

Margins To Dignified Mainstream: Envisioning Disability in Light of Structural Ostracism

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Abstract:

This paper explores the idea of a dignified life for persons with disabilities (PWD) and how structural barriers in society keep them pushed to the margins. It argues that true human dignity is not just about survival but about living with respect, autonomy, freedom, and equal participation in society. The authors explain that human dignity is a fundamental part of the right to life. Drawing from philosophers like Kant and existentialist thinkers, they show that every person deserves respect and the chance to make choices, regardless of physical or mental abilities. International human rights documents such as the Universal Declaration of Human Rights (UDHR), ICCPR, and regional charters also strongly support the idea that dignity is inherent and must be protected. The paper highlights how marginalization works against dignity. Persons with disabilities face deep-rooted exclusion called structural ostracism — not just individual prejudice, but barriers built into the design of buildings, transport, education, digital services, workplaces, and justice systems. Historically, societies treated disability as a tragedy or curse. Harmful ideas like eugenics in the 19th and 20th centuries even led to forced sterilizations, institutionalization, and the belief that disabled lives were “not worth living.” These attitudes created lasting discrimination.

The paper then examines positive changes happening today. In Europe, the European Accessibility Act (effective from 2025) and the European Disability Card are making products, services, and cross-border movement more inclusive. In the United States, new rules under the Americans with Disabilities Act (ADA) and Section 504 require government websites, apps, and federally funded services to meet strict accessibility standards. In India, the Supreme Court has declared digital accessibility a fundamental right under Article 21. Important steps include accessible digital KYC, standardized accommodations in competitive exams, and a Handbook for Persons with Disabilities in courts.

The core message is clear: disability is not just an individual medical issue but largely a result of society’s failure to design systems that work for everyone. The paper calls for moving from mere “reasonable accommodation” to universal design and mandatory inclusive standards from the very beginning of any system. Only then can persons with disabilities move from the margins to the dignified mainstream.

The authors conclude that continuous adaptation is needed as technology changes. Inclusion must become a core part of governance, not an afterthought, so that every person can live with autonomy, respect, and full participation in society.

Keywords: Human Dignity, Structural Ostracism, Persons with Disabilities, Right to Life, Inclusive Accessibility.

DIGNIFIED EXISTENCE -AN ESSENTIAL FACET OF LIFE WORTH LIVING

The life we live is not just a biological process or an anomaly in the observable inanimate cosmos but it is much more than what meets the eye. An annotation to the above would be that one’s existence is made up of complex mutually interdependent variables which aggregate to form actual experience of living. Out of the several schools of thought the rebellious existentialist¹ views explore subjective human experience even in the face of meaningless and immeasurable expanse of the universe.

On the other hand the cardinal rationalist principle of Descartes’s philosophy reads “je pense, donc je suis” the direct anglicised version would be “I am thinking therefore i exist” and the early latinized text is nothing but the well-known adage “Cogito ergo sum” which is a simpler yet appealing translation “I think therefore I am”. The views of Descartes give primacy to consciousness, however, in the modern scientific context which eliminates duality of mind and body, human consciousness is a subjective experience.

When it comes to erstwhile 19th and 20th century schools of existentialism an interesting and appealing tenet is that “Existence Precedes Essence”³ which means human existence is not predetermined and an individual is not born with a particular essence or nature. Human existence or living one’s life in simple words is through the aggregate of choices and actions one takes. Furthermore, with freedom of choice comes responsibility. With the above being the base perception of existence, humans tend to start the journey of life to discover true meaning and purpose in life. Humankind is adamant and incessantly attempting to scale down the universe and its infinite phenomena to reconcile with human cognition. However, at an individual level human desire is to feel respected and to contribute to society in general. In addition to that, a human person expects a minimum guarantee of basic amenities and a sense of having control over one’s proximate future. The said can be further broken down to basic needs, free will i.e. having autonomy to decide for oneself, fair and equal treatment in society, and the innate realisation of one’s purpose in life. With all these rudimentary conditions actualised the word existence can be qualified with the word dignified. A life with dignity is not easy as it sounds. It could be easily compromised with the slightest variations in extraneous conditions necessary for the human existence or factors intrinsic to the human person. Kant’s⁴ views which laid foundations of many human rights instruments are crucial in defining and perceiving human dignity. Kant’s views are founded in rationality, deontology and individual autonomy. At the core of his views on human dignity is the assumption that humankind has the typical faculty to act with reason and free of extraneous influences. This distinct capability sets humankind apart from the rest of known reality which functions on laws of nature embedded in causality. Humankind has the potential of making choices based on higher principles instead of acting purely on his/her instincts or any other subjective situation. These higher universal principles are better known as the moral law on which one ought to act. Kantian philosophy inevitably attaches individual autonomy to his/her free rational will. This autonomy in connection with rational will ascribes dignity to an individual. The moral worth of an individual or in simple words dignity is detached from his/her status in society, physical or mental abilities or any other quantifiable achievement. Kant propounds a concept of dignity which is ubiquitous and founded in equality of humans.⁵ This view is consistent when it comes to questions of human diversity where only limited autonomy exists due to extraneous or intrinsic factors. Kant recognizes human dignity as equal in all individuals by the virtue of them being members of human species.

