	Outstanding in most states
Commissioners not appointed	ss 74 and 79, both permissive	Administrative	Continuing mandamus and appointment; legislative amendment to make the power a duty	Directed on 29 July 2026, four weeks given

The correction will have held only if the 2026 rules are notified with the licensing consequence intact, and if some licensing authority then uses it. Neither can be answered yet. The rules were still in draft when the Court, on 29 July 2026, directed that the suggestions of experts and litigants be examined before notification in the Gazette, and listed the matter for January 2027. Both questions are answerable within a few years, and the answers will say more about Indian disability law than a further decade of writing about the gap between law and practice.

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