Michael Sandal argues that it is not honor but dignity that is the basis of respect. The dignity that consists in the capacity of persons as autonomous agents to choose for their ends for themselves.⁶ One of the foundational sources of dignity can be identified as the purpose of one’s life to be discovered by oneself. The fundamental existential query “What is the true meaning of life and its purpose?” is a relentless debate which has existed since the dawn of civilization on this planet. However, in an attempt to decipher the purpose of one’s existence in a generic

sense, we arrive at an inference that purpose could be very specific to an individual. Hence, choice of one's action and free will to exercise that choice without external barriers would verily determine the true meaning and purpose of one's life. The simple concept of choice and free will in a legal context transcribes as vital human rights determining a dignified life.

The Banjul Charter⁷ expressly provides for the respect of human dignity. The concept of inviolable inherent dignity is recognised by said charter and this is not a grant from the state but inherent to members of humankind. Similarly, Art.1 of ECFR⁸ reads that "Human Dignity is inviolable. It must be respected and protected". Moreover, the German Constitution has similar provisions for the recognition and protection of human dignity.⁹ Art1 of UDHR reads "All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood".¹⁰ The Kantian analysis of these frameworks will lead to the inference that dignity is inherent in all human beings as autonomous moral agents and human dignity is interconnected to other allied rights within these frameworks. Furthermore, all these national, regional and international frameworks specify the inviolability of human dignity and promote it as a paradigm on which other allied rights are constructed. This is consistent with the views of Kant. Another parameter is autonomy which forms the core of Kant's views on dignity which is recognised by the UDHR and European framework on human rights through the recognition of privacy, liberty and expression. The Banjul Charter imposes legal duties on individual emphasising on social responsibility indirectly recognising the dignity of fellow human beings. Unfortunately, when it comes to choices in life it seems to be a distant reality for many individuals even in this 21st century.

LIFE WITH DIGNITY -AN INDISPENSABLE COMPONENT OF THE RIGHT TO LIFE

An umbrella term "right to life" is often used in the diction of national and international human rights frameworks to denote a large and dynamic set of rights essential to the human person. Leaving the term "life" open to interpretation is highly beneficial for the dynamic wants of humankind and in ensuring intergenerational equity. In other words, the perception of the right to life in a given society varies with time, geography and economics. However, a minimum scheme is mentioned in the Universal Declaration of Human Rights "Everyone has the right to life, liberty and security of person". Similarly, ICCPR reads "Every human being has the inherent right to life." The recognition of the right to life in UDHR and ICCPR were elementary in nature, hence a pioneering step in the international human rights framework also known as first generation rights. The scope of the provision is expanded to accommodate dignity in the contemporary elucidation of the said right. This is substantiated by the general comment of the UNHRC which points out that the right to life is a fundamental human right closely connected to human dignity. The UNHRC in the comment further observed that human dignity is the foundational aspect of all human rights. It lays down that the member states should take all necessary steps to ensure that individuals are treated with dignity and take all measures to prevent discrimination, marginalisation and exclusion. The UNHRC observes that State parties should take appropriate measures to address the general conditions in society that may eventually give rise to direct threats to life or prevent individuals from enjoying their right to life with dignity.¹¹ Furthermore, the Committee on Economic, Social and Cultural Rights has observed "Human dignity is a fundamental principle that underlies all human rights, including the right to life and the right to health". A nexus between right to life and right to human dignity is created by General comments. Hence, it can be inferred that the concept of dignity as a right is intricately woven into the lattice of right to life and is inseparable from the context of international human rights framework.

Traversing through the views of superior courts in the oldest and the largest modern democracies of the world will portray a better link between dignity and life as a single inseparable right. The reference is to none other than the persuasive observation made by apex court in USA and India. In *Munn v. Illinois*¹², the court observed "Life means something more than mere animal existence, and the inhibitions against the deprivation of life extend to all those limits and faculties by which life is enjoyed." A similar view was reiterated in *Francis Coralie Mullin vs The Administrator, Union Territory of Delhi*.¹³ Hence it is clear that deprivation of faculties by which life can be enjoyed leads to deprivation of life itself. In diverse contexts superior courts in jurisdiction governed by rule of law have drawn a connection between right to life and human dignity. One such observation of Indian Apex court reads:

*"The fundamental right to life which is the most precious human right and which forms the ark of all other rights must therefore be interpreted in a broad and expansive spirit so as to invest it with significance and vitality which may endure for years to come and enhance the dignity of the individual and the worth of the human person. The right to life enshrined in Article 21 cannot be restricted to mere animal existence. It means something much more than just physical survival. The right to life includes the right to live with human dignity and all that goes along with it, namely, the bare necessities of life such as adequate nutrition, clothing and shelter, and facilities for reading, writing and expressing oneself in diverse forms, freely moving about and mixing and commingling with fellow human beings."*¹⁴

In the Queen on the Application of Mrs Dianne Pretty v. Director of Public Prosecutions & Anr¹⁵ The House of Lords, the apex judicial body at that time in the UK, observed that human dignity is inclusive of the respect to an individual's personal autonomy, especially matters connected to life and death. However, this observation was made in the context of assisted suicide and the House of Lords dismissed the appeal. The European Court of Human Rights also upheld the decision of the House of Lords by finding that there is no violation of provisions of ECHR16 and also observed that the very essence of the ECHR is the respect of human dignity. In a similar context the Indian apex court has acknowledged fundamental right to life includes the right to live with human dignity and further reiterating its judgement that right to live with dignity also includes right to die with dignity.¹⁷ Life as a fundamental human right in civilised jurisdictions of the world is inclusive of a positive right to dignified life and not a mere limitation on state action of depriving life through due process. The state parties bound by international human rights law are obligated to take affirmative steps to ensure life with dignity of the individual. This obligation is reinforced by the constitutional as well as the statutory requirements of jurisdictions like the USA and India.

REDUCTIONIST AND ESSENTIALIST VIEWS ON HUMAN DIGNITY AND DIGNIFIED LIFE

In an earnest endeavour to dismantle human dignity using the acceptable standards of reductionism one can unravel the constituent components which are vital to the dignified existence of an individual. This view neglects the subjective experiences of an individual and cultural backdrop of the persons involved. This methodology harps on quantitative measurable factors which are determinants of dignified life of an individual by ignoring the phenomenological view. The specific factors determining a dignified existence of an individual human person can be reduced to autonomy, recognition in society, financial security derived from productive participation and health (inclusive of wellbeing and access to healthcare). These determinants can be quantified using proven statistical methods. In other words, reckoning the income level, health indices and levels of social participation of an individual can quantify dignity consequently his/her dignified life.

On the other hand, a dignified life is centered around a universal definition of dignity. Inherent worth, autonomy and meaningful life form the core of the essentialist view. This definition, seemingly sensible, is narrow in scope due to its universal framework and is insensitive to individual lived experiences as a result of diverse cultural and social settings. This substantive definition of dignity could be far from practicality leading to exclusion of several vulnerable/marginalised factions from its purview. The advocates of the essentialist view postulates that the core canons of dignity or dignified life is ubiquitous irrespective of actual lived experiences of individuals hailing from diverse socio-cultural settings. In other words, it harps on the fixation of core principles of dignity even in the event of variance in circumstances, bodily abilities, cognitive faculties or socio-economic footing of an individual.

Unfortunately, both these recognized parameters of dignity and dignified life exclude subjective experiences of individuals, however, arguably covers a lot of ground in defining dignity/ dignified existence and devising an acceptable standard of human rights jurisprudence in this regard.

MARGINALIZATION ANTITHETIC TO DIGNIFIED EXISTENCE

Marginalisation is a phenomenon in which an individual or a group of individuals is excluded from the social mainstream due multiple interconnected factors. Persons who on individual level or groups or living in communities excluded from the mainstream social life, deprived of political voice or bereft of economic pursuits of self-sustenance or all of it or any of its combination can be termed as marginalised. A marginalised person or group or community which is deprived of access to public life, bereft of opportunities of improvement and kept away from resources required for edification. It involves **exclusion**. Moreover, such persons/groups/ communities are often the victims of **discrimination** due to racism, ableism, classism, casteism, communalism, misogyny or any other similar factors which adversely affect the dignity of human beings. It further contributes in stereotyping such marginalised persons and also rendering their opinions or life choices without any consequence in the society. Marginalisation is antithetic to a life with dignity. Marginalisation and dignified existence cannot go hand in hand. A marginalised person or group of persons is not just deprived of a life with dignity but in a philosophical extrapolation deprived of existence itself. The plain and elementary implication of marginalisation or being marginalised in the context of human right jurisprudence would be denial of one's basic rights. In other words, marginalised persons are likely to face discrimination and are left out from accessing the basic necessities like healthcare, inclusive education, optimum employment and accommodative public transport facilities. Furthermore, lack of representation in social and political spheres adds salt to the wound by excluding the voices of these left out groups. Stigma and social discrimination is debilitating to a marginalised individual by creating emotional turmoil and consequently, adversely affecting his/her self-esteem. It can very well be argued that determinants of marginalization and inclusivity determine a dignified life for an individual in any given society. The determining elements of marginalization would be one's socioeconomic status, cultural factors, political factors, distance from public amenities and discrimination on the basis of gender, ethnicity, disability, and so on. On the other hand, inclusivity is founded on diametrically opposite determinants like equity, accessibility, opportunity and public participation.

MARGINALIZATION OF PERSONS WITH DISABILITIES (PWD). AN ANALYSIS OF THE PAST, PRESENT AND PROSPECTIVE STATUS OF FOLKS WITH DISABILITY

The level of marginalisation could vary for individuals with disabilities, however, the persons with disabilities are often affected by other intersectional elements of marginalisation and are arguably the most excluded group of people on the globe.¹⁸ In the event intersectionality is taken out of consideration, purely in a generic sense the persons with bodily or cognitive disabilities will top the list of the most marginalised group of persons on a global scale.¹⁹ This is the brutal reality of a billion souls, nigh 15 percent of the humankind.²⁰

When one traverses the pages of history one will definitely stumble upon the dark chapters of societal evolution that has been brutally unforgiving to persons with disabilities. Marginalisation of persons with disabilities is not just the reality of the post industrialised world but the horrid series of structured discrimination that existed prior to the world we experience. The notion of disability or a person with disability is perceived by different civilizations differently, and looking into the history of major civilizations one can derive a clearer picture. In every given society throughout history cultural notions by and large affected perception of disability, subtly grouping members of the humankind within two distinct brackets of ability and disability. The foremost exemplar will be the ruthless ableism meted out to humans who inhabited ancient Greece. Modern understanding of disability cannot retrospectively be applied to the perception of disability in Greek realms of antiquity. Disability in ancient Greece should be viewed through sophisticated spectacle by viewing narratives rooted in culture, in addition to the complex combination of physical fitness and economic status defining the identity of the individual in that society. In order to obtain clarity on the abovementioned one has to delve into the literary and scholarly works Hesiod, Plutarch, Pindar and other scholastic excerpts. The perception of mental and physical disability from the Archaic Age (c. 800–500 BC) to the Hellenistic period (323–146 BC) can be deciphered from such works. All major civilisations of the ancient and mediaeval world viewed disability in a negative light and did not recognise them as part of human diversity. From infanticide in Greece to persons with disabilities viewed as a result of evil karma of past life in Indian culture or attributing disability to sin written in scriptures of Abrahamic religions, most cultures and religions viewed disability as an incomplete manifestation from the normal humanity leading to stigmatization.

When it comes to the last two centuries, post industrial revolution the world remained largely insensitive to inclusion of persons with disabilities. The approach towards disability was nothing more than personal tragedy that required institutionalisation of keeping disabled folks away from the ableist mainstream. Apart from centuries of marginalisation in ancient and mediaeval world the pseudoscientific eugenic views which was formulated by Francis Galton on the basis Charles Darwin's natural selection theory and Gregor Mendel's Hereditary laws, was in fact the cementing of systemic barriers that kept persons with disabilities being considered as a part of the diverse human manifestations.²¹

In the so-called liberal democracy the United States of America, a sinister scheme was brewing based on the works of Galton. Charles Davenport²² advocated eugenics based on social darwinism and which was eventually backed legislation in many states leading to coerced sterilization inclusive of disabled folks.

The decision in Buck by the US supreme court clearly demonstrates the attitude towards persons with disabilities in the half of the 20th century. Carrie Buck a person with mental disabilities was institutionalised in an asylum after her giving birth to daughter as consequence of rape. Buck was selected with consent to test the new sterilization law. Deciding the case observation of Justice Holmes is critically intriguing if not appalling. Leading the majority view Justice Holmes declared:

"We have seen more than once that the public welfare may call upon the best citizens for their lives. It would be strange if it could not call upon those who already sap the strength of the State for these lesser sacrifices... It is better for all the world if, instead of waiting to execute degenerate offspring for crime or to let them starve for their imbecility, society can prevent those who are manifestly unfit from continuing their kind... Three generations of imbeciles are enough".

Eugenic advocacy under the veil of ableism of the post 19th century was the systemic impediment in recognising the rights of the disabled people till the last quarter of the last century. Eugenic theories lost their relevance due to racism, classism and ableism, especially with links to Nazi Germany post the second great war. The cruelest scheme devised by eugenics advocacy unfurled with Aktion T4 a well-defined genocide against individuals with physical, mental and intellectual disabilities by Nazi Germany. This program was based on the view that life of persons with disabilities is not worth living.²³ Albeit, sterilisation without consent based on eugenic dogma existed till early 70's with several legislation enacted in the USA to support persons with disabilities.²⁴

Eugenics extended beyond forced sterilization and confinement to institutions. Thousands of disabled people were tagged as defective and witnessed their citizenship privileges and liberties curtailed through strict immigration norms. Apart from that they faced prohibitions on marriages in countries including the United States, Canada, and many other European countries when early eugenic advocacy was at its pinnacle.²⁵ The influence of eugenics formulated in western world was seen in countries like Cuba which received the support of Cuban eugenics advocates, by restricting the immigration of persons who were deemed to be that mandated prenuptial medical checks for impairments in nations

represented at the conference.²⁶ In Brazil, the interest in eugenics within government and professional circles progressed at a steady pace from the early 20th century. Eugenic advocacy societies and groups across Brazil advocated compulsory premarital medical checkup and forced sterilization of those persons deemed to be diagnosed with mental disabilities.²⁷ Even before Galton coined the term eugenics during the last quarter of 19th century, policies akin to it existed in the United States where congress prohibited the entry of persons mentally disabled persons before Galton's postulates gained popularity. Jay Dolmage in his work observes that Ellis Island in New York, gateway for European immigrants in the early 20th century can be termed as the venue for racism and disability discrimination was made conspicuous. This is substantiated by Dolmage by annexing photographs, architectural plans, official documents etc, in order to demonstrate systematic stigmatization based on race and disability when the immigrants were subjected to layers of inspections. The immigrants were classified and labelled on the basis of their physical and mental ability. Dolmage called immigrants were tagged as disqualified or tainted whites based on disability though they were of European descent²⁸.

The concept of eugenics sans scientific backing had two-fold purposes primarily, creating a master race with racial purity and secondly, devoid of impairments. Eugenics blended both ableism and racism. This period witnessed a brutal condescension affecting the inherent dignity of folks with disabilities by portraying them as unworthy of existence. The Eugenic propaganda stigmatised even slight divergence from the so-called acceptable standards. Both disability and its bearers were sought to be eliminated in welfare-centric nations in the Scandinavian region, libertarian democracy like the USA, and authoritarian Nazi Germany, irrespective of political ideology, based on a shared view of eugenics. In a study on Eastern Europe, it was observed that eugenicists had intended to preserve the cultural and biological heritage of the nation along with cementing the future of the nation. Hence, apart from region specific differences eugenic ideas all at its core had a shared definition of "what made a life unworthy of life" inclusive of persons with disability.²⁹

The Eugenic narrative and its core ideas were founded on ableism in the context of economic productivity tagged to an individual. The disabled persons were labelled non contributors to economic productivity and accused of draining limited resources. The perception of disability was different for men and women on the basis of economics and productivity. Men with disabilities were tagged with inability to render military service or work as industrial labor, while disabled women highlighting their biology were considered incapable of fulfilling their supposed role in marriage as wife and mother. There is compelling evidence in documented scholarship to show that women with disabilities formed a substantial part of eugenic efforts in order to regulate sexuality and reproduction.

Systemic barriers over centuries have led to structural ostracism of disabled people. The lived experience of disabled people in dealing with exclusion is subtle without manifest trails, it is not just personal discrimination or direct hatred from the society. It is deeply embedded within the systemic design. Though not an exhaustive list, it essentially includes the architecture of buildings, network of transportation or conveyance, access including digital access to education, work and justice. The design limitation when it is based on an architecture that limits the access of disabled folks is the silent preexisting barrier rooted in ableism. A Stairway built with the presumption that no one has locomotor disability, a communication mode that assumes all can perceive irrespective of their audio-verbal disabilities, biometric systems of verification that accepts on standard parameters irrespective of visual impairment or facial disfiguration etc. are some examples of continuous exclusion of persons with disabilities denying rights on an equal basis with other members of the society.

In order to ensure dignified existence of the persons with disabilities the implementing agencies have to expedite drastic measures for inclusive participation on an equal basis with others. The system should be restructured or adapted with maximum inclusivity or with universal design. Making general access, transactions, travel, work, education, work, health care and access to justice within the convenient reach of people with disabilities. This will dismantle the barriers that exclude the persons with disabilities. Unless systemic redesign or adaptation is not materialised the society with its preexisting inaccessible impediments will perpetuate disabilities making disability not an individual impairment but a product of societal disregard.

Major developed and developing jurisdictions are tackling systemic barriers through proactive tools as well as reactive redressals. However, systemic barriers leading to ostracism like a malignant carcinoma which mutates quickly to societal changes and creates novel challenges especially, with change in the technological sphere.

The perception and approaches towards disability bracketed into two major views: the medical individual model viewing disability as an individual impairment and rights-based approach the social model where the disability is linked to the environment not to the individual. However, Structural ostracism exists not merely due to the environment but it is rooted in institutional and procedural factors. What may appear to be equal or neutral may not be equitable and potentially burden the persons with disabilities.

An agenda that focuses on ensuring the dignity of individuals should be founded on how systems dispense distributive equity. When it comes to access and accessibility to a particular facility or system is not just about mere physical or digital entry, the emphasis is more on the quality of services and participation on an equal basis.

The transition from elaborate strategies on disability rights to strict compliances is the path on which the European disability rights mandate is being brought into actualisation. The implementation of strict compliance brought into effect especially on products and services which have become bare necessities of day to day living. As a consequential development of this process the European Accessibility Act is being implemented since the year 2025.

The directives under the EAA are not mere symbols but a paradigm shift having consequences on market forces. The mandate specifies accessibility standards for products and services that are vital to daily life i.e. personal Computers inclusive of operating systems, e-books, banking, e-commerce, and digital services related to transportation etc. Member States of European Union are bound to implement the mandate on specified products and services since mid of 2025.³⁰

This is a major breakthrough in the war against structural ostracism which spawns in the absence of implementation deadlines. The directive, with a strict compliance deadline, converts access into a question of governance and stakeholders can demand compliance in the event of violation or non-implementation. This initiative has transformed accessibility from being a part of social responsibility of the market participants to an integral part of compliance which requires significant changes in product design if at all they intend to participate in the European market. However, the approach does not guarantee lived usability of the products. The accessibility features of a product might require minimum knowhow to enable it. In order to mainstream the disabled people technical specification is not sufficient but adequate experience or know-how to enable it for autonomous use. Hence, Europe with significant investments has come up with a disability governance ecosystem. In common parlance, a cross-cutting EU policy emphasizing participation of the persons with disabilities on an equal basis with all connected necessities i.e. movement, work, access to justice etc. This framework is better known as Strategy for Rights of Persons with disabilities 2021 to 2030.³¹ The most significant characteristic of the framework laid down by the strategy is in treating accessibility as governance, not mere welfare measure.

The flagship initiative AccessibleEU functions as a critical platform for building capacity with the object of greater coherence across all domains vital for inclusive participation of persons with disabilities.³²

Moreover, structural exclusion is that it exacerbates when one's disability and consequent rights are not given recognition beyond borders. In Europe, advocacy and push towards reciprocal recognition of disability status has moved beyond a soft scheme into enactment with

implementing teeth. The European Disability Card along with the European Parking Card were approved by the Parliament and the Council of the European Union in late 2024, with a window till 2028 to make it operational across all member states of Europe.

This is a vital step in ensuring dignified mainstreaming of the persons with disabilities as it remedies the lived experience of disabled folks while crossing internal borders by giving them equitable treatment and recognition. The disability card, more than a document of convenience, ensures equal participation within the European Union where internal mobility is one of the foundational elements of its Establishment. The disability rights progress in the United States is given impetus by litigation and enforcement mechanisms. However, in the realm of digital accessibility, where public services are dispensed through online or through smartphone apps without giving access on an equal basis with others will potentially exclude persons with disabilities, hence reinforcing ever evolving structural ostracism. A major progressive step is the new rule under Title II of the Americans with Disabilities Act, spearheaded by the United States Department of Justice (DOJ) with the requirement that states and local government agencies to proactively take measures to ensure their websites and mobile applications conform to WCAG 2.1 Level AA.³³

The United States Department of Justice published a fact sheet in this regard which made the compliance timeline express for entities serving populations of 50,000 or more generally to 24 April 2026, however, smaller government entities by 26 April 2027.³⁴ The DOJ has given additional clarification by stressing that compliance takes a long term strategy and accessibility is a continuing duty on the entities rather than a quick one time fix.³⁵

This mandate is a direct countermeasure to predominant structural ostracism for state services which are essentially dispensed through digital portals from education enrollment, licensing, tax obligations, notices, communications, and even platforms ensuring participation in public life. Hence, any systemic impediments in access to these services is deemed as exclusion from public life for persons with disability. The rule redresses this by emphatically laying down that accessibility is not a n option but a legal obligation with express implementation dates and specified technical standards. This translates into enduring a life with dignity as it ensures access to essential digital services on an equal basis by mandating operational design standards with minimal scope of redundancy.

Another major progressive step in the modernisation is implementation of the mandate in Section 504 of the Rehabilitation Act in programs receiving assistance of the federal government especially, within ecosystems based on health and assistive services. The United States Department of Health and Human Services (HHS) has expressly laid down guidance with the explanation that Section 504 sanctions non-discriminatory obligations on schemes sponsored with federal financial assistance and further clarifies on the application of the framework³⁶. This rule has been in effect since July 2024.³⁷

This becomes significant when we take into account systemic barriers leading to exclusion could frequently manifest within funded initiatives. This is inclusive of the services provided by hospitals, clinical establishments, insurance policies, care giving schemes, and similar social services that may tend to adopt processes seemingly neutral but prejudicial to persons with disabilities due to inaccessibility ie communication barriers, forms, lack of auxiliary aids, or inaccessible digital systems. The final rule laid by Section 504 is a turning point that strengthens and clarifies broader implementation schemes from mere reasonable accommodation towards solid systemic nondiscrimination obligations. For actualisation of dignified mainstreaming of persons with disabilities, access to healthcare and allied services is vital and a mandate with specific implementation scheme is an affirmative action in this regard. These progressive measures are a departure from enforcement by litigation and consequent settlements to much more efficient governance by compliance in ensuring disability rights in the United States. This is a 21st century transition where rights are not merely enforced through individual complaint mechanisms where the affected persons has to proactively seek judicial or administrative redressal every time rights are infringed. On the other hand, the rules mandate preemptive standards of compliance inclusive of audits, remedial steps, procurement routine and continuous maintenance. Nevertheless, this comes with a disadvantage in the event of compliance becoming a mere checklist, agencies will tend to conform to technicality expending real life utility, simplicity, and proactive assistance. The compliance frameworks should remain anchored in real life utility and ensure equal access in order to mainstream the persons with disability with due respect to their dignity. The disability rights framework and enforcement in India is an admixture of a gold standard constitutional rights in addition to a comprehensive legislation exclusively dealing with rights of persons with disabilities titled Rights of Persons with Disabilities Act 2016 and implementation challenges across states and institutions due absence of proper mechanisms. When it comes to digital access of persons with disabilities, the recent dictum laid down by the apex court in India is of cardinal import. In *Pragya Prasun v Union of India*³⁸ petitioner sought direction to formulate rules of digital KYC in order to make it accessible to persons with visual impairments or facial disfigurement as a consequence of acid attack etc. Deciding the case the Supreme Court of India declared that digital accessibility is a fundamental right under Article 21 and is an essential facet of life with dignity. The apex court observed inaccessible systems nurture digital segregation systematically ostracizing Persons with Disabilities and starkly vitiating the equality and non-discrimination mandate of the Part 3 of the Constitution of India. Digital inclusion is an imperative under the constitutional mandate and not a discretion under executive policy. Further the dictum reinforces that the RPWD act of 2016 is a special statute that has an overriding effect on regulations that create systemic barriers. The court issued binding directives to statutory bodies RBI, SEBI and TRAI in order to implement effective alternative systems beyond visual cues inclusive of voice recognition, thumb impressions etc. Moreover, all digital platforms must be compliant to WCAG 2.1 standards. Apart from that the directive mandates paper-based KYC for persons not able to access digital methods. The directive also provides for accountability by mandating that entities therein must appoint nodal officers for periodic accessibility audits.

This is a first step ensuring inclusivity in public digital infrastructure of India which has become the lifeblood of day-to-day transactions. In the event the entire verification procedure is based on the assumption of a certain facial features, eye movements, or visual capacity, it results in structural ostracism at the point of identity of a person itself. This is not limited to exclusion from public services but a barrier in recognising the identity of persons with specific disabilities by the existing system.

Another progressive step taken by the Government of India in standardising assistance norms in competitive exams. Structural barriers of exclusion were visible in the sphere of competitive exams leading to life pursuits which are based on merit and ability. Disability was often depicted as inability and consequently ineligibility in the selection process for education and employment. A person who faces difficulty in writing or performing on par with others is screened out even before a chance is given to them. Persons with disabilities may face exclusion in the sphere of competitive exams due mismatch of standards prescribed due to their physical abilities and cognitive profile. The revised guidelines in this regard issued by the department of empowerment of persons with disabilities giving effect to section 17 of RPWD Act of 2016 is a turning point for the persons facing such barriers to entry. This major step in the endeavour of dignified mainstreaming of persons with disabilities because any accommodations made without proper guidelines can invite derision leading to suspicion of unfair practices rather than ensuring equality. Hence, standardisation can create a fair platform with accommodation for persons with disabilities in competitive exams. Access to Justice is another vital component in the fight against marginalisation and exclusion of persons with disabilities. Inaccessible justice administration i.e. with barriers in communication, inaccessible filing formats and rigid procedures can curtail access to justice for people with disabilities. The Apex court of India devised a Handbook Concerning Persons with Disabilities can be termed as paradigm shift in the Indian judicial setting in ensuring justice on an equal basis to persons with disabilities. The literature therein is centered on the social model of disability and overlooks disability as an individual medical impairment. The handbook focuses on the structural impediments created by systems and attitudes in general that hinder effective social participation of persons with disability. It lays down a comprehensive substantive equality framework which emphasises justice delivery systems based on proactive steps and accommodations inclusive of assistive technologies, scribes and adaptable procedures relaxing the rigidity accessible to all on an equal basis.

The document further speaks volumes on language sensitisation with a call to the legal fraternity to adopt an approach that caters to people at large. There is express discouragement in the use of terms that could have a condescending to the demeaning effect such as 'handicapped' or

‘especially abled’ etc. Furthermore, it comes with the recommendation of addressing with a neutral term "persons with disability" for such persons. Moreover, the document has provisions which mandates the setting up of Accessibility Committees in State High Courts and District Courts in order to ensure accessibility leading to inclusivity in physical as well as digital spheres. The document further consolidated landmark dictums regarding disability rights with the intent of guiding the persons responsible for administration of justice.

CONCLUSION

There is no doubt that many jurisdictions as discussed have evolved with their own state of the art schemes to tackle the menace of structural ostracism of persons with disability. The progress in Europe, the USA, and India points to the fact that disability inclusion can be mitigated by restructuring systems to a more inclusive design and with backing of mandatory standards with deadlines on adoption. Europe has taken the hard route, having consequences for market forces, however, undoubtedly the most progressive step in restricting all non-compliant products and services falling short of specific accessibility standards and also making disability recognition and bestowing special privileges to persons with disabilities pan-European Union through the European Disability Card. In the United States digital accessibility is ensured through Department of Justice Title II rules and reinforcing nondiscrimination in programs run with federal assistance. On the other side of the globe, in India the dictum of the apex court has brought digital access within the expanding horizons of Art.21 of the constitution which is vital for autonomy and dignity of persons with disabilities. In addition to procedural standardisation mandate in competitive exams in order to make entry to education and employment more inclusive.

However, complacency in existing systems will lead to unforeseen barriers in the dynamic world. Since, there are no fixed parameters of inclusivity the measures have to quickly adapt to progress in technology which has significant effect on human reality. The perception of barrier to access could have been the inexistence of ramps in building now it has moved to inaccessible public online portals. The systems should have universal accessibility design and adapting to requirements of persons with disabilities is not a long-term solution. The mainstreaming of persons with disabilities can only occur when universal access is an integral part of the governance from its inception. Hence, the drastic measures from time to time which will open up equitable access and opportunity to persons with disabilities is the foundation on which inclusion with dignity can be nurtured.

